



WYOMING LEGISLATIVE SERVICE OFFICE

# Memorandum

**DATE** June 20, 2024

**TO** Select Committee on Blockchain, Financial Technology and Digital Innovation Technology

**FROM** Emily Wangen, Legal Division Intern

**SUBJECT** Survey of deep fake and synthetic media legislation

This memorandum overviews different states' approaches regarding deep fake or synthetic media legislation. Research revealed two contexts in which states have enacted laws relating to deep fakes or synthetic media: (1) campaign materials and (2) explicit content disseminated without the consent of the person depicted in the material. States have created criminal and civil penalties for knowingly disseminating these materials. This memorandum does not contain every state law on the topic. It is not intended to be an exhaustive analysis of these laws, nor does it draw conclusions about the merits of a particular policy.

## DISCUSSION

Before analyzing these laws, it is important to note that each state has unique definitions for deep fake and synthetic media. Appendix A shows these definitions.

### CAMPAIGN MATERIALS

#### ***Criminal Penalties: Minnesota & Texas***

Minnesota and Texas have created criminal penalties for disseminating deep fake videos when they are done to spread disinformation or to injure a candidate.

In Minnesota, it is a crime to disseminate or enter into an agreement to disseminate a nonconsensual deep fake that was made with the intent to injure a candidate or influence the result of an election within 90 days of an election.<sup>1</sup> Penalties for violations are generally up to 90 days imprisonment, a fine up to \$1,000, or

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<sup>1</sup> Minn. Stat. § 609.771(2) (effective Aug. 1, 2024).

both.<sup>2</sup> However, there are enhanced penalties if the violation was committed with the intent to cause violence or bodily harm or if it occurred within five years of one or more prior deep fake convictions.<sup>3</sup> The former carries a penalty of imprisonment for up to one year, a fine of up to \$3,000, or both, while the latter carries a penalty of up to five years imprisonment, a fine of up to \$10,000, or both.<sup>4</sup>

In Texas, creating a deep fake video with the intent to injure a candidate or influence the result of an election and publishing or distributing it within 30 days of an election is a Class A misdemeanor.<sup>5</sup> Class A misdemeanors in Texas carry a penalty of a fine up to \$4,000, imprisonment for up to one year, or both.<sup>6</sup>

### **Civil Penalties**

Rather than providing for criminal penalties, many states have chosen to impose civil penalties for deep fake videos of candidates for elected office that are disseminated near elections. States have taken several approaches in this area.

### **Disclosure Requirements: Utah & Oregon**

One approach in Utah and Oregon requires campaign communications that use synthetic media to contain a message regarding the use of AI-generated content or synthetic media.<sup>7</sup> Utah specifically requires this disclosure of candidate committees, political action committees, political issues committees, political parties, or other persons using a campaign contribution.<sup>8</sup> In contrast, Oregon does not limit its law's applicability to specific entities.<sup>9</sup> Additionally, Utah requires that specified disclosures regarding the use of artificial intelligence technology be included in the metadata of online communications.<sup>10</sup>

Another area in which these laws differ is their enforcement mechanisms and penalties for violators. In Utah, the subject of the violating communication can bring a civil action against the creator or sponsor of the content, and a court may impose a fine of up to \$1,000 for each violation, plus reasonable attorney fees.<sup>11</sup> In Oregon, the secretary of state is generally the only entity that can institute proceedings to enjoin violations.<sup>12</sup> However, if the secretary, a candidate for secretary of state, or any political committee or person supporting the secretary or a secretary of state candidate violates this requirement, the attorney general may institute proceedings.<sup>13</sup> Violations of this requirement carry a civil penalty of up to \$1,000.<sup>14</sup>

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<sup>2</sup> *Id.* at (3).

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> Tex. Elec. Code § 255.004(d) (2024).

<sup>6</sup> *Id.*

<sup>7</sup> See Utah Code Ann. § 20A-11-1104 (2024); 2024 Ore. S.B. 1571.

<sup>8</sup> § 20A-11-1104 (2024).

<sup>9</sup> Ore. S.B. 1571.

<sup>10</sup> § 20A-11-1104(5).

<sup>11</sup> *Id.* at (6).

<sup>12</sup> Ore. S.B. 1571 § 1.

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

### **Use of Deep Fakes Before an Election: Arizona & Colorado**

Other states have prohibited communications using deep fakes of candidates within a specified period before an election without transparent disclosure. Arizona and Colorado prohibit distributing deep fakes or synthetic media when the disseminator knows the content is a deep fake.<sup>15</sup> Colorado additionally creates liability for a person who has a reckless disregard for whether the content is authentic.<sup>16</sup>

Colorado distinguishes between primary and general elections in its prohibition on these communications, implemented 60 days before a primary election and 90 days before a general election.<sup>17</sup> Arizona does not distinguish between these elections and implements its prohibition 90 days before any election.<sup>18</sup>

Enforcement of these provisions is done through election officials in each state. In Colorado, a hearing officer in the secretary of state's office shall impose a civil penalty of at least \$100 plus 10% of the amount spent to disseminate the communication, but based on the level of public exposure the communication receives, the hearing officer can impose a higher amount for each penalty.<sup>19</sup> In Arizona, violations amount to \$10 each day the content is distributed without disclosure and shall be paid to the relevant filing officer.<sup>20</sup>

### **Private Right of Action: Arizona & Idaho**

A related law in Arizona permits a candidate to bring an action for digital impersonation when a person publishes a digital impersonation of the candidate without their consent and does not convey that the publication was a digital impersonation or that it would not be obvious to a reasonable person that it was a digital impersonation.<sup>21</sup> Declaratory relief is available to the candidate if requested within 180 days of an election.<sup>22</sup>

The Idaho Freedom From AI-Rigged (FAIR) Elections Act permits a candidate to bring an action for equitable relief and general damages, special damages, or both when their speech or action is deceptively represented through synthetic media in an electioneering communication.<sup>23</sup> The Act establishes an affirmative defense that the media included a disclosure stating that the video or audio has been manipulated and provides for the disclosure requirements.<sup>24</sup>

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<sup>15</sup> See 2024 Ariz. SB 1359 § 1; 2024 Colo. HB. 1147 § 3.

<sup>16</sup> Colo. H.B. 1147 § 3.

<sup>17</sup> *Id.*

<sup>18</sup> Ariz. S.B. 1359

<sup>19</sup> Colo. H.B. 1147 § 1.

<sup>20</sup> 2024 Ariz. SB 1359 § 1; Ariz. Rev. Stat. § 16-937(B) (2024); See Ariz. Rev. Stat. § 16-901(27) (2024) (defining "filing officer").

<sup>21</sup> 2024 Ariz. H.B. 2394 § 1.

<sup>22</sup> *Id.*

<sup>23</sup> Idaho Code § 67-6628A(3) (2024).

<sup>24</sup> *Id.* at (5)

## EXPLICIT DEEP FAKES

### ***Criminal Penalties: Idaho, Louisiana, and Minnesota***

In Idaho, a person is guilty of disclosing explicit synthetic media when they knowingly disclose explicit synthetic media and (1) know or reasonably know that an identifiable person portrayed in the media did not consent to the disclosure and the disclosure would cause substantial emotional distress to that person, (2) disclose the media with the intent to annoy, terrify, threaten, intimidate, harass, offend, humiliate, or degrade the person, or (3) possess and blackmail the person for money or other valuable consideration.<sup>25</sup> The penalty for violating this section is a misdemeanor unless the person has reoffended within the past five years in any jurisdiction.<sup>26</sup> In that case, an offender is guilty of a felony punishable by imprisonment up to 10 years, a fine of up to \$25,000, or both.

Louisiana's law against unlawful deep fakes makes it a crime to knowingly create or possess child sex abuse material with the knowledge that it is a deep fake depicting a minor.<sup>27</sup> The penalty for committing this crime is 5 to 20 years imprisonment with eligibility for parole, probation, or a suspended sentence after five years, a fine up to \$10,000, or both. If the person knowingly disseminates the material, the penalty is 10 to 30 years imprisonment with eligibility for parole, probation, or a suspended sentence after 10 years, a fine of up to \$50,000, or both.<sup>28</sup>

It is also a crime in Louisiana to knowingly disseminate sexual material with the knowledge that it is a deep fake depicting a person who has not given consent to the deep fake.<sup>29</sup> A violation of this law carries a penalty of 10 to 30 years imprisonment, a fine of up to \$50,000, or both.<sup>30</sup>

In Minnesota, it is a crime for a person who disseminates a deep fake that depicts "intimate parts" or sexual acts when the person knows that the depicted person did not consent to its public dissemination.<sup>31</sup> Violations of this law generally constitute a gross misdemeanor unless one of the following factors is present:<sup>32</sup>

- The depicted individual suffers financial loss due to the dissemination of the deep fake;
- The actor disseminates the deep fake with the intent to profit from the dissemination;
- The actor maintains a website or other online service to disseminate the deep fake or posts the deep fake on a website;
- The actor disseminates the deep fake with the intent to harass the depicted individual;
- The actor obtained the deep fake in violation of other specified laws;

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<sup>25</sup> § 18-6606(1).

<sup>26</sup> *Id.* at (2) & (3).

<sup>27</sup> La. Rev. Stat. § 14:73.13(A).

<sup>28</sup> *Id.* at (A) & (B)(2).

<sup>29</sup> *Id.* at (B)(1).

<sup>30</sup> *Id.*

<sup>31</sup> § 617.262(2).

<sup>32</sup> A gross misdemeanor is punishable by imprisonment for a definite term, payment of a fine, imprisonment and a fine, payment of restitution, payment of a correctional fee, or work service in a restorative justice program. Minn. Stat. Ann. § 609.125(1) (2024).

- The actor has previously been convicted under this chapter.<sup>33</sup>

In that case, the penalty is enhanced to a felony with the possibility of imprisonment for up to three years, a fine of \$5,000, or both.<sup>34</sup>

### **Civil Penalties: Arizona and Minnesota**

The Arizona law regarding the digital impersonation of a candidate also permits a non-candidate to bring an action for digital impersonation for the same conduct.<sup>35</sup> A victim of digital impersonation can seek declaratory relief if the impersonation depicts the person engaging in a sexual act or their intimate parts, engaging in a criminal act, or if the person depicted can reasonably be expected to suffer significant personal or financial hardship, loss of employment opportunities, or their reputation would be irreparably harmed absent the relief.<sup>36</sup>

Injunctive relief and damages are available for private citizens if the impersonation was published with actual knowledge that the recording was a digital impersonation or if the publisher failed to take reasonable corrective action within 21 days of obtaining actual knowledge.<sup>37</sup> These actions require the impersonation to depict the person engaging in a sexual act or depict intimate parts of the person.<sup>38</sup>

In Minnesota, a private cause of action is available against a person who disseminates a deep fake that depicts "intimate parts" or sexual acts when the person knows that the depicted person did not consent to its public dissemination.<sup>39</sup> This statute mirrors the above criminal statute but includes civil remedies instead of criminal penalties. A judge may award a successful plaintiff general and special damages, an amount equal to the profit made from the dissemination, a civil penalty up to \$100,000, and court costs and fees.<sup>40</sup> Injunctive relief is also available.<sup>41</sup>

### **EXCEPTIONS**

Several uses of deep fakes are not subject to criminal or civil liability under these laws. Examples of exceptions used in both criminal and civil prohibitions include:

- Parody or satire;<sup>42</sup>
- Dissemination by a broadcaster or other news media company if the deep fake includes disclosure of the manipulation;<sup>43</sup>

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<sup>33</sup> § 617.262(3)(b).

<sup>34</sup> *Id.*

<sup>35</sup> Ariz. H.B. 2394

<sup>36</sup> *Id.*

<sup>37</sup> *Id.*

<sup>38</sup> *Id.*

<sup>39</sup> Minn. Stat. Ann. § 604.32(2).

<sup>40</sup> *Id.* at (3).

<sup>41</sup> *Id.* at (4).

<sup>42</sup> *E.g.* Ariz. SB 1359; Colo. H.B. 1147 § 3; Ore. S.B. 1571.

<sup>43</sup> *E.g.* Colo. H.B. 1147 § 3; Ore. S.B. 1571.

- Dissemination by a station, website, or other online platform that is paid to broadcast the communication;<sup>44</sup>
- Criminal investigations or otherwise lawful prosecutions or in connection with reporting unlawful conduct;<sup>45</sup>
- Scientific or educational purposes.<sup>46</sup>

Consistent with federal law, most state laws include sections that provide for immunity from civil and criminal liability for interactive computer services, information services, or other telecommunications providers.<sup>47</sup> Idaho's FAIR Election Act expressly states that an information content provider, not the medium disseminating the communication, may be held liable unless the medium removes a disclosure or changes the content of the communication in a way that renders it synthetic media.<sup>48</sup>

Please reach out if you have additional questions.

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<sup>44</sup> *E.g.* Ore. S.B. 1571.

<sup>45</sup> *E.g.* § 18-6606(5); § 617.262

<sup>46</sup> *Id.*

<sup>47</sup> *See generally* 47 U.S.C. § 230(c)(1) (providing that interactive computer services shall not be treated as the "publisher or speaker of any information provided by another information content provider"), (e)(3) (providing that state law cannot impose liability inconsistent with this section), (f)(2) (defining "interactive computer service" as "any information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including specifically a service or system that provides access to the Internet and such systems operated or services offered by libraries or educational institutions) & (f)(3) (defining "information content provider" as "any person or entity that is responsible, in whole or in part, for the creation or development of information provided through the Internet or any other interactive computer service").

<sup>48</sup> § 67-6628A(8) & (9).

***Wyoming Legislative Service Office Memorandum***

## APPENDIX A: STATUTORY DEFINITIONS OF DEEP FAKE AND SYNTHETIC MEDIA

STATE	SOURCE	DEFINITION
AZ	2024 Ariz. HB 2394	<p><b>“Digital impersonation”</b> means synthetic media, typically video, audio or still image, that meets all of the following requirements:</p> <p>(a) Has been digitally manipulated to convincingly replace one person’s likeness or voice with that of another using deep generative methods and artificial intelligence techniques, or for which one person’s likeness or voice has otherwise been simulated using deep generative methods and artificial intelligence techniques.</p> <p>(b) Was created with the intention to deceive or lead reasonable listeners or viewers into believing that the content is authentic.</p> <p>(c) Would lead reasonable viewers or listeners to believe that it is a true and accurate depiction of the impersonated person’s voice or likeness and is something the impersonated person said or did.</p> <p>(d) Is not commentary, parody, satire, criticism or artistic expression.</p> <p>(e) Was not created by the impersonated person or with the impersonated person’s consent.</p>
	2024 Ariz. SB 1359	<p><b>"Deceptive and fraudulent deepfake"</b> means synthetic media that depicts a candidate with knowledge of its falsity and the intent to injure the reputation of the candidate and that is intentionally calculated to mislead a reasonable person into concluding that a real individual said or did something that they did not say or do in reality.</p> <p><b>"Synthetic media"</b> means an image, audio recording or video recording of an individual’s appearance, speech or conduct that has been created or intentionally manipulated with the use of digital technology in a manner to create a realistic but false image, audio or video.</p>
CO	2024 Colo. H.B. 1147	<p><b>"Deepfake"</b> means an image, video, audio, or multimedia ai-generated content that falsely appears to be authentic or truthful and which features a depiction of an individual appearing to say or do something the individual did not say or do.</p>
ID	Idaho Code § 67-6628a	<p><b>"Synthetic media"</b> means an audio recording or a video recording of an individual’s speech or conduct that has been created through the use of generative adversarial network techniques or other digital technology in a manner to create a realistic but false audio or video that:</p>

STATE	SOURCE	DEFINITION
		<p>(i) To a reasonable individual is of a real event, action, or speech that did not actually occur in reality; and</p> <p>(ii) Provides a fundamentally different understanding or impression of the event, action, or speech than a reasonable person would have from the unaltered, original version of the audio recording or video recording.</p>
	<p>Idaho Code § 18-6606 (effective July 1, 2024)</p>	<p><b>“Explicit synthetic media”</b> means synthetic media that depicts or appears to depict:</p> <p>(i) An identifiable individual engaged in sexual conduct;</p> <p>(ii) The intimate parts of another individual or artificially generated intimate parts presented as the intimate parts of an identifiable individual; or</p> <p>(iii) The display or transfer of sexual bodily fluids onto any part of the body of an identifiable individual or from the body of an identifiable individual.</p> <p><b>“Synthetic media”</b> means any image or video created or altered using technical means, such as artificial intelligence, to realistically misrepresent an identifiable individual as engaging in conduct in which the identifiable individual did not engage.</p>
<p>LA</p>	<p>La. Rev. Stat. Ann. § 14:73.13</p>	<p><b>“Deepfake”</b> means any audio or visual media in an electronic format, including any motion picture film or video recording, that is created, altered, or digitally manipulated in a manner that would falsely appear to a reasonable observer to be an authentic record of the actual speech or conduct of the individual or replace an individual’s likeness with another individual and depicted in the recording. “Deepfake” does not include any material that constitutes a work of political, public interest, or newsworthy value, including commentary, criticism, satire, or parody, or that includes content, context, or a clear disclosure visible throughout the duration of the recording that would cause a reasonable person to understand that the audio or visual media is not a record of a real event.</p>
<p>MN</p>	<p>Minn. Stat. Ann. § 609.771 &amp; 617.262</p>	<p><b>“Deep fake”</b> means any video recording, motion-picture film, sound recording, electronic image, or photograph, or any technological representation of speech or conduct substantially derivative thereof:</p> <p>(1) that is so realistic that a reasonable person would believe it depicts speech or conduct of an individual who did not in fact engage in such speech or conduct; and</p>

STATE	SOURCE	DEFINITION
		(2) the production of which was substantially dependent upon technical means, rather than the ability of another individual to physically or verbally impersonate such individual.
OR	2024 Ore. S.B. 1571	<p><b>“Synthetic media”</b> means an image, audio recording or video recording of an individual’s appearance, speech or conduct that has been intentionally manipulated with the use of artificial intelligence techniques or similar digital technology in a manner to create a realistic but false image, audio recording or video recording that produces:</p> <ul style="list-style-type: none"> <li>(A) A depiction that a reasonable person would believe is of a real individual in appearance, speech or conduct but that did not actually occur in reality; and</li> <li>(B) A materially different understanding or impression than a reasonable person would have from the unaltered, original version of the image, audio recording or video recording.</li> </ul>

# **APPENDIX B:**

# **STATE LAWS**

# 2024 Ariz. HB 2394

Enacted, May 21, 2024

## Reporter

2024 Ariz. ALS 193; 2024 Ariz. Sess. Laws 193; 2024 Ariz. Ch. 193; 2024 Ariz. HB 2394

ARIZONA ADVANCE LEGISLATIVE SERVICE > ARIZONA 56TH LEGISLATURE - SECOND REGULAR SESSION > CHAPTER 193 > HOUSE BILL 2394

## Notice

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Added: Text highlighted in green

## Synopsis

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AN ACT AMENDING TITLE 16, CHAPTER 7, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 16-1023; RELATING TO PROHIBITED ACTS.

## Text

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*Be it enacted by the Legislature of the State of Arizona:*

**Section 1.** Title 16, chapter 7, article 1, Arizona Revised Statutes, is amended by adding section 16-1023, to read:

**16-1023. Digital impersonation of candidate or other person; relief; applicability; definitions**

**A.** A CANDIDATE FOR PUBLIC OFFICE OR POLITICAL PARTY OFFICE WHO WILL APPEAR ON THE BALLOT IN THIS STATE OR ANY CITIZEN OF THIS STATE MAY BRING AN ACTION FOR DIGITAL IMPERSONATION WITHIN TWO YEARS AFTER THE DATE THAT THE PERSON KNOWS, OR IN THE EXERCISE OF REASONABLE DILIGENCE SHOULD KNOW, THAT A DIGITAL IMPERSONATION OF THE PERSON WHO IS BRINGING THE ACTION WAS PUBLISHED. THE SOLE REMEDY ON THIS CAUSE OF ACTION IS PRELIMINARY AND PERMANENT DECLARATORY RELIEF EXCEPT AS OTHERWISE EXPRESSLY PROVIDED BY THIS SECTION. TO PREVAIL ON AN ACTION PRESCRIBED BY THIS SECTION, A PLAINTIFF MUST PROVE ALL OF THE FOLLOWING:

- 1.** THAT A DIGITAL IMPERSONATION OF THE PERSON WAS PUBLISHED TO ONE OR MORE OTHER PERSONS WITHOUT THE PERSON'S CONSENT.
- 2.** THAT AT THE TIME OF PUBLICATION EITHER OF THE FOLLOWING APPLIES:
  - (a)** THE PUBLISHER DID NOT REASONABLY CONVEY TO THE PERSONS TO WHOM THE PUBLICATION WAS MADE THAT THE RECORDING OR IMAGE WAS A DIGITAL IMPERSONATION OR THAT ITS AUTHENTICITY WAS DISPUTED.
  - (b)** IT WOULD NOT BE OBVIOUS TO A REASONABLE PERSON THAT THE RECORDING OR IMAGE WAS A DIGITAL IMPERSONATION.

- B. IF THE DIGITAL IMPERSONATION IS OR IS PART OF A PAID ADVERTISEMENT, A CAUSE OF ACTION FOR DIGITAL IMPERSONATION MAY BE BROUGHT ONLY AGAINST THE PERSON OR ENTITY THAT ORIGINATED, ORDERED, PLACED OR PAID FOR THE ADVERTISEMENT.**
- C. A PROVIDER OF AN INTERACTIVE COMPUTER SERVICE MAY NOT BE SUBJECT TO AN ACTION FOR DIGITAL IMPERSONATION FOR PUBLISHING INFORMATION THAT IS PROVIDED BY ANOTHER INFORMATION CONTENT PROVIDER.**
- D. A PERSON WHO BRINGS AN ACTION FOR DIGITAL IMPERSONATION MAY FILE A COMPLAINT AND A MOTION FOR PRELIMINARY DECLARATORY RELIEF IN THE SUPERIOR COURT. THE PLAINTIFF SHALL MAKE DILIGENT EFFORTS TO BOTH SERVE AND PROVIDE PROMPT ACTUAL NOTICE TO ALL DEFENDANTS. THE PUBLISHER OF THE ALLEGED DIGITAL IMPERSONATION HAS THE RIGHT TO APPEAR, BE HEARD AND PRESENT EVIDENCE BEFORE THE COURT'S ENTRY OF PRELIMINARY DECLARATORY RELIEF, BUT A DEFENDANT'S FAILURE TO APPEAR DOES NOT PRECLUDE A COURT FROM GRANTING PRELIMINARY DECLARATORY RELIEF.**
- E. THE COURT SHALL RULE ON THE MOTION FOR PRELIMINARY DECLARATORY RELIEF WITHIN TWO DAYS AFTER THE DATE THAT THE COMPLAINT AND MOTION ARE RECEIVED BY THE JUDICIAL OFFICER WHO IS ASSIGNED TO THE CASE, EXCLUDING SATURDAYS, SUNDAYS AND COURT HOLIDAYS. PRELIMINARY DECLARATORY RELIEF MAY BE GRANTED AGAINST A DEFENDANT WHO DOES NOT APPEAR ONLY IF THE PLAINTIFF'S COMPLAINT IS VERIFIED AND A DECLARATION IS FILED THAT STATES WHY WITH THE EXERCISE OF REASONABLE DILIGENCE THE DEFENDANT COULD NOT BE SERVED. IF THE COURT GRANTS PRELIMINARY DECLARATORY RELIEF AGAINST A DEFENDANT WHO DOES NOT APPEAR, THE ORDER GRANTING THE RELIEF MUST BE FILED PROMPTLY IN THE CLERK'S OFFICE AND ENTERED IN THE RECORD AND MUST STATE ALL OF THE FOLLOWING:**
- 1. THE DATE AND HOUR THE ORDER WAS ISSUED.**
  - 2. WHY THE ORDER WAS ISSUED WITHOUT NOTICE.**
  - 3. THE DATE AND HOUR THE ORDER EXPIRES.**
  - 4. ANY ADDITIONAL INFORMATION THAT THE JUDICIAL OFFICER BELIEVES IS NECESSARY OR APPROPRIATE TO EFFECTUATE THE ORDER.**
- F. PRELIMINARY DECLARATORY RELIEF MAY BE GRANTED ONLY IF THE PLAINTIFF PROVES THE ELEMENTS OF DIGITAL IMPERSONATION PRESCRIBED BY SUBSECTION A OF THIS SECTION AND AT LEAST ONE OF THE FOLLOWING ADDITIONAL ELEMENTS:**
- 1. THE PERSON IS A CANDIDATE FOR PUBLIC OFFICE OR POLITICAL PARTY OFFICE AND AN ELECTION IS SCHEDULED TO BE HELD FOR THAT PUBLIC OFFICE OR POLITICAL PARTY OFFICE WITHIN ONE HUNDRED EIGHTY DAYS OF THE DATE THAT THE RELIEF IS REQUESTED.**
  - 2. THE DIGITAL IMPERSONATION DEPICTS THE PERSON ENGAGING IN A SEXUAL ACT OR DEPICTS THE UNCLOTHED BREASTS, BUTTOCKS OR GENITALS OF THE PERSON.**
  - 3. THE DIGITAL IMPERSONATION DEPICTS THE PERSON ENGAGING IN A CRIMINAL ACT.**
  - 4. IN THE ABSENCE OF PRELIMINARY DECLARATORY RELIEF, THE PERSON CAN BE REASONABLY EXPECTED TO SUFFER SIGNIFICANT PERSONAL OR FINANCIAL HARDSHIP OR LOSS OF EMPLOYMENT OPPORTUNITIES.**
  - 5. IN THE ABSENCE OF PRELIMINARY DECLARATORY RELIEF, THE PERSON'S REPUTATION WILL BE IRREPARABLY HARMED.**
- G. IF THE DEFENDANT DOES NOT APPEAR AND CONTEST THE CLAIM AND NO OTHER PARTY INTERVENES AS A DEFENDANT, THE PLAINTIFF IS NOT ENTITLED TO TAXABLE COSTS.**

- H.** IF A DEFENDANT HAS NOT BEEN SERVED WITHIN NINETY DAYS AFTER THE DATE OF FILING AND NO PARTY HAS APPEARED OR INTERVENED AS A DEFENDANT IN INTERVENTION, THE CLAIMS AGAINST THAT DEFENDANT SHALL BE DISMISSED AND ANY PRELIMINARY RELIEF THAT WAS GRANTED SHALL EXPIRE UNLESS THE COURT FINDS THAT THE INTERESTS OF JUSTICE REQUIRE OTHERWISE.
- I.** IN ADDITION TO DECLARATORY RELIEF AS PRESCRIBED IN SUBSECTIONS A THROUGH F OF THIS SECTION, A PLAINTIFF IN AN ACTION FOR DIGITAL IMPERSONATION MAY OBTAIN INJUNCTIVE RELIEF AND DAMAGES ONLY IF THE ELEMENTS OF DIGITAL IMPERSONATION PRESCRIBED IN SUBSECTION A OF THIS SECTION AND ALL OF THE FOLLOWING ELEMENTS ARE PROVEN:
- 1.** THE DIGITAL IMPERSONATION DEPICTS THE PERSON ENGAGING IN A SEXUAL ACT OR DEPICTS THE UNCLOTHED BREASTS, BUTTOCKS OR GENITALS OF THE PERSON, APPEALS TO PRURIENT INTERESTS AND OFFENDS LOCAL COMMUNITY STANDARDS.
  - 2.** THE PLAINTIFF WAS NOT A PUBLIC FIGURE, INCLUDING A LIMITED PUBLIC FIGURE, AT THE TIME THE CAUSE OF ACTION ACCRUED.
  - 3.** THE PUBLICATION WAS MADE WITH ACTUAL KNOWLEDGE THAT THE RECORDING OR IMAGE WAS A DIGITAL IMPERSONATION OR THE PUBLISHER FAILED TO TAKE REASONABLE CORRECTIVE ACTION WITHIN TWENTY-ONE DAYS AFTER THE PUBLISHER HAD ACTUAL KNOWLEDGE THAT THE RECORDING OR IMAGE WAS A DIGITAL IMPERSONATION. REASONABLE CORRECTIVE ACTION INCLUDES REMOVING OR DISABLING ACCESS TO THE DIGITAL IMPERSONATION AND PUBLISHING TO THE SAME AUDIENCE A STATEMENT THAT THE PUBLICATION WAS A DIGITAL IMPERSONATION.
- J.** IF PRELIMINARY DECLARATORY RELIEF IS GRANTED, ANY FACTUAL OR LEGAL DETERMINATIONS MADE BY THE COURT SHALL NOT BE CONSIDERED BY THE TRIER OF FACT OR THE COURT AT ANY LATER STAGE OF THE PROCEEDING OR IN ANY OTHER PROCEEDING.
- K.** THE STANDARD OF PROOF FOR ACTIONS PRESCRIBED BY THIS SECTION IS:
- 1.** FOR PRELIMINARY DECLARATORY RELIEF, CLEAR AND CONVINCING EVIDENCE.
  - 2.** FOR INJUNCTIVE RELIEF AND DAMAGES, CLEAR AND CONVINCING EVIDENCE.
  - 3.** FOR PERMANENT DECLARATORY RELIEF, A PREPONDERANCE OF THE EVIDENCE.
- L.** A PLAINTIFF WHO BRINGS AN ACTION UNDER THIS SECTION MAY FILE A COMPLAINT IN THE SUPERIOR COURT FOR THE COUNTY IN WHICH THE PLAINTIFF RESIDES OR, IF THE PLAINTIFF IS A CANDIDATE FOR PRESIDENT OF THE UNITED STATES, IN MARICOPA COUNTY OR IN ANY COUNTY IN WHICH ONE OF THE CANDIDATE'S POLITICAL PARTY'S APPOINTEES FOR ELECTOR RESIDES.
- M.** A PARENT OR GUARDIAN OF A MINOR CHILD OR INCAPACITATED PERSON MAY SEEK RELIEF UNDER THIS SECTION ON THE MINOR CHILD'S OR INCAPACITATED PERSON'S BEHALF.
- N.** THIS SECTION SHALL BE NARROWLY CONSTRUED IN FAVOR OF BOTH FREE AND OPEN DISCOURSE ON MATTERS OF PUBLIC CONCERN AND ARTISTIC EXPRESSION AND SHALL NOT BE CONSTRUED SO AS TO ABROGATE ANY CAUSE OF ACTION OTHERWISE AVAILABLE.
- O.** ALL PARTIES TO A CONTESTED ACTION SEEKING PERMANENT DECLARATORY RELIEF, PERMANENT INJUNCTIVE RELIEF OR DAMAGES AND THAT IS BROUGHT PURSUANT TO THIS SECTION HAVE THE RIGHT TO TRIAL BY JURY.
- P.** THIS SECTION APPLIES FOURTEEN DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION.
- Q.** FOR THE PURPOSES OF THIS SECTION:

1. "DIGITAL IMPERSONATION" MEANS SYNTHETIC MEDIA, TYPICALLY VIDEO, AUDIO OR STILL IMAGE, THAT MEETS ALL OF THE FOLLOWING REQUIREMENTS:
  - (a) HAS BEEN DIGITALLY MANIPULATED TO CONVINCINGLY REPLACE ONE PERSON'S LIKENESS OR VOICE WITH THAT OF ANOTHER USING DEEP GENERATIVE METHODS AND ARTIFICIAL INTELLIGENCE TECHNIQUES, OR FOR WHICH ONE PERSON'S LIKENESS OR VOICE HAS OTHERWISE BEEN SIMULATED USING DEEP GENERATIVE METHODS AND ARTIFICIAL INTELLIGENCE TECHNIQUES.
  - (b) WAS CREATED WITH THE INTENTION TO DECEIVE OR LEAD REASONABLE LISTENERS OR VIEWERS INTO BELIEVING THAT THE CONTENT IS AUTHENTIC.
  - (c) WOULD LEAD REASONABLE VIEWERS OR LISTENERS TO BELIEVE THAT IT IS A TRUE AND ACCURATE DEPICTION OF THE IMPERSONATED PERSON'S VOICE OR LIKENESS AND IS SOMETHING THE IMPERSONATED PERSON SAID OR DID.
  - (d) IS NOT COMMENTARY, PARODY, SATIRE, CRITICISM OR ARTISTIC EXPRESSION.
  - (e) WAS NOT CREATED BY THE IMPERSONATED PERSON OR WITH THE IMPERSONATED PERSON'S CONSENT.
2. "ELECTION" MEANS ANY ELECTION IN THIS STATE, INCLUDING A PRIMARY, PRESIDENTIAL PREFERENCE, SPECIAL OR GENERAL ELECTION.
3. "INFORMATION CONTENT PROVIDER" MEANS ANY PERSON OR ENTITY THAT IS RESPONSIBLE, IN WHOLE OR IN PART, FOR THE CREATION OR DEVELOPMENT OF INFORMATION PROVIDED THROUGH THE INTERNET OR ANY OTHER INTERACTIVE COMPUTER SERVICE.
4. "INTERACTIVE COMPUTER SERVICE" MEANS ANY INFORMATION SERVICE, SYSTEM OR ACCESS SOFTWARE PROVIDER THAT PROVIDES OR ENABLES COMPUTER ACCESS BY MULTIPLE USERS TO A COMPUTER SERVER, INCLUDING SPECIFICALLY A SERVICE OR SYSTEM THAT PROVIDES ACCESS TO THE INTERNET AND SUCH SYSTEMS OPERATED OR SERVICES OFFERED BY LIBRARIES OR EDUCATIONAL INSTITUTIONS.
5. "POLITICAL PARTY OFFICE" MEANS AN OFFICE TO WHICH PERSONS ARE ELECTED WITHIN A POLITICAL PARTY.
6. "PUBLIC OFFICE":
  - (a) MEANS ANY OFFICE TO WHICH PERSONS ARE ELECTED BY BALLOT AT AN ELECTION ADMINISTERED BY THIS STATE OR A POLITICAL SUBDIVISION OF THIS STATE.
  - (b) INCLUDES THE OFFICE OF PRESIDENT OF THE UNITED STATES WHERE A CANDIDATE'S NAME OR A CANDIDATE'S POLITICAL PARTY APPOINTEES FOR ELECTOR WILL APPEAR ON THE BALLOT IN THIS STATE.

## Sec. 2. Emergency

This act is an emergency measure that is necessary to preserve the public peace, health or safety and is operative immediately as provided by law.

## History

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Effective date: May 21, 2024

## Sponsor

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Kolodin

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End of Document

# 2024 Ariz. SB 1359

Enacted, May 29, 2024

## Reporter

2024 Ariz. ALS 199; 2024 Ariz. Sess. Laws 199; 2024 Ariz. Ch. 199; 2024 Ariz. SB 1359

ARIZONA ADVANCE LEGISLATIVE SERVICE > ARIZONA 56TH LEGISLATURE - SECOND REGULAR SESSION > CHAPTER 199 > SENATE BILL 1359

## Notice

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Added: Text highlighted in green

## Synopsis

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AN ACT AMENDING TITLE 16, CHAPTER 7, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 16-1023; RELATING TO ELECTION COMMUNICATIONS.

## Text

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*Be it enacted by the Legislature of the State of Arizona:*

**Section 1.** Title 16, chapter 7, article 1, Arizona Revised Statutes, is amended by adding section 16-1023, to read:

**16-1023. Deepfakes; candidates; political parties; exemptions; violation; classification; definitions**

- A.** WITHIN NINETY DAYS BEFORE AN ELECTION AT WHICH A CANDIDATE FOR ELECTED OFFICE WILL APPEAR ON THE BALLOT, A PERSON WHO ACTS AS A CREATOR SHALL NOT CREATE AND DISTRIBUTE A SYNTHETIC MEDIA MESSAGE THAT THE PERSON KNOWS IS A DECEPTIVE AND FRAUDULENT DEEPPFAKE OF THAT CANDIDATE THAT IS ON THAT BALLOT UNLESS THE SYNTHETIC MEDIA MESSAGE INCLUDES A CLEAR AND CONSPICUOUS DISCLOSURE THAT CONVEYS TO A REASONABLE PERSON THAT THE MEDIA INCLUDES CONTENT GENERATED BY ARTIFICIAL INTELLIGENCE.
- B.** THIS SECTION DOES NOT APPLY TO:
1. MEDIA THAT CONSTITUTES SATIRE OR PARODY.
  2. AN INTERACTIVE COMPUTER SERVICE AS DEFINED IN 47 UNITED STATES CODE SECTION 230.
- C.** A PERSON WHO FAILS TO MAKE THE DISCLOSURE REQUIRED UNDER THIS SECTION IS LIABLE FOR THE CIVIL PENALTY PRESCRIBED BY SECTION 16-937, SUBSECTION B, FOR EACH DAY THAT THEY DISTRIBUTE THE DECEPTIVE AND FRAUDULENT DEEPPFAKE WITHOUT SUCH DISCLOSURE.
- D.** FOR THE PURPOSES OF THIS SECTION:
1. "CREATOR":

- (a) MEANS ANY PERSON THAT USES ARTIFICIAL INTELLIGENCE OR OTHER DIGITAL TECHNOLOGY TO GENERATE SYNTHETIC MEDIA.
- (b) DOES NOT INCLUDE THE PROVIDER OF ANY TECHNOLOGY USED IN THE CREATION OF SYNTHETIC MEDIA.
2. "DECEPTIVE AND FRAUDULENT DEEPPFAKE" MEANS SYNTHETIC MEDIA THAT DEPICTS A CANDIDATE WITH KNOWLEDGE OF ITS FALSITY AND THE INTENT TO INJURE THE REPUTATION OF THE CANDIDATE AND THAT IS INTENTIONALLY CALCULATED TO MISLEAD A REASONABLE PERSON INTO CONCLUDING THAT A REAL INDIVIDUAL SAID OR DID SOMETHING THAT THEY DID NOT SAY OR DO IN REALITY.
3. "SYNTHETIC MEDIA" MEANS AN IMAGE, AUDIO RECORDING OR VIDEO RECORDING OF AN INDIVIDUAL'S APPEARANCE, SPEECH OR CONDUCT THAT HAS BEEN CREATED OR INTENTIONALLY MANIPULATED WITH THE USE OF DIGITAL TECHNOLOGY IN A MANNER TO CREATE A REALISTIC BUT FALSE IMAGE, AUDIO OR VIDEO.

## Sec. 2. Severability

If a provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

## History

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Approved by the Governor                      May 29, 2024  
Effective date:                      91st day after adjournment

## Sponsor

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Carroll

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# 2024 Colo. HB. 1147

Enacted, May 24, 2024

## Reporter

2024 Colo. ALS 250; 2024 Colo. Ch. 250; 2024 Colo. HB. 1147

COLORADO ADVANCE LEGISLATIVE SERVICE > COLORADO 2ND REGULAR SESSION OF THE 74TH GENERAL ASSEMBLY > CHAPTER 250 > HOUSE BILL NO. 1147

## Notice

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Added: Text highlighted in green

## Synopsis

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CONCERNING THE USE OF A DEEPPAKE IN A COMMUNICATION RELATED TO A CANDIDATE FOR ELECTIVE OFFICE, AND, IN CONNECTION THEREWITH, REQUIRING DISCLOSURE, PROVIDING FOR ENFORCEMENT, AND CREATING A PRIVATE CAUSE OF ACTION FOR CANDIDATES.

## Text

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*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** In Colorado Revised Statutes, 1-45-111.5, add (1.5)(c.5) as follows:

**1-45-111.5. Duties of the secretary of state — enforcement — sanctions — definitions.**

(1.5)

**(c.5)** IN ADDITION TO AND WITHOUT PREJUDICE TO ANY OTHER PENALTY AUTHORIZED UNDER THIS ARTICLE 45, A HEARING OFFICER SHALL IMPOSE A CIVIL PENALTY AS FOLLOWS:

**(I)** AT LEAST ONE HUNDRED DOLLARS FOR EACH VIOLATION THAT IS A FAILURE TO INCLUDE A DISCLOSURE STATEMENT IN ACCORDANCE WITH SECTION 1-46-103 (2), IF THE VIOLATION DOES NOT INVOLVE ANY PAID ADVERTISING OR OTHER SPENDING TO PROMOTE OR ATTRACT ATTENTION TO A COMMUNICATION PROHIBITED BY SECTION 1-46-103 (1), OR SUCH OTHER HIGHER AMOUNT THAT, BASED ON THE DEGREE OF DISTRIBUTION AND PUBLIC EXPOSURE TO THE UNLAWFUL COMMUNICATION, THE HEARING OFFICER DEEMS APPROPRIATE TO DETER FUTURE VIOLATIONS OF SECTION 1-46-103; AND

**(II)** AT LEAST TEN PERCENT OF THE AMOUNT PAID OR SPENT TO ADVERTISE, PROMOTE, OR ATTRACT ATTENTION TO A COMMUNICATION PROHIBITED BY SECTION 1-46-103 (1) THAT DOES NOT INCLUDE A DISCLOSURE STATEMENT IN ACCORDANCE WITH SECTION 1-46-103 (2), OR SUCH OTHER HIGHER AMOUNT THAT, BASED ON THE DEGREE OF DISTRIBUTION AND PUBLIC EXPOSURE TO THE UNLAWFUL

COMMUNICATION, THE HEARING OFFICER DEEMS APPROPRIATE TO DETER FUTURE VIOLATIONS OF SECTION 1-46-103.

**SECTION 2.** In Colorado Revised Statutes, 1-45-111.7, amend (2)(a) as follows:

**1-45-111.7. Campaign finance complaints — initial review — curing violations — investigation and enforcement — hearings — advisory opinions — document review — collection of debts resulting from campaign finance penalties — definitions.**

**(2) Filing complaints.**

**(a)** Any person who believes that a violation has occurred of article XXVIII, this article 45, **ARTICLE 46 OF THIS TITLE 1**, or the rules may file a complaint with the secretary.

**SECTION 3.** In Colorado Revised Statutes, add article 46 to title 1 as follows:

**Article 46 Failure to Disclose a Deepfake in a Communication Concerning a Candidate for Elective Office**

**1-46-101. Legislative declaration.**

**(1) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:**

**(a) THE REVOLUTIONARY INNOVATIONS IN GENERATIVE ARTIFICIAL INTELLIGENCE SYSTEMS CAPABLE OF PRODUCING IMAGE, AUDIO, VIDEO, AND MULTIMEDIA CONTENT (AI-GENERATED CONTENT) POSE A THREAT TO FREE AND FAIR ELECTIONS IN THE STATE;**

**(b) AI-GENERATED CONTENT MAY BE USED TO CREATE DEEPFAKES THAT FALSELY DEPICT A CANDIDATE'S SPEECH OR ACTION IN ORDER TO SPREAD MISINFORMATION AND DISINFORMATION AT SCALE AND WITH UNPRECEDENTED SPEED; AND**

**(c) A DEEPFAKE IS ANALOGOUS TO A PERSON BEING FORCED TO SAY SOMETHING IN A VIDEO RECORDED UNDER DURESS, WHERE THE VICTIM APPEARS TO SAY SOMETHING THEY WOULD NOT NORMALLY SAY, ONE THROUGH FORCE AND THE OTHER THROUGH DEEPFAKE TECHNOLOGY. A VOTER'S OPINION OF A CANDIDATE MAY BE IRREPARABLY TAINTED BY A FABRICATED REPRESENTATION OF A CANDIDATE OR ELECTED OFFICIAL SAYING OR DOING SOMETHING THEY DID NOT SAY OR DO. THESE FALSE, NEGATIVE PORTRAYALS MAY EXIST INDEFINITELY ONCE POSTED ON THE INTERNET AND PERMANENTLY DAMAGE A CANDIDATE OR ELECTED OFFICIAL'S REPUTATION AND EVEN PUT THEIR SAFETY AT RISK.**

**1-46-102. Definitions.**

**AS USED IN THIS ARTICLE 46, UNLESS THE CONTEXT OTHERWISE REQUIRES:**

**(1)**

- (a)** "AI-GENERATED CONTENT" MEANS IMAGE, VIDEO, AUDIO, MULTIMEDIA, OR TEXT CONTENT THAT IS SUBSTANTIALLY CREATED OR MODIFIED BY GENERATIVE ARTIFICIAL INTELLIGENCE SUCH THAT THE USE OF GENERATIVE ARTIFICIAL INTELLIGENCE ALTERS THE MEANING OR SIGNIFICANCE THAT A REASONABLE PERSON WOULD TAKE AWAY FROM THE CONTENT.
- (b)** "AI-GENERATED CONTENT" DOES NOT INCLUDE IMAGE, VIDEO, AUDIO, MULTIMEDIA, OR TEXT CONTENT THAT IS MINIMALLY EDITED, ADJUSTED, OR ENHANCED BY GENERATIVE ARTIFICIAL INTELLIGENCE SUCH THAT THE USE OF GENERATIVE ARTIFICIAL INTELLIGENCE DOES NOT MATERIALLY ALTER THE MEANING OR SIGNIFICANCE THAT A REASONABLE PERSON WOULD TAKE AWAY FROM THE CONTENT.

**(2)**

- (a)** "CANDIDATE" HAS THE SAME MEANING AS SET FORTH IN SECTION 2 (2) OF ARTICLE XXVIII OF THE STATE CONSTITUTION; EXCEPT THAT, "CANDIDATE" ALSO INCLUDES ANY PERSON WHO SEEKS NOMINATION OR ELECTION TO ANY FEDERAL PUBLIC OFFICE IN THIS STATE.
- (b)** FOR PURPOSES OF THIS ARTICLE 46, "CANDIDATE" ALSO INCLUDES AN INCUMBENT OR CURRENT OFFICE HOLDER.

**(3)** "DEEFAKE" MEANS AN IMAGE, VIDEO, AUDIO, OR MULTIMEDIA AI-GENERATED CONTENT THAT FALSELY APPEARS TO BE AUTHENTIC OR TRUTHFUL AND WHICH FEATURES A DEPICTION OF AN INDIVIDUAL APPEARING TO SAY OR DO SOMETHING THE INDIVIDUAL DID NOT SAY OR DO.

**(4)** "GENERATIVE ARTIFICIAL INTELLIGENCE" OR "GENERATIVE AI" MEANS AN ARTIFICIAL INTELLIGENCE SYSTEM CAPABLE OF GENERATING NOVEL IMAGE, VIDEO, AUDIO, MULTIMEDIA, OR TEXT CONTENT BASED ON PROMPTS OR OTHER FORMS OF DATA PROVIDED BY A PERSON.

**(5)** "METADATA" MEANS STRUCTURAL OR DESCRIPTIVE INFORMATION ABOUT DATA SUCH AS CONTENT, FORMAT, SOURCE, RIGHTS, ACCURACY, PROVENANCE, PERIODICITY, GRANULARITY, PUBLISHER OR RESPONSIBLE PARTY, CONTACT INFORMATION, METHOD OF COLLECTION, AND OTHER DESCRIPTIONS.

**(6)** "OFFICE" MEANS THE OFFICE OF THE SECRETARY OF STATE, OR THE SECTION OR DIVISION OF THE OFFICE OF THE SECRETARY OF STATE ADMINISTERING THE ELECTION LAWS OF THIS STATE PURSUANT TO SECTION 1-1-107 (4).

**(7)** "PERSON" HAS THE SAME MEANING AS SET FORTH IN SECTION 1-13-109 (3).

**1-46-103. Use of deepfakes in a communication concerning a candidate for elective office — disclosure requirements — limitations — rules.**

**(1)** EXCEPT AS PROVIDED IN SUBSECTIONS (2) AND (3) OF THIS SECTION, NO PERSON SHALL DISTRIBUTE, DISSEMINATE, PUBLISH, BROADCAST, TRANSMIT, OR DISPLAY A COMMUNICATION CONCERNING A CANDIDATE FOR ELECTIVE OFFICE THAT INCLUDES A DEEPFAKE TO AN AUDIENCE THAT INCLUDES MEMBERS OF THE ELECTORATE FOR THE ELECTIVE OFFICE TO BE REPRESENTED BY THE CANDIDATE EITHER SIXTY DAYS BEFORE A PRIMARY ELECTION OR NINETY DAYS BEFORE A GENERAL ELECTION, IF THE PERSON KNOWS OR HAS RECKLESS DISREGARD FOR THE FACT THAT THE DEPICTED CANDIDATE DID NOT SAY OR DO WHAT THE CANDIDATE IS DEPICTED AS SAYING OR DOING IN THE COMMUNICATION.

**(2)**

**(a)** THE PROHIBITION IN SUBSECTION (1) OF THIS SECTION DOES NOT APPLY TO A COMMUNICATION THAT INCLUDES A DISCLOSURE STATING, IN A CLEAR AND CONSPICUOUS MANNER, THAT: "THIS (IMAGE/AUDIO/VIDEO/MULTIMEDIA) HAS BEEN EDITED AND DEPICTS SPEECH OR CONDUCT THAT FALSELY APPEARS TO BE AUTHENTIC OR TRUTHFUL."

**(b)** A DISCLOSURE REQUIRED UNDER THIS SECTION IS CONSIDERED TO BE MADE IN A CLEAR AND CONSPICUOUS MANNER IF THE DISCLOSURE MEETS THE FOLLOWING REQUIREMENTS:

**(i)** IN A VISUAL COMMUNICATION, THE TEXT OF THE DISCLOSURE STATEMENT APPEARS IN A FONT SIZE NO SMALLER THAN THE LARGEST FONT SIZE OF OTHER TEXT APPEARING IN THE VISUAL COMMUNICATION. IF THE VISUAL COMMUNICATION DOES NOT INCLUDE ANY OTHER TEXT, THE DISCLOSURE STATEMENT APPEARS IN A FONT SIZE THAT IS EASILY READABLE BY THE AVERAGE VIEWER.

**(ii)** IN AN AUDIO COMMUNICATION, THE DISCLOSURE STATEMENT SHALL BE READ IN A CLEARLY SPOKEN MANNER IN THE SAME PITCH, SPEED, LANGUAGE, AND VOLUME AS THE MAJORITY OF THE AUDIO COMMUNICATION, AT THE BEGINNING OF THE AUDIO COMMUNICATION, AT THE END OF THE AUDIO COMMUNICATION, AND, IF THE AUDIO COMMUNICATION IS GREATER THAN TWO MINUTES IN LENGTH, INTERSPERSED WITHIN THE AUDIO COMMUNICATION AT INTERVALS OF NOT MORE THAN ONE MINUTE EACH;

**(iii)** THE METADATA OF THE COMMUNICATION INCLUDES THE DISCLOSURE STATEMENT, THE IDENTITY OF THE TOOL USED TO CREATE THE DEEPFAKE, AND THE DATE AND TIME THE DEEPFAKE WAS CREATED;

**(iv)** THE DISCLOSURE STATEMENT IN THE COMMUNICATION, INCLUDING THE DISCLOSURE STATEMENT IN ANY METADATA, IS, TO THE EXTENT TECHNICALLY FEASIBLE, PERMANENT OR UNABLE TO BE EASILY REMOVED BY A SUBSEQUENT USER;

- (V)** THE COMMUNICATION COMPLIES WITH ANY ADDITIONAL REQUIREMENTS FOR THE DISCLOSURE STATEMENT THAT THE SECRETARY OF STATE MAY ADOPT BY RULE TO ENSURE THAT THE DISCLOSURE STATEMENT IS PRESENTED IN A CLEAR AND CONSPICUOUS AND UNDERSTANDABLE MANNER; AND
- (VI)** IN A BROADCAST OR ONLINE VISUAL OR AUDIO COMMUNICATION THAT INCLUDES A STATEMENT REQUIRED BY SUBSECTION (2) OF THIS SECTION, THE STATEMENT SATISFIES ALL APPLICABLE REQUIREMENTS, IF ANY, PROMULGATED BY THE FEDERAL COMMUNICATIONS COMMISSION FOR SIZE, DURATION, AND PLACEMENT.
- (3)** THIS SECTION IS SUBJECT TO THE FOLLOWING LIMITATIONS:
- (a)** THIS SECTION DOES NOT ALTER OR NEGATE ANY RIGHTS, OBLIGATIONS, OR IMMUNITIES OF AN INTERACTIVE COMPUTER SERVICE IN ACCORDANCE WITH 47 U.S.C. SEC. 230, AS AMENDED, AND SHALL OTHERWISE BE CONSTRUED IN A MANNER CONSISTENT WITH FEDERAL LAW;
- (b)** THIS SECTION DOES NOT APPLY TO A RADIO OR TELEVISION BROADCASTING STATION, INCLUDING A CABLE OR SATELLITE TELEVISION OPERATOR, PROGRAMMER, OR PRODUCER THAT BROADCASTS A COMMUNICATION THAT INCLUDES A DEEPFAKE PROHIBITED BY SUBSECTION (1) OF THIS SECTION AS PART OF A BONA FIDE NEWSCAST, NEWS INTERVIEW, NEWS DOCUMENTARY, OR ON-THE-SPOT COVERAGE OF A BONA FIDE NEWS EVENT, IF THE BROADCAST OR PUBLICATION CLEARLY ACKNOWLEDGES THROUGH CONTENT OR A DISCLOSURE, IN A MANNER THAT CAN BE EASILY HEARD AND UNDERSTOOD OR READ BY THE AVERAGE LISTENER OR VIEWER, THAT THERE ARE QUESTIONS ABOUT THE AUTHENTICITY OF THE DEEPFAKE IN THE COMMUNICATION;
- (c)** THIS SECTION DOES NOT APPLY TO A RADIO OR TELEVISION BROADCASTING STATION, INCLUDING A CABLE OR SATELLITE TELEVISION OPERATOR, PROGRAMMER, PRODUCER, OR STREAMING SERVICE, WHEN THE STATION IS PAID TO BROADCAST A COMMUNICATION THAT INCLUDES A DEEPFAKE;
- (d)** THIS SECTION DOES NOT APPLY TO AN INTERNET WEBSITE, OR A REGULARLY PUBLISHED NEWSPAPER, MAGAZINE, OR OTHER PERIODICAL OF GENERAL CIRCULATION, INCLUDING AN INTERNET OR ELECTRONIC PUBLICATION OR STREAMING SERVICE, THAT ROUTINELY CARRIES NEWS AND COMMENTARY OF GENERAL INTEREST AND THAT PUBLISHES A COMMUNICATION THAT INCLUDES A DEEPFAKE PROHIBITED BY SUBSECTION (1) OF THIS SECTION, IF THE PUBLICATION CLEARLY STATES THAT THE COMMUNICATION THAT INCLUDES THE DEEPFAKE DOES NOT ACCURATELY REPRESENT A CANDIDATE FOR ELECTIVE OFFICE;
- (e)** THIS SECTION DOES NOT APPLY TO MEDIA CONTENT THAT CONSTITUTES SATIRE OR PARODY OR THE PRODUCTION OF WHICH IS SUBSTANTIALLY DEPENDENT ON THE

ABILITY OF AN INDIVIDUAL TO PHYSICALLY OR VERBALLY IMPERSONATE THE CANDIDATE AND NOT UPON GENERATIVE AI OR OTHER TECHNICAL MEANS;

(f) THIS SECTION DOES NOT APPLY TO THE PROVIDER OF TECHNOLOGY USED IN THE CREATION OF A DEEPPFAKE; AND

(g) THIS SECTION DOES NOT APPLY TO AN INTERACTIVE COMPUTER SERVICE, AS DEFINED IN 47 U.S.C. SEC. 230 (f)(2), FOR ANY CONTENT PROVIDED BY ANOTHER INFORMATION CONTENT PROVIDER AS DEFINED IN 47 U.S.C. SEC. 230 (f)(3).

(4) THE SECRETARY OF STATE SHALL PROMULGATE SUCH RULES, IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24, AS MAY BE NECESSARY TO ADMINISTER AND ENFORCE ANY PROVISION OF THIS ARTICLE 46.

**1-46-104. Enforcement — administrative hearing.**

ANY PERSON WHO BELIEVES THAT A VIOLATION OF SECTION 1-46-103, OR THE SECRETARY OF STATE'S RULES CONCERNING THE USE OF A DEEPPFAKE IN A COMMUNICATION CONCERNING A CANDIDATE FOR ELECTIVE OFFICE, HAS OCCURRED MAY FILE A WRITTEN COMPLAINT WITH THE OFFICE IN ACCORDANCE WITH SECTION 1-45-111.7 (2). SUCH COMPLAINT SHALL BE REVIEWED AND ADJUDICATED IN ACCORDANCE WITH SECTION 1-45-111.7 AND THE SECRETARY OF STATE'S RULES FOR COMPLAINTS AND ADMINISTRATIVE HEARINGS PURSUANT TO ARTICLE 45 OF THIS TITLE 1.

**1-46-105. Civil action — injunctive relief — damages.**

(1) A CANDIDATE WHOSE APPEARANCE, ACTION, OR SPEECH IS DEPICTED IN A DEEPPFAKE THAT IS INCLUDED IN A COMMUNICATION DISTRIBUTED IN VIOLATION OF SECTION 1-46-103 MAY:

(a) SEEK INJUNCTIVE OR OTHER EQUITABLE RELIEF PROHIBITING THE DISTRIBUTION, DISSEMINATION, PUBLICATION, BROADCAST, TRANSMISSION, OR DISPLAY OF THE COMMUNICATION, AND PREVENTING THE DEFENDANT FROM OTHERWISE FURTHER VIOLATING THIS ARTICLE 46;

(b) BRING AN ACTION FOR COMPENSATORY AND PUNITIVE DAMAGES AGAINST THE PERSON THAT DISTRIBUTED, DISSEMINATED, PUBLISHED, BROADCAST, TRANSMITTED, OR DISPLAYED THE COMMUNICATION;

(c) SEEK REASONABLE ATTORNEY FEES, FILING FEES, AND COSTS OF ACTION; AND

(d) SEEK ANY OTHER JUST AND APPROPRIATE RELIEF NECESSARY TO ENFORCE THIS ARTICLE 46 AND REMEDY THE HARM CAUSED BY THE VIOLATION OF SECTION 1-46-103.

(2) AN ACTION COMMENCED PURSUANT TO SUBSECTION (1)(a) OF THIS SECTION MUST BE HEARD BY THE DISTRICT COURT AT THE EARLIEST PRACTICAL TIME.

(3) AN ACTION COMMENCED PURSUANT TO SUBSECTION (1)(a) OR (1)(b) OF THIS SECTION DOES NOT LIMIT OR PRECLUDE A PLAINTIFF FROM SECURING OR RECOVERING ANY

OTHER AVAILABLE REMEDY, OR FROM SEEKING TO INSTITUTE A CRIMINAL ACTION AGAINST THE DEFENDANT.

(4) IN ANY CIVIL ACTION ALLEGING A VIOLATION OF SECTION 1-46-103, THE PLAINTIFF BEARS THE BURDEN OF ESTABLISHING THE VIOLATION BY CLEAR AND CONVINCING EVIDENCE.

**1-46-106. Limitation.**

(1) NOTHING IN THIS ARTICLE 46 LIMITS OR IMPAIRS IN ANY WAY THE RIGHT OF THE ATTORNEY GENERAL, OR ANY PERSON OR ENTITY, TO PURSUE A LEGAL ACTION AGAINST A PERSON IN CONNECTION WITH A DEEPFAKE PURSUANT TO ANY OTHER LAW, CAUSE OF ACTION, TORT THEORY, OR OTHER AUTHORITY.

(2) NOTHING IN THIS ARTICLE 46, EXEMPTS A PERSON WHO KNOWINGLY OR RECKLESSLY DISTRIBUTES, DISSEMINATES, PUBLISHES, BROADCASTS, TRANSMITS, OR DISPLAYS A COMMUNICATION CONCERNING A CANDIDATE FOR ELECTIVE OFFICE THAT INCLUDES A FALSE STATEMENT THROUGH A DEEPFAKE FROM CRIMINAL LIABILITY IN ACCORDANCE WITH SECTION 1-13-109, OR ANY OTHER APPLICABLE PROVISION OF LAW.

**SECTION 4. Effective date — applicability.**

This act takes effect July 1, 2024, and applies to communications distributed on or after said date.

**SECTION 5. Safety clause.**

The general assembly finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety or for appropriations for the support and maintenance of the departments of the state and state institutions.

## History

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Approved by the Governor                      May 24, 2024

Effective date:                      July 1, 2024

## Sponsor

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BY REPRESENTATIVE(S) Joseph and Titone, Bacon, Brown, Clifford, Garcia, Hernandez, Kipp, Lindsay, Lindstedt, Mabrey, Marvin, Rutinel, Velasco, Willford, Boesenecker, Herod, Jodeh, Mauro, McCormick, Ortiz, Ricks, Story, English; also SENATOR(S) Hansen and Buckner, Cutter, Exum, Fields, Kolker, Michaelson Jenet, Priola, Winter F.

COLORADO ADVANCE LEGISLATIVE SERVICE  
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# 2024 Ore. SB 1571

Enacted, March 27, 2024

## Reporter

2024 Ore. ALS 62; 2024 Ore. Laws 62; 2024 Ore. SB 1571

OREGON ADVANCE LEGISLATIVE SERVICE > OREGON 82ND OREGON LEGISLATIVE ASSEMBLY - 2024  
REGULAR SESSION > CHAPTER 062 > SENATE BILL 1571

## Notice

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Added: Text highlighted in green

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## Synopsis

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AN ACT Relating to the use of artificial intelligence in campaign communications; creating new provisions; amending ORS 260.345; and declaring an emergency.

## Text

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*Be It Enacted by the People of the State of Oregon:*

### SECTION 1.

(1) As used in this section:

(a)

(A) "Campaign communication" means a communication in support of or in opposition to a clearly identified candidate or measure, as defined in ORS 260.005 (10)(c).

(B) Notwithstanding ORS 260.005 (10)(c)(B)(i), a campaign communication may involve aggregate expenditures of any amount.

(b) "Synthetic media" means an image, audio recording or video recording of an individual's appearance, speech or conduct that has been intentionally manipulated with the use of artificial intelligence techniques or similar digital technology in a manner to create a realistic but false image, audio recording or video recording that produces:

(A) A depiction that a reasonable person would believe is of a real individual in appearance, speech or conduct but that did not actually occur in reality; and

(B) A materially different understanding or impression than a reasonable person would have from the unaltered, original version of the image, audio recording or video recording.

(2) A campaign communication that includes any form of synthetic media must include a disclosure stating that the image, audio recording or video recording has been manipulated.

(3) The Secretary of State may institute proceedings to enjoin any violation of this section. The Attorney General may institute proceedings to enjoin any violation of this section by the Secretary of State, a

candidate for the office of the Secretary of State, or any political committee or person supporting the Secretary of State or a candidate for the office of the Secretary of State. In any action brought under this section, the circuit court may at any time enter such injunctions, prohibitions or restraining orders, or take any other actions as the court may deem proper. A restraining order, prohibition or injunction may be issued under this section without proof of injury or damage to any person. The circuit court shall give priority to the hearing and determination under this section. The court shall award the prevailing party reasonable attorney fees at trial and on appeal.

- (4) Upon proof of any violation of this section, the court shall impose a civil penalty of not more than \$10,000. All penalties recovered under this section shall be paid into the State Treasury and credited to the General Fund.
- (5) The remedy provided by this section is the exclusive remedy for a violation of this section.
- (6) This section does not apply to:
- (a) A provider of an interactive computer service, as defined in 47 U.S.C. 230(f), or an information service, as defined in 47 U.S.C. 153;
  - (b) A radio or television station, including a cable or satellite television operator, programmer or producer, that broadcasts a campaign communication that includes synthetic media as part of a bona fide newscast, news interview, news documentary, or on-the-spot coverage of a bona fide news event, if the broadcast or publication clearly acknowledges through content or disclosure, in a manner that can be easily heard and understood or read by the average listener or viewer, that there are questions about authenticity in the communication;
  - (c) A radio or television broadcasting station, including a cable or satellite television operator, programmer or producer, an internet website or an online platform, when the station, website or platform is paid to broadcast or publish a campaign communication that includes synthetic media;
  - (d) A regularly published newspaper, magazine or other periodical of general circulation, including an internet or electronic publication, or an internet service or website provider, that publishes a campaign communication that includes synthetic media, if the communication includes a statement that the synthetic media contained therein does not accurately represent a ballot issue or candidate; or
  - (e) Content that constitutes satire, parody or that is substantially dependent on the ability of an individual to physically or verbally impersonate a candidate without the use of technology.

## SECTION 2.

Section 1 of this 2024 Act is added to and made a part of ORS chapter 260.

## SECTION 3. ORS 260.345 is amended to read:

### 260.345.

- (1) Any elector may file with any filing officer a written complaint alleging that a violation of an election law or rule adopted by the Secretary of State under ORS chapters 246 to 260 has occurred and stating the reason for believing that the violation occurred and any evidence relating to it. A complaint and any evidence relating to it may be filed electronically. A complaint alleging a violation involving the Secretary of State, a candidate for the office of Secretary of State, or any political committee or person supporting the Secretary of State or a candidate for the office of Secretary of State may be filed with the Attorney General. The Secretary of State or Attorney General shall not accept an anonymous complaint.
- (2) The Secretary of State by rule shall prescribe the procedure for processing a complaint filed with any person other than the Secretary of State. If the complaint concerns the Secretary of State, any

candidate for the office of the Secretary of State, or any political committee or person supporting the candidacy of the Secretary of State or of another person for the office of Secretary of State, the complaint and any additional information relating to the complaint shall be sent to the Attorney General.

- (3) Upon receipt of a complaint under subsection (1) or (2) of this section the Secretary of State or Attorney General immediately shall examine the complaint to determine whether a violation of an election law or rule has occurred and shall make any investigation the Secretary of State or Attorney General considers necessary. Except as provided in this subsection, within three business days of determining that an investigation is necessary to determine whether a violation of an election law or rule has occurred, the Secretary of State or Attorney General shall notify the person who is the subject of the complaint that an investigation will take place. If the Secretary of State or Attorney General receives a complaint or complaints involving 10 or more individuals, political committees or petition committees in any 48-hour period, the Secretary of State or Attorney General need not notify the persons who are the subjects of those complaints within three business days of receiving the complaints but shall notify those persons not later than 10 business days after determining that an investigation is necessary to determine whether a violation of election law or rule has occurred.
- (4) If the Secretary of State believes after an investigation under subsection (3) of this section that a violation of an election law or rule has occurred, the secretary:
- (a) In the case of a violation that is subject to a penalty under ORS 260.993, immediately shall report the findings to the Attorney General and request prosecution. If the violation involves the Attorney General, a candidate for that office or a political committee or person supporting or opposing the Attorney General or a candidate for that office, the Secretary of State shall appoint another prosecutor for that purpose;
  - (b) In the case of a violation not subject to a penalty under ORS 260.537 or 260.993 or section 1 of this 2024 Act, may impose a civil penalty under ORS 260.995; ~~or~~
  - (c) In the case of a violation under ORS 260.537, may institute civil proceedings in the manner described in ORS 260.537; or
  - (d) In the case of a violation under section 1 of this 2024 Act, may institute civil proceedings in the manner described in section 1 of this 2024 Act.
- (5) Upon receipt of a complaint or report under subsection (1), (2) or (4) of this section involving an alleged violation subject to a penalty under ORS 260.993 or an alleged violation of ORS 260.537 or section 1 of this 2024 Act, the Attorney General or other prosecutor immediately shall examine the complaint or report to determine whether a violation of an election law has occurred. If the Attorney General or prosecutor determines that a violation has occurred, the Attorney General or prosecutor immediately shall begin prosecution or civil proceedings in the name of the state. The Attorney General or other prosecutor shall have the same powers in any county of this state as the district attorney for the county.
- (6) Upon receipt of a complaint under subsection (1) or (2) of this section involving an alleged violation of an election law or rule not subject to a penalty under ORS 260.537 or 260.993 or section 1 of this 2024 Act, the Attorney General shall examine the complaint to determine whether a violation of an election law or rule has occurred and shall make any investigation the Attorney General considers necessary. If the Attorney General believes after an investigation that a violation of an election law or rule has occurred, the Attorney General may impose a civil penalty under ORS 260.995.

- (7) In the case of an alleged violation subject to a civil penalty under ORS 260.995 or an alleged violation of ORS 260.537 or section 1 of this 2024 Act, a complaint shall be filed by an elector under this section no later than 90 days following the election at which a violation of an election law or rule is alleged to have occurred, or 90 days following the date the violation of an election law or rule is alleged to have occurred, whichever is later.
- (8) A filing officer having reason to believe that a violation of an election law or rule has occurred shall proceed promptly as though the officer had received a complaint. Except as provided in ORS 260.234, a filing officer shall proceed under this subsection no later than two years following the election at which a violation of an election law or rule is alleged to have occurred, or two years following the date the violation of an election law or rule is alleged to have occurred, whichever is later. If a filing officer has not proceeded within two years because of fraud, deceit, misleading representation or the filing officer could not have reasonably discovered the alleged violation, the filing officer shall proceed no later than five years following the election at which a violation of an election law or rule is alleged to have occurred, or five years following the date the violation of an election law or rule is alleged to have occurred, whichever is later.

#### SECTION 4.

The Secretary of State may adopt rules necessary to implement section 1 of this 2024 Act.

#### SECTION 5.

This 2024 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2024 Act takes effect on its passage.

## History

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Approved by the Governor                      March 27, 2024

Effective date:                      March 27, 2024

## Sponsor

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Woods

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## Idaho Code § 18-6606

Statutes current through all legislation from the 2024 Regular Session and effective prior to July 1, 2024.

**Idaho Code > Title 18 Crimes and Punishments (Chs. 1 — 89) > Chapter 66 Sex Crimes (§§ 18-6601 — 18-6609)**

### Notice

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 This section has more than one version with varying effective dates.

### **18-6606. Disclosing explicit synthetic media. [Effective July 1, 2024.]**

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- (1)** A person is guilty of disclosing explicit synthetic media when the person knowingly:
  - (a)** Discloses explicit synthetic media and knows or reasonably should know that:
    - (i)** An identifiable person portrayed in whole or in part in the explicit synthetic media did not consent to such disclosure; and
    - (ii)** Disclosure of the explicit synthetic media would cause the identifiable person substantial emotional distress;
  - (b)** Discloses explicit synthetic media with the intent to annoy, terrify, threaten, intimidate, harass, offend, humiliate, or degrade an identifiable person portrayed in whole or in part in the explicit synthetic media; or
  - (c)** Possesses and threatens to disclose explicit synthetic media with the intent to obtain money or other valuable consideration from an identifiable person portrayed in whole or in part in the explicit synthetic media.
- (2)** A person who violates subsection (1) of this section is guilty of a misdemeanor unless such person is guilty of a felony as provided in subsection (3) of this section.
- (3)** A person who violates subsection (1) of this section when the person was previously found guilty of a violation of this section or a similar statute in another state or any local jurisdiction within the past five (5) years, notwithstanding the form of the judgment or withheld judgment, is guilty of a felony punishable by imprisonment for a period no more than ten (10) years, or by a fine of no more than twenty-five thousand dollars (\$25,000), or by both such fine and imprisonment.
- (4)** As used in this section:
  - (a)** “Disclose” means to make available by any means to any person.
  - (b)** “Explicit synthetic media” means synthetic media that depicts or appears to depict:
    - (i)** An identifiable individual engaged in sexual conduct;
    - (ii)** The intimate parts of another individual or artificially generated intimate parts presented as the intimate parts of an identifiable individual; or
    - (iii)** The display or transfer of sexual bodily fluids onto any part of the body of an identifiable individual or from the body of an identifiable individual.

## Idaho Code § 18-6606

- (c) “Identifiable individual” means a person who is portrayed in whole or in part in synthetic media and who is recognizable by the person’s face, likeness, or other distinguishing characteristic, such as a unique birthmark or other recognizable feature.
- (d) “Intimate parts” means the nude genitals, pubic area, anus, or postpubescent female nipple.
- (e) “Realistically” means that the synthetic media is sufficiently convincing such that an ordinary person viewing the synthetic media would conclude that it is an actual image or video of the identifiable person but does not include drawings, cartoons, or paintings.
- (f) “Sexual conduct” means actual or simulated sexual intercourse, oral-genital contact, manual genital contact, genital-anal contact, oral-anal contact, or other physical-genital contact.
- (g) “Synthetic media” means any image or video created or altered using technical means, such as artificial intelligence, to realistically misrepresent an identifiable individual as engaging in conduct in which the identifiable individual did not engage.
- (h) “Valuable consideration” includes but is not limited to sexually explicit images or video from the identifiable individual portrayed in the synthetic media.
- (5) Subsection (1)(a) of this section shall not apply when:
- (a) The disclosure is made for the purpose of a criminal investigation or prosecution that is otherwise lawful;
- (b) The disclosure is for the purpose of, or in connection with, the reporting of unlawful conduct;
- (c) The explicit synthetic media relates to a matter of public interest and disclosure serves a lawful public purpose, provided that explicit synthetic media does not relate to a matter of public interest merely because a public figure is portrayed in the explicit synthetic media;
- (d) The disclosure is for legitimate scientific research or educational purposes; or
- (e) The disclosure is made in the normal course of civil legal proceedings and consistent with common practice or is protected by court order that prohibits further dissemination.
- (6) The provisions of this section shall not apply to an interactive computer service, as defined in 47 U.S.C. 230(f)(2); an information service, as defined in 47 U.S.C. 153; or a telecommunication service, as defined in section 61-121(2) or 62-603(13), Idaho Code, for content provided by another person, unless the provider intentionally aids or abets disclosing explicit synthetic media.
- (7) If any provision of this section or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this section that can be given effect without the invalid provision or application, and to this end the provisions of this section are declared to be severable.

## History

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I.C., § 18-6606, as added by 2024, ch. 105, § 1, p. 472.

Idaho Code  
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## Idaho Code § 67-6628A

Statutes current through all legislation from the 2024 Regular Session and effective prior to July 1, 2024.

**Idaho Code > Title 67 State Government and State Affairs (Chs. 1 — 97) > Chapter 66 Election Campaign Contributions and Expenditures — Lobbyists (§§ 67-6601 — 67-6630)**

### **67-6628A. Electioneering communications — Use of synthetic media.**

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- (1) This section shall be known and may be cited as the “Freedom From AI-Rigged (FAIR) Elections Act.”
- (2) For purposes of this section:
  - (a) “Information content provider” means any person or entity that is responsible, in whole or in part, for the creation or development of information provided through the internet or any other interactive computer service.
  - (b) “Interactive computer service” means any information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including specifically a service or system that provides access to the internet and such systems operated or services offered by libraries or educational institutions.
  - (c) “Synthetic media” means an audio recording or a video recording of an individual’s speech or conduct that has been created through the use of generative adversarial network techniques or other digital technology in a manner to create a realistic but false audio or video that:
    - (i) To a reasonable individual is of a real event, action, or speech that did not actually occur in reality; and
    - (ii) Provides a fundamentally different understanding or impression of the event, action, or speech than a reasonable person would have from the unaltered, original version of the audio recording or video recording.
- (3) A candidate whose action or speech is deceptively represented through the use of synthetic media in an electioneering communication may seek injunctive or other equitable relief prohibiting the publication of such synthetic media.
- (4) A candidate whose action or speech is deceptively represented through the use of synthetic media in an electioneering communication may bring an action for general damages, special damages, or both against the information content provider. The court may also award a prevailing party reasonable attorney’s fees and costs. The provisions of this subsection do not limit or preclude a plaintiff from securing or recovering any other available remedy.
- (5) It shall be an affirmative defense for any action brought pursuant to this section that the electioneering communication containing synthetic media includes a disclosure stating, “This (video/audio) has been manipulated” in the following manner:
  - (a) If the media is a video, the text of the disclosure must be prominently displayed and appear in a size easily readable by the average viewer, and the disclosure must appear for the duration of the video; or
  - (b) If the media consists of audio only, the disclosure must be read in a clearly spoken manner and in a pitch that can be easily heard by the average listener at the beginning of the audio, at the end of the audio, and, if the audio is greater than two (2) minutes in length, interspersed within the audio at intervals of no more than two (2) minutes each.

## Idaho Code § 67-6628A

- (6)** In any action commenced pursuant to this section, the plaintiff bears the burden of establishing the use of synthetic media by clear and convincing evidence.
- (7)** Courts are encouraged to determine matters pursuant to this section expediently.
- (8)** For an action brought pursuant to this section, the information content provider of the electioneering communication may be held liable and not the medium disseminating the electioneering communication, except as provided in subsection (9) of this section.
- (9)** Except when a licensee, programmer, or operator of a federally licensed broadcasting station transmits an electioneering communication that is subject to 47 U.S.C. 315, a medium may be held liable in a cause of action brought pursuant to this section if:
- (a)** The medium removes any disclosure described in subsection (5) of this section from the electioneering communication it disseminates; or
  - (b)** Subject to affirmative defenses described in this section, the medium changes the content of an electioneering communication such that it qualifies as synthetic media.
- (10)** No provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider. However, an interactive computer service may be held liable in accordance with subsection (9) of this section.

## History

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I.C., § 67-6628A, as added by 2024, ch. 172, § 1, p. 654.

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## La. R.S. § 14:73.13

Current through the 2024 First Extraordinary Session and Act 22 of the Second Extraordinary Session. Revisions of the Louisiana State Law Institute now current through all titles received as of February 1, 2024.

***LexisNexis® Louisiana Annotated Statutes > Louisiana Revised Statutes > Title 14. Criminal law (Chs. 1 — 3) > Chapter 1. Criminal code (Pts. 1 — 8) > Part 3. Offenses against property (Subpts. A — D) > Subpart C. By misappropriation without violence (§§ 14:67 — 14:73.14)***

### § 14:73.13. Unlawful deepfakes

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**A.** Any person who, with knowledge that the material is a deepfake depicting a minor, knowingly creates or possesses material that depicts a minor engaging in sexual conduct shall be punished by imprisonment at hard labor for not less than five nor more than twenty years, or a fine of not more than ten thousand dollars, or both. At least five years of the sentence of imprisonment imposed shall be served without benefit of parole, probation, or suspension of sentence.

**B.**

**(1)** Except as provided in Paragraph (2) of this Subsection, any person who, with knowledge that the material is a deepfake that depicts another person, without consent of the person depicted, engaging in sexual conduct, knowingly advertises, distributes, exhibits, exchanges with, promotes, or sells any sexual material shall be punished by imprisonment at hard labor for not less than ten nor more than thirty years, a fine of not more than fifty thousand dollars, or both.

**(2)** Any person who, with knowledge that the material is a deepfake depicting a minor, knowingly advertises, distributes, exhibits, exchanges with, promotes, or sells any sexual material that depicts a minor engaging in sexual conduct shall be punished by imprisonment at hard labor for not less than ten nor more than thirty years, a fine of not more than fifty thousand dollars, or both. At least ten years of the sentence of imprisonment imposed shall be served without benefit of probation, parole, or suspension of sentence.

**C.** For the purposes of this Section:

**(1)** “Deepfake” means any audio or visual media in an electronic format, including any motion picture film or video recording, that is created, altered, or digitally manipulated in a manner that would falsely appear to a reasonable observer to be an authentic record of the actual speech or conduct of the individual or replace an individual’s likeness with another individual and depicted in the recording. “Deepfake” does not include any material that constitutes a work of political, public interest, or newsworthy value, including commentary, criticism, satire, or parody, or that includes content, context, or a clear disclosure visible throughout the duration of the recording that would cause a reasonable person to understand that the audio or visual media is not a record of a real event.

**(2)** “Distribute” means to publish or make available to another person but does not include any alteration of a recording, including altering the length of the recording, so long as such alteration does not knowingly remove any content, context, or clear disclosure visible throughout the duration of the recording that would cause a reasonable person to believe that the audio or visual media is not a record of a real event.

**(3)** “Minor” means a person under the age of eighteen years.

**(4)** “Sexual conduct” means any of the following, whether actual or simulated: sexual intercourse, oral copulation, anal intercourse, anal oral copulation, masturbation, bestiality, sexual sadism, sexual masochism, penetration of the vagina or rectum by any object in a lewd or lascivious manner, exhibition

## La. R.S. § 14:73.13

of the genitals or pubic or rectal area for the purpose of sexual stimulation of the viewer, or excretory functions performed in a lewd or lascivious manner, whether or not any of the conduct is performed alone or between members of the same or opposite sex or between humans and animals. An act is simulated when it gives the appearance of being actual sexual conduct.

## History

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Acts 2023, No. 457, § 1, effective August 1, 2023.

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## Minn. Stat. § 604.32

This document is current with legislation effective through May 17, 2024.

*LexisNexis® Minnesota Annotated Statutes > Judicial Proof (Chs. 595 — 605) > Chapter 604. Civil Liability (§§ 604.01 — 604.415) > Design Contracts; Indemnity Agreements (§§ 604.21 — 604.415)*

### **604.32 CAUSE OF ACTION FOR NONCONSENSUAL DISSEMINATION OF A DEEP FAKE DEPICTING INTIMATE PARTS OR SEXUAL ACTS**

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#### **Subdivision 1. Definitions.**

- (a) As used in this section, the following terms have the meanings given.
- (b) “Deep fake” means any video recording, motion-picture film, sound recording, electronic image, or photograph, or any technological representation of speech or conduct substantially derivative thereof:
  - (1) that is so realistic that a reasonable person would believe it depicts speech or conduct of an individual; and
  - (2) the production of which was substantially dependent upon technical means, rather than the ability of another individual to physically or verbally impersonate such individual.
- (c) “Depicted individual” means an individual in a deep fake who appears to be engaging in speech or conduct in which the individual did not engage.
- (d) “Intimate parts” means the genitals, pubic area, partially or fully exposed nipple, or anus of an individual.
- (e) “Personal information” means any identifier that permits communication or in-person contact with an individual, including:
  - (1) an individual’s first and last name, first initial and last name, first name and last initial, or nickname;
  - (2) an individual’s home, school, or work address;
  - (3) an individual’s telephone number, email address, or social media account information; or
  - (4) an individual’s geolocation data.
- (f) “Sexual act” means either sexual contact or sexual penetration.
- (g) “Sexual contact” means the intentional touching of intimate parts or intentional touching with seminal fluid or sperm onto another individual’s body.
- (h) “Sexual penetration” means any of the following acts:
  - (1) sexual intercourse, cunnilingus, fellatio, or anal intercourse; or
  - (2) any intrusion, however slight, into the genital or anal openings of an individual by another’s body part or an object used by another for this purpose.

#### **Subd. 2. Nonconsensual dissemination of a deep fake.**

- (a) A cause of action against a person for the nonconsensual dissemination of a deep fake exists when:

## Minn. Stat. § 604.32

- (1) a person disseminated a deep fake with knowledge that the depicted individual did not consent to its public dissemination;
- (2) the deep fake realistically depicts any of the following:
  - (i) the intimate parts of another individual presented as the intimate parts of the depicted individual;
  - (ii) artificially generated intimate parts presented as the intimate parts of the depicted individual; or
  - (iii) the depicted individual engaging in a sexual act; and
- (3) the depicted individual is identifiable:
  - (i) from the deep fake itself, by the depicted individual or by another individual; or
  - (ii) from the personal information displayed in connection with the deep fake.

(b) The fact that the depicted individual consented to the creation of the deep fake or to the voluntary private transmission of the deep fake is not a defense to liability for a person who has disseminated the deep fake with knowledge that the depicted individual did not consent to its public dissemination.

**Subd. 3. Damages.** — The court may award the following damages to a prevailing plaintiff from a person found liable under subdivision 2:

- (1) general and special damages, including all finance losses due to the dissemination of the deep fake and damages for mental anguish;
- (2) an amount equal to any profit made from the dissemination of the deep fake by the person who intentionally disclosed the deep fake;
- (3) a civil penalty awarded to the plaintiff of an amount up to \$100,000; and
- (4) court costs, fees, and reasonable attorney fees.

**Subd. 4. Injunction; temporary relief.**

- (a) A court may issue a temporary or permanent injunction or restraining order to prevent further harm to the plaintiff.
- (b) The court may issue a civil fine for the violation of a court order in an amount up to \$1,000 per day for failure to comply with an order granted under this section.

**Subd. 5. Confidentiality.** — The court shall allow confidential filings to protect the privacy of the plaintiff in cases filed under this section.

**Subd. 6. Liability; exceptions.**

- (a) No person shall be found liable under this section when:
  - (1) the dissemination is made for the purpose of a criminal investigation or prosecution that is otherwise lawful;
  - (2) the dissemination is for the purpose of, or in connection with, the reporting of unlawful conduct;
  - (3) the dissemination is made in the course of seeking or receiving medical or mental health treatment, and the image is protected from further dissemination;
  - (4) the deep fake was obtained in a commercial setting for the purpose of the legal sale of goods or services, including the creation of artistic products for sale or display, and the depicted individual knew that a deep fake would be created and disseminated in a commercial setting;
  - (5) the deep fake relates to a matter of public interest; dissemination serves a lawful public purpose; the person disseminating the deep fake as a matter of public interest clearly identifies that the video recording, motion-picture film, sound recording, electronic image, photograph, or other

## Minn. Stat. § 604.32

item is a deep fake; and the person acts in good faith to prevent further dissemination of the deep fake;

(6) the dissemination is for legitimate scientific research or educational purposes, the deep fake is clearly identified as such, and the person acts in good faith to minimize the risk that the deep fake will be further disseminated; or

(7) the dissemination is made for legal proceedings and is consistent with common practice in civil proceedings necessary for the proper functioning of the criminal justice system, or protected by court order which prohibits any further dissemination.

(b) This section does not alter or amend the liabilities and protections granted by United States Code, title 47, section 230, and shall be construed in a manner consistent with federal law.

(c) A cause of action arising under this section does not prevent the use of any other cause of action or remedy available under the law.

**Subd. 7. Jurisdiction.** — A court has jurisdiction over a cause of action filed pursuant to this section if the plaintiff or defendant resides in this state.

**Subd. 8. Venue.** — A cause of action arising under this section may be filed in either:

(1) the county of residence of the defendant or plaintiff or in the jurisdiction of the plaintiff's designated address if the plaintiff participates in the address confidentiality program established by chapter 5B; or

(2) the county where any deep fake is produced, reproduced, or stored in violation of this section.

**Subd. 9. Discovery of dissemination.** — In a civil action brought under subdivision 2, the statute of limitations is tolled until the plaintiff discovers the deep fake has been disseminated.

## History

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2023 c 58, s 1, effective August 1, 2023.

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## Minn. Stat. § 609.771

This document is current with legislation effective through May 17, 2024.

**LexisNexis® Minnesota Annotated Statutes > Crimes; Expungement; Victims > Chapter 609. Criminal Code > Crimes Against Reputation**

### Notice

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🚩 This is a provisional document intended by LexisNexis® to provide a preview of recent legislative activity affecting this code section. The final version of this code section may be affected by prior or subsequent legislative enactments, revisions, or executive veto.

🚩 This section has more than one version with varying effective dates.

## 609.771 USE OF DEEP FAKE TECHNOLOGY TO INFLUENCE AN ELECTION [Effective August 1, 2024]

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### Subdivision 1. Definitions.

- (a) As used in this section, the following terms have the meanings given.
- (b) “Candidate” means an individual who seeks nomination or election to a federal, statewide, legislative, judicial, or local office including special districts, school districts, towns, home rule charter and statutory cities, and counties.
- (c) “Deep fake” means any video recording, motion-picture film, sound recording, electronic image, or photograph, or any technological representation of speech or conduct substantially derivative thereof:
  - (1) that is so realistic that a reasonable person would believe it depicts speech or conduct of an individual who did not in fact engage in such speech or conduct; and
  - (2) the production of which was substantially dependent upon technical means, rather than the ability of another individual to physically or verbally impersonate such individual.
- (d) “Depicted individual” means an individual in a deep fake who appears to be engaging in speech or conduct in which the individual did not engage.

### Subd. 2. Use of deep fake to influence an election; violation.

- (a) A person who disseminates a deep fake or enters into a contract or other agreement to disseminate a deep fake is guilty of a crime and may be sentenced as provided in subdivision 3 if the person knows or acts with reckless disregard about whether the item being disseminated is a deep fake and dissemination:
  - (1) is made without the consent of the depicted individual;
  - (2) is made with the intent to injure a candidate or influence the result of an election; and
  - (3) takes place either:

- (i) within 90 days before a political party nominating convention; or
- (ii) after the start of the absentee voting period prior to a presidential nomination primary, or a regular or special state or local primary or general election .

(b) This subdivision does not apply to a broadcaster or cable television system that disseminates a deep fake produced by a candidate if the broadcaster's or cable television system's dissemination is required by federal law.

**Subd. 3. Use of deep fake to influence an election; penalty.** — A person convicted of violating subdivision 2 may be sentenced as follows:

- (1) if the person commits the violation within five years of one or more prior convictions under this section, to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both;
- (2) if the person commits the violation with the intent to cause violence or bodily harm, to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both; or
- (3) in other cases, to imprisonment for not more than 90 days or to payment of a fine of not more than \$1,000, or both.

**Subd. 4. Injunctive relief.** — A cause of action for injunctive relief may be maintained against any person who is reasonably believed to be about to violate or who is in the course of violating this section by:

- (1) the attorney general;
- (2) a county attorney or city attorney;
- (3) the depicted individual; or
- (4) a candidate for nomination or election to a public office who is injured or likely to be injured by dissemination.

## History

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2023 c 58, s 2, effective August 1, 2023; 2024 c 112, article 2, s 76, effective August 1, 2024.

## Minn. Stat. § 617.262

This document is current with legislation effective through May 17, 2024.

*LexisNexis® Minnesota Annotated Statutes > Crimes; Expungement; Victims (Chs. 609 — 624)*  
*> Chapter 617. Abortion; Obscenity; Nuisance (§§ 617.01 — 617.97) > Obscenity (§§ 617.23 — 617.75)*

### 617.262 NONCONSENSUAL DISSEMINATION OF A DEEP FAKE DEPICTING INTIMATE PARTS OR SEXUAL ACTS

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#### Subdivision 1. Definitions.

- (a) For purposes of this section, the following terms have the meanings given.
- (b) “Deep fake” means any video recording, motion-picture film, sound recording, electronic image, or photograph, or any technological representation of speech or conduct substantially derivative thereof:
  - (1) that is so realistic that a reasonable person would believe it depicts speech or conduct of an individual; and
  - (2) the production of which was substantially dependent upon technical means, rather than the ability of another individual to physically or verbally impersonate such individual.
- (c) “Depicted individual” means an individual in a deep fake who appears to be engaging in speech or conduct in which the individual did not engage.
- (d) “Dissemination” means distribution to one or more persons, other than the individual depicted in the deep fake, or publication by any publicly available medium.
- (e) “Harass” means an act that would cause a substantial adverse effect on the safety, security, or privacy of a reasonable person.
- (f) “Intimate parts” means the genitals, pubic area, anus, or partially or fully exposed nipple of an individual.
- (g) “Personal information” means any identifier that permits communication or in-person contact with an individual, including:
  - (1) an individual’s first and last name, first initial and last name, first name and last initial, or nickname;
  - (2) an individual’s home, school, or work address;
  - (3) an individual’s telephone number, email address, or social media account information; or
  - (4) an individual’s geolocation data.
- (h) “Sexual act” means either sexual contact or sexual penetration.
- (i) “Sexual contact” means the intentional touching of intimate parts or intentional touching with seminal fluid or sperm onto another individual’s body.
- (j) “Sexual penetration” means any of the following acts:
  - (1) sexual intercourse, cunnilingus, fellatio, or anal intercourse; or
  - (2) any intrusion, however slight, into the genital or anal openings of an individual by another’s body part or an object used by another for this purpose.

## Minn. Stat. § 617.262

(k) "Social media" means any electronic medium, including an interactive computer service, telephone network, or data network, that allows users to create, share, and view user-generated content.

**Subd. 2. Crime.** — It is a crime to intentionally disseminate a deep fake when:

- (1) the actor knows or reasonably should know that the depicted individual did not consent to the dissemination;
- (2) the deep fake realistically depicts any of the following:
  - (i) the intimate parts of another individual presented as the intimate parts of the depicted individual;
  - (ii) artificially generated intimate parts presented as the intimate parts of the depicted individual; or
  - (iii) the depicted individual engaging in a sexual act; and
- (3) the depicted individual is identifiable:
  - (i) from the deep fake itself, by the depicted individual or by another individual; or
  - (ii) from the personal information displayed in connection with the deep fake.

**Subd. 3. Penalties.**

- (a) Except as provided in paragraph (b), whoever violates subdivision 2 is guilty of a gross misdemeanor.
- (b) Whoever violates subdivision 2 may be sentenced to imprisonment for not more than three years or to payment of a fine of \$5,000, or both, if one of the following factors is present:
  - (1) the depicted individual suffers financial loss due to the dissemination of the deep fake;
  - (2) the actor disseminates the deep fake with intent to profit from the dissemination;
  - (3) the actor maintains an Internet website, online service, online application, or mobile application for the purpose of disseminating the deep fake;
  - (4) the actor posts the deep fake on a website;
  - (5) the actor disseminates the deep fake with intent to harass the depicted individual;
  - (6) the actor obtained the deep fake by committing a violation of section 609.52, 609.746, 609.89, or 609.891; or
  - (7) the actor has previously been convicted under this chapter.

**Subd. 3a. No defense.** — It is not a defense to a prosecution under this section that the depicted individual consented to the creation or possession of the deep fake, or the private transmission of the deep fake to an individual other than those to whom the deep fake was disseminated.

**Subd. 4. Venue.** — Notwithstanding anything to the contrary in section 627.01, an offense committed under this section may be prosecuted in:

- (1) the county where the offense occurred;
- (2) the county of residence of the actor or victim or in the jurisdiction of the victim's designated address if the victim participates in the address confidentiality program established by chapter 5B; or
- (3) only if venue cannot be located in the counties specified under clause (1) or (2), the county where any deep fake is produced, reproduced, found, stored, received, or possessed in violation of this section.

**Subd. 5. Exemptions.** — Subdivision 2 does not apply when:

- (1) the dissemination is made for the purpose of a criminal investigation or prosecution that is otherwise lawful;
- (2) the dissemination is for the purpose of, or in connection with, the reporting of unlawful conduct;

## Minn. Stat. § 617.262

- (3) the dissemination is made in the course of seeking or receiving medical or mental health treatment, and the image is protected from further dissemination;
- (4) the deep fake was obtained in a commercial setting for the purpose of the legal sale of goods or services, including the creation of artistic products for sale or display, and the depicted individual knew, or should have known, that a deep fake would be created and disseminated;
- (5) the deep fake relates to a matter of public interest and dissemination serves a lawful public purpose;
- (6) the dissemination is for legitimate scientific research or educational purposes; or
- (7) the dissemination is made for legal proceedings and is consistent with common practice in civil proceedings necessary for the proper functioning of the criminal justice system, or protected by court order which prohibits any further dissemination.

**Subd. 6. Immunity.** — Nothing in this section shall be construed to impose liability upon the following entities solely as a result of content or information provided by another person:

- (1) an interactive computer service as defined in United States Code, title 47, section 230, paragraph (f), clause (2);
- (2) a provider of public mobile services or private radio services; or
- (3) a telecommunications network or broadband provider.

## History

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2023 c 58, s 3, effective August 1, 2023.

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## Tex. Elec. Code § 255.004

This document is current through the 2023 Regular Session; the 1st C.S.; the 2nd C.S.; the 3rd C.S. and the 4th C.S. of the 88th Legislature; and the November 7, 2023 general election results.

*Texas Statutes & Codes Annotated by LexisNexis® > Election Code > Title 15 Regulating Political Funds and Campaigns (Chs. 251 — 259) > Chapter 255 Regulating Political Advertising and Campaign Communications (§§ 255.001 — 255.008)*

### Sec. 255.004. True Source of Communication.

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- (a) A person commits an offense if, with intent to injure a candidate or influence the result of an election, the person enters into a contract or other agreement to print, publish, or broadcast political advertising that purports to emanate from a source other than its true source.
- (b) A person commits an offense if, with intent to injure a candidate or influence the result of an election, the person knowingly represents in a campaign communication that the communication emanates from a source other than its true source.
- (c) An offense under this section is a Class A misdemeanor.
- (d) A person commits an offense if the person, with intent to injure a candidate or influence the result of an election:
  - (1) creates a deep fake video; and
  - (2) causes the deep fake video to be published or distributed within 30 days of an election.
- (e) In this section, “deep fake video” means a video, created with the intent to deceive, that appears to depict a real person performing an action that did not occur in reality.

### History

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Am. Acts 1987, 70th Leg., ch. 899 (H.B. 1818), § 1, effective September 1, 1987; Acts 2019, 86th Leg., ch. 1339 (S.B. 751), § 1, effective September 1, 2019.

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# Utah Code Ann. § 20A-11-1104

Current through May 1, 2024 of the 2024 General Session.

*Utah Code Annotated > Title 20A Election Code (Chs. 1 — 21) > Chapter 11 Campaign and Financial Reporting Requirements (Pts. 1 — 17) > Part 11 Media Prohibitions (§§ 20A-11-1101 — 20A-11-1104)*

## **20A-11-1104. Disclosure of synthetic media.**

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(1) As used in this section:

(a) “Artificial intelligence” means a machine-based system that can, for a given set of human-defined objectives, make predictions, recommendations, or decisions influencing real or virtual environments.

(b)

(i) “Creator” means a person that uses artificial intelligence to generate synthetic media.

(ii) “Creator” does not include a person that solely provides the technology used in the creation of the synthetic media.

(c) “Digital content provenance” means purely factual information that:

(i) details a digital resource’s creator, origin, context, history, and editing process; and

(ii) conforms to an open industry technical standard.

(d) “Generative artificial intelligence” means artificial intelligence technology that is capable of creating content such as text, audio, image, or video based on patterns learned from large volumes of data rather than being explicitly programmed with rules.

(e) “Sponsor” means a person that pays for the content that uses artificial intelligence to generate synthetic media.

(f) “Synthetic audio media” means audio content that was substantially produced by generative artificial intelligence.

(g) “Synthetic visual media” means an image or video that was substantially produced by generative artificial intelligence.

(2) This section applies to an audio or visual communication that:

(a) is paid for by a candidate campaign committee, political action committee, political issues committee, political party, or a person using a contribution;

(b) is intended to influence voting for or against a candidate or ballot proposition in an election or primary in the state; and

(c) contains synthetic media.

(3) An audio communication described in Subsection (2) that contains synthetic audio media shall include audibly at the beginning and end of the communication the words, “Contains content generated by AI.”

(4) A visual communication described in Subsection (2) that contains synthetic media shall display throughout the duration of each portion of the communication containing synthetic media, in legible writing, the words:

(a) “This video content generated by AI,” if the content is a video that includes synthetic visual media but not synthetic audio media;

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- (b)** “This image generated by AI,” if the content is an image that includes synthetic visual media but not synthetic audio media;
- (c)** “This audio content generated by AI,” if the video includes synthetic audio media but not synthetic visual media; or
- (d)** “This content generated by AI,” if the communication includes both synthetic audio media and synthetic visual media.
- (5)** In addition to the requirements in Subsections (3) and (4), a creator or sponsor who publishes an online digital audio or visual communication described in Subsection (2) that is viewable, audible, or accessible in the state shall ensure the advertisement carries embedded tamper-evident digital content provenance that discloses:
- (a)** the initial author and creator of the content;
  - (b)** any subsequent entities that edited, altered, or otherwise modified the content; and
  - (c)** any use of generative artificial intelligence in generating or modifying the substantive content.
- (6)**
- (a)** In a civil action brought against the creator or the sponsor of content that includes synthetic media by a person to enforce this section, the court may impose a civil penalty not to exceed \$1,000 against a person for each violation of this section that the court finds a person has committed.
  - (b)** Compliance with this section does not exempt a person from civil or criminal liability for violations of other applicable law.

## History

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2024 ch. 172, § 1, effective May 1, 2024.

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