



**COUNCIL OF THE DISTRICT OF COLUMBIA
THE JOHN A. WILSON BUILDING
1350 PENNSYLVANIA AVENUE, NW
WASHINGTON, DC 20004**

Charles Allen
Councilmember, Ward 6
Chairperson
Committee on Transportation and the Environment

Committee Member
Business and Economic Development
Health
The Judiciary & Public Safety

June 5, 2024

Nyasha Smith
Secretary to the Council
Council of the District of Columbia
1350 Pennsylvania Avenue, NW
Washington, D.C. 20004

Dear Secretary Smith:

Today, along with Councilmembers Brooke Pinto, Matthew Frumin, Robert C. White, Jr., and Brianne K. Nadeau, I am introducing the ***“Deepfake Political Advertising Regulation Amendment Act of 2024”***. Please find enclosed a signed copy of the legislation.

The rapid development of artificial intelligence (“AI”) has threatened to upend many facets of daily life. In our elections, the creation of so-called “deepfakes” in political campaign advertisements poses a significant threat to election security. Deepfakes, which are false but hyper-realistic manipulations of an image, audio, or video, can depict a candidate saying or doing things they never did to damage that candidate’s reputation and deceive voters. The democratic process, through free and fair elections, depends on voters getting the facts and truth about candidates, their positions on the issues, and how the outcomes of an election will affect their everyday lives and the future. As a result, deepfakes represent a significant threat to our democracy.

There is a litany of examples of how deepfakes have already begun to impact elections across the country. In the lead-up to the New Hampshire Democratic primary earlier this year, voters in the state received robocalls impersonating President Biden and urging voters not to vote in the primary and to “save your vote for the November election.” In 2023, Governor Ron DeSantis of Florida released a campaign video attacking former President Trump by showing a montage of photos of President Trump embracing Dr. Fauci. These examples not only manipulated reality but confused and deceived voters and undermined confidence in elections. To address the impact of deepfakes on their elections, at least 40 states have pending bills in this legislative session, with at least 20 bills enacted into law in Alabama, Idaho, Indiana, Mississippi, New Mexico, Oregon, Utah, and Wisconsin regulating deceptive audio or visual media.

To combat the presence of deepfakes and limit the impact that a deepfake may have in our elections, this legislation would require a disclaimer on a deepfake, saying that the image, audio, or video has been manipulated or altered by AI. The bill would also prohibit the distribution of a deepfake within 90 days of an election. Lastly, the bill permits a candidate whose appearance or voice is altered through AI to seek injunctive relief in Superior Court. The Campaign Finance Board will also be able to assess a civil penalty of not more than \$10,000 for the first offense and not more than \$20,000 for the second and subsequent offense for any violations. This legislation preserves our democratic process, which we know is more important now than ever before.

Please feel free to reach out to me or my Legislative Director, Antonio Nunes, with any questions or for additional information.

Sincerely,

A handwritten signature in blue ink, appearing to read "Charles Allen", with a long horizontal flourish extending to the right.

Councilmember Charles Allen, Ward 6
Chairperson, Committee on Transportation & the Environment

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2 Councilmember Brooke Pinto



Councilmember Charles Allen

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6 Councilmember Matthew Frumin



Councilmember Robert C. White, Jr.

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10 Councilmember Brianne K. Nadeau

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14 A BILL

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19 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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24 To amend the Board of Ethics and Government Accountability Establishment and
25 Comprehensive Ethics Reform Amendment Act of 2011 to require that all candidates,
26 political action committees, political committees, independent expenditure committees or
27 agents of candidates, political action committees, political committees, or independent
28 expenditure committees, or persons that publish, distribute, disseminate, or cause to be
29 published, distributed, or disseminated, to another person in the District, certain
30 campaign materials or political communications that use or contain artificial media
31 created or produced using generative artificial intelligence include a certain disclosure in
32 a certain manner, to prohibit the distribution of artificial media within 90 days of an
33 election that do not conform to the disclosure requirements, and to permit injunctive
34 relief by the Superior Court of the District of Columbia and the issuance of civil fines by
35 the Campaign Finance Board for any violations.

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37 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this
38 act may be cited as the “Deepfake Political Advertising Regulation Amendment Act of 2024”.

39 Sec. 2. The Board of Ethics and Government Accountability Establishment and
40 Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-
41 124; D.C. Official Code § 1–1161.01 *et seq.*), is amended by adding a new section 315a to read
42 as follows:

43 “Sec. 315a. Additional identification of political advertising using artificial media.

44 “(a) A candidate, political action committee, political committee, independent
45 expenditure committee, or an agent of a candidate, political action committee, political
46 committee, or independent expenditure committee, or person that publishes, distributes, or
47 disseminates, or causes to be published, distributed, or disseminated, to a person in the District,
48 campaign material that is produced using or containing artificial media shall include the
49 following disclosure:

50 “(1)(A) For media that is only a still image, the disclosure shall include the
51 statement, “This image has been altered or modified through the use of artificial intelligence or
52 other digital technology to display an appearance or conduct that did not occur.”.

53 “(B) The statement required under subparagraph (A) of this subsection
54 shall be written in a type size that is:

55 “(i) Easily readable by the average viewer; and

56 “(ii) Not smaller than the largest type size of other text appearing
57 in the still image.

58 “(2)(A) For media that is only an audio recording, the disclosure shall include the
59 statement, “This audio has been altered or modified through the use of artificial intelligence or
60 other digital technology to display a sound or voice that did not occur.”.

61 “(B) The statement required under paragraph (1) of this subsection shall
62 be read:

63 “(i) In a clearly spoken manner and in a pitch that can be easily
64 heard by the average listener; and

65 “(ii) At the beginning of the audio recording, at the end of the
66 audio recording, and if the audio is greater than two minutes in length, interspersed within the
67 audio at intervals of not greater than two minutes each.

68 “(3)(A) For media that is a video recording, the disclosure shall include the
69 statement, “This video has been altered or modified through the use of artificial intelligence or
70 other digital technology to display an appearance, conduct, sound, or voice that did not occur.”.

71 “(B) The statement required under paragraph (1) of this subsection shall
72 be written in:

73 “(i) Text that remains visible to the viewer for the duration of the
74 video recording; and

75 “(ii) In a type size that is easily readable to the average viewer and
76 placed in a conspicuous location in the frame of the video.

77 “(b) Notwithstanding subsection (a) of this section, a candidate, political action
78 committee, political committee, independent expenditure committee, or an agent of a candidate,
79 political action committee, political committee, or independent expenditure committee, or person
80 shall not, within 90 days of an election at which a candidate will appear on the ballot, initiative,
81 referendum, or recall, publish, distribute, or disseminate artificial media that the person knows or
82 should have known is artificial media.

83 “(c) A candidate, political action committee, political committee, or independent
84 expenditure committee, or person whose appearance, conduct, sound, or voice is represented
85 through the use of artificial media in violation of this section may seek injunctive or other
86 equitable relief in the Superior Court of the District of Columbia prohibiting the publication of
87 the artificial media.

88 “(d) A candidate, political action committee, political committee, independent
89 expenditure committee or agent of a candidate, political action committee, political committee,
90 or independent expenditure committee, or person that violates the provisions of this section, in
91 addition to any other penalty provided by law, may be assessed a civil penalty by the Campaign
92 Finance Board of not more than \$10,000 for the first offense and not more than \$20,000 for the
93 second and each subsequent offense.

94 “(e) For purposes of this section, “artificial media” in political advertising means an
95 image, audio recording, or video of an individual’s appearance, conduct, sound, or voice that has
96 been fully or partially created or intentionally manipulated or modified with the use of generative
97 artificial intelligence or other digital technology in a manner to create or produce a realistic but
98 false image, audio, or video, that:

99 “(1) Depicts a candidate, political action committee, political committee,
100 independent expenditure committee, or agent of a candidate, political action committee, political
101 committee, or independent expenditure committee, or person with the intent to injure the
102 reputation of the candidate, political action committee, political committee, independent
103 expenditure committee, or agent of a candidate, political action committee, political committee,
104 or independent expenditure committee, or person or otherwise deceive a voter; or

105 “(2) Appears to a reasonable person to depict a real individual, the individual’s
106 speech, or the individual’s conduct that did not actually occur.

107 “(f) This section does not apply to:

108 “(1) A provider of an interactive computer service, as defined in 47 U.S.C. §
109 230(f), or an information service, as defined in 47 U.S.C. § 153;

110 “(2) A radio or television broadcasting station, including a cable or satellite
111 television operator, programmer, or producer, that broadcasts artificial media prohibited by this

112 section as part of a bona fide newscast, news interview, news documentary, or on-the-spot
113 coverage of bona fide news events, if the broadcast clearly acknowledges through content or a
114 disclosure, in a manner that can be easily heard or read by the average listener or viewer, that
115 there are questions about the authenticity of the materially artificial audio or visual media, or in
116 cases where federal law requires broadcasters to air advertisements from legally qualified
117 candidates;

118 “(3) A radio or television broadcasting station, including a cable or satellite
119 television operator, programmer, or producer, when it is paid to broadcast artificial audio or
120 visual media and has made a reasonable effort to establish the depiction is not artificial audio or
121 visual media, or in cases where federal law requires broadcasters to air advertisements from
122 legally qualified candidates;

123 “(4) An internet service or website provider, or a regularly published newspaper,
124 magazine, or other periodical of general circulation, including an internet or electronic
125 publication, that routinely carries news and commentary of general interest, and that publishes
126 materially artificial audio or visual media prohibited by this section, if the publication clearly
127 states that the materially artificial audio or visual media does not accurately represent the speech
128 or conduct of the candidate;

129 “(5) Content that constitutes satire or parody.”.

130 Sec. 3. Fiscal impact statement.

131 The Council adopts the fiscal impact statement in the committee report as the fiscal
132 impact statement required by section 4a of the General Legislative Procedures Act of 1975,
133 approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

134 Sec. 4. Effective date.

135 This act shall take effect following approval by the Mayor (or in the event of veto by the
136 Mayor, action by the Council to override the veto), a 30-day period of congressional review as
137 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
138 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
139 Columbia Register.