

SENATE BILL NO. 1444

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR MCCREERY.

5788S.01I

KRISTINA MARTIN, Secretary

AN ACT

To amend chapters 115 and 573, RSMo, by adding thereto two new sections relating to digitally altered media, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapters 115 and 573, RSMo, are amended by
2 adding thereto two new sections, to be known as sections 115.645
3 and 573.570, to read as follows:

**115.645. 1. For the purposes of this section, the
2 following terms shall mean:**

3 **(1) "Deceptive and fraudulent deepfake", synthetic
4 media that depicts a candidate or political party with the
5 intent to injure the reputation of the candidate or party or
6 otherwise deceive a voter that:**

7 **(a) Appears to a reasonable person to depict a real
8 individual saying or doing something that did not actually
9 occur; or**

10 **(b) Provides a reasonable person a fundamentally
11 different understanding or impression of the appearance,
12 action, or speech of a candidate or party than such person
13 would have from an unaltered, original version of the image,
14 audio recording, or video recording;**

15 **(2) "Synthetic media", an image, audio recording, or
16 video recording of an individual's appearance, speech, or
17 conduct that has been created or intentionally manipulated
18 with the use of generative adversarial network techniques or**

19 other digital technology in a manner to create a realistic
20 but false image, audio, or video.

21 2. Except as provided in subsection 3 of this section,
22 a person, corporation, committee, or other entity shall not,
23 within ninety days of an election at which a candidate for
24 elective office will appear on the ballot, distribute a
25 synthetic media message that the person, corporation,
26 committee, or other entity knows or should have known is a
27 deceptive and fraudulent deepfake of a candidate or party on
28 the state or local ballot.

29 3. (1) The provisions of subsection 2 of this section
30 shall not apply if the audio or visual media includes a
31 disclosure stating: "This _____ has been manipulated or
32 generated by artificial intelligence."

33 (2) The blank shall be filled in with whichever of the
34 following terms most accurately describes the media: image,
35 video, or audio.

36 (3) For visual media, the text of the disclosure shall
37 appear in a size no smaller than the largest font size of
38 other text appearing in the visual media. If the visual
39 media does not include any other text, the disclosure shall
40 appear in a size that is easily readable by the average
41 viewer. For visual media in video format, the disclosure
42 shall appear for the duration of the video.

43 (4) If the media consists of audio only, the
44 disclosure shall be read in a clearly spoken manner and in a
45 pitch that can be easily heard by the average listener at
46 the beginning of the audio, at the end of the audio, and, if
47 the audio is greater than two minutes in length,
48 interspersed within the audio at intervals not to exceed two
49 minutes in length.

50 4. A candidate whose appearance, action, or speech is
51 depicted through the use of a deceptive and fraudulent
52 deepfake in violation of subsection 2 of this section may
53 seek injunctive or other equitable relief prohibiting the
54 publication of such deceptive and fraudulent deepfake.

55 5. A person who violates the provisions of subsection
56 2 of this section may be subject to the following penalties:

57 (1) A class B misdemeanor;

58 (2) A class A misdemeanor if the person commits the
59 violation with the intent to cause violence or bodily harm;
60 or

61 (3) A class E felony if the person commits the
62 violation within five years of one or more prior convictions
63 under this section.

64 6. This section shall not apply to a radio or
65 television broadcasting station, including a cable or
66 satellite television operator, programmer, or producer, that
67 broadcasts a deceptive and fraudulent deepfake prohibited by
68 this section as part of a bona fide newscast, news
69 interview, news documentary, or on-the-spot coverage of bona
70 fide news events, if the broadcast clearly acknowledges
71 through content or a disclosure, in a manner that can be
72 easily heard or read by the average listener or viewer, that
73 there are questions about the authenticity of the materially
74 deceptive audio or visual media.

75 7. This section shall not apply to a radio or
76 television broadcasting station, including a cable or
77 satellite television operator, programmer, or producer, when
78 it is paid to broadcast a deceptive and fraudulent deepfake
79 and has made a good faith effort to establish the depiction
80 is not a deceptive and fraudulent deepfake.

81 8. This section shall not apply to an internet website
82 or a regularly published newspaper, magazine, or other
83 periodical of general circulation, including an internet or
84 electronic publication, that routinely carries news and
85 commentary of general interest and that publishes a
86 deceptive and fraudulent deepfake prohibited by this section
87 if the publication clearly states that the audio or visual
88 media does not accurately represent the speech or conduct of
89 the candidate.

90 9. This section does not apply to materially deceptive
91 audio or visual media that constitutes satire or parody.

 573.570. 1. As used in this section, the following
2 terms shall mean:

3 (1) "Depicted individual", an individual who, as a
4 result of digitization or by means of digital manipulation,
5 appears in whole or in part in an intimate digital depiction
6 and who is identifiable by virtue of the individual's face,
7 likeness, or other distinguishing characteristic, such as a
8 unique birthmark or other recognizable feature, or from
9 information displayed in connection with the digital
10 depiction;

11 (2) "Digital depiction", a realistic visual depiction
12 of an individual that has been created or altered using
13 digital manipulation;

14 (3) "Intimate digital depiction", a digital depiction
15 of an individual that has been created or altered using
16 digital manipulation and that depicts:

17 (a) The uncovered genitals, pubic area, anus, or
18 postpubescent female nipple of an identifiable individual;

19 (b) The display or transfer of bodily sexual fluids:

20 a. Onto any part of the body of an identifiable
21 individual; or

- 22 b. From the body of an identifiable individual; or
- 23 (c) An identifiable individual engaging in sexually
- 24 explicit conduct;
- 25 (4) "Sexually explicit conduct", actual or simulated:
- 26 (a) Sexual intercourse, including genital-genital,
- 27 oral-genital, anal-genital, or oral-anal, whether between
- 28 persons of the same or opposite sex;
- 29 (b) Bestiality;
- 30 (c) Masturbation;
- 31 (d) Sadistic or masochistic abuse; or
- 32 (e) Lascivious exhibition of the genitals or pubic
- 33 area of any person.
- 34 2. A person commits the offense of disclosure of an
- 35 intimate digital depiction if:
- 36 (1) The person discloses an intimate digital depiction:
- 37 (a) With the intent to harass, annoy, threaten, alarm,
- 38 or cause substantial harm to the finances or reputation of
- 39 the depicted individual; or
- 40 (b) With the actual knowledge that, or reckless
- 41 disregard for whether, such disclosure will cause physical,
- 42 emotional, reputational, or economic harm to the depicted
- 43 individual; or
- 44 (2) Threatens to disclose an intimate digital
- 45 depiction:
- 46 (a) With the intent to harass, annoy, threaten, alarm,
- 47 or cause substantial harm to the finances or reputation of
- 48 the depicted individual; or
- 49 (b) With the actual knowledge that, or reckless
- 50 disregard for whether, such threatened disclosure will cause
- 51 physical, emotional, reputational, or economic harm to the
- 52 depicted individual.

53 3. (1) A violation of subdivision (1) of subsection 2
54 of this section shall be a class D felony.

55 (2) A violation of subdivision (2) of subsection 2 of
56 this section shall be a class E felony.

57 (3) A violation of subsection 2 of this section shall
58 be a class C felony if:

59 (a) The violation is a second or other subsequent
60 violation of subsection 2 of this section; or

61 (b) The violation is such that the digital depiction
62 could be reasonably expected to:

63 a. Affect the conduct of any administrative,
64 legislative, or judicial proceeding of a federal, state,
65 local, or tribal government agency, including the
66 administration of an election or the conduct of foreign
67 relations; or

68 b. Facilitate violence.

69 4. It shall not be a defense to an action under this
70 section that there is a disclaimer stating that the intimate
71 digital depiction of the depicted individual was
72 unauthorized or that the depicted individual did not
73 participate in the creation or development of the material.

74 5. For the purposes of this section a provider of an
75 interactive computer service shall not be held liable due to:

76 (1) Any action voluntarily taken in good faith to
77 restrict access to or availability of intimate digital
78 depictions; or

79 (2) Any action taken to enable or make available to
80 information content providers or other persons the technical
81 means to restrict access to intimate digital depictions.

✓