

REGULATING THE USE OF AI IN ELECTIONS - EXAMPLES FROM OTHER STATES

STATE ADMINISTRATION AND VETERANS' AFFAIRS INTERIM COMMITTEE
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BACKGROUND

During the September 2023 State Administration and Veterans' Affairs (SAVA) Interim Committee meeting, members voted to allocate 0.25 FTE to member topics in the committee workplan. At the November 2023 meeting, committee members voted to conduct a study on election security in Montana and to create a list of items that make Montana elections secure. During the January 2024 SAVA meeting, committee members voted to add the use of AI in elections to the study plan. During the March 2024 SAVA meeting, committee members requested examples of existing statutes and recent bills related to regulating the use of AI in elections.

To date, there has been no action at the federal level to regulate the use of AI in elections, so states have introduced several bills over the past few years. From 2019 to 2023, 5 states - California, Michigan, Minnesota, Texas, and Washington - enacted laws regulating the use of AI in elections. Wisconsin has a law from 1973 that prohibits the publishing of false representation of a candidate or referendum to influence an election that could be applied to this topic. Since the start of 2024, 5 states - Florida, Indiana, New Mexico, Oregon, and Utah - have passed laws requiring disclaimers and imposing restrictions on the use of AI in campaign materials.

EXISTING STATUTES AND RECENT LEGISLATION

YEAR	STATE	SUMMARY
1973	Wisconsin	Prohibits the publishing of false representation of a candidate or referendum to influence an election.
2019	California	Prohibits the publication of materially deceptive media intended to harm a candidate or deceive voters into voting for or against a candidate 60 days prior to an election where a candidate will appear on the ballot, unless it includes a disclosure that the media has been manipulated. Provides civil penalties.
2019	Texas	Prohibits the publication of deepfake videos to harm a candidate or influence an election 30 days prior to an election. Provides criminal penalties.
2023	Michigan	Prohibits the publication of materially deceptive media intended to harm a candidate and deceive voters into voting for or against a candidate 90 days prior to an election, unless it includes a disclosure that the media has been manipulated. Provides civil and criminal penalties.

2023	Minnesota	Prohibits the publication of deepfake media intended to harm a candidate and without the consent of the depicted individual 90 days prior to an election. Provides civil and criminal penalties.
2023	Washington	Requires a disclosure on synthetic media used to depict a candidate. Provides civil penalties.
2024	Florida	Requires certain political advertisements created with the use of generative artificial intelligence and with the intent to injure or deceive to prominently state disclaimer. Provides civil and criminal penalties.
2024	Indiana	Requires disclaimer on fabricated media created without consent and that presents a materially inaccurate depiction that a reasonable person would be unable to recognize as altered. Provides civil penalties.
2024	New Mexico	Requires disclaimer on material deceptive media and making it a crime to distribute or enter into an agreement to distribute material deceptive media (without the required disclaimer). Provides criminal penalties.
2024	Oregon	Requires disclaimer on campaign advertisements created with the use of synthetic media. Provides civil penalties.
2024	Utah	Requires disclaimer on the use of synthetic media in campaigns. Allows for the use of artificial intelligence to be considered an 'aggravating factor' in sentencing. Provides civil penalties.

SOURCES

- <https://www.ncsl.org/elections-and-campaigns/artificial-intelligence-ai-in-elections-and-campaigns>
- <https://docs.legis.wisconsin.gov/statutes/statutes/12/05#:~:text=12.05%20False%20representations%20affecting%20elections.%20No%20person%20may,or%20tends%20to%20affect%20voting%20at%20an%20election.>
- [https://leginfo.legislature.ca.gov/faces/selectFromMultiples.xhtml?lawCode=ELEC§ionNum=20010.](https://leginfo.legislature.ca.gov/faces/selectFromMultiples.xhtml?lawCode=ELEC§ionNum=20010)
- <https://statutes.capitol.texas.gov/Docs/EL/htm/EL.255.htm>
- [https://www.legislature.mi.gov/\(S\(c3k1lw0uij200it51ilcleaz\)\)/mileg.aspx?page=getobject&objectname=mcl-168-932f&query=on&highlight=election%20AND%20challenge#:~:text=932f.,falsely%20represents%20a%20depicted%20individual.](https://www.legislature.mi.gov/(S(c3k1lw0uij200it51ilcleaz))/mileg.aspx?page=getobject&objectname=mcl-168-932f&query=on&highlight=election%20AND%20challenge#:~:text=932f.,falsely%20represents%20a%20depicted%20individual.)
- <https://casetext.com/statute/minnesota-statutes/crimes-expungement-victims/chapter-609-criminal-code/crimes-against-reputation/section-609771-use-of-deep-fake-technology-to-influence-an-election>
- <https://app.leg.wa.gov/RCW/default.aspx?cite=42.62.020&pdf=true>
- <https://www.flsenate.gov/Session/Bill/2024/919#:~:text=Artificial%20Intelligence%20Use%20in%20Political%20Advertising%3B%20Requires%20certain%20political%20advertisements,authorizes%20person%20to%20file%20certain>
- <https://iga.in.gov/legislative/2024/bills/house/1133/details>
- <https://www.nmlegis.gov/Legislation/Legislation?chamber=H&legtype=B&legno=182&year=24>
- <https://olis.oregonlegislature.gov/liz/2024R1/Downloads/MeasureDocument/SB1571/Introduced#:~:text=Requires%20a%20disclosure%20of%20the%20use%20of%20artificial%20intelligence%20in,an%20emergency%2C%20effective%20on%20passage.>
- <https://le.utah.gov/%7E2024/bills/static/SB0131.html>

CHAPTER 12

PROHIBITED ELECTION PRACTICES

12.01	Definitions.	12.07	Election restrictions on employers.
12.02	Construction.	12.08	Denial of government benefits.
12.03	Campaigning restricted.	12.09	Election threats.
12.035	Posting and distribution of election-related material.	12.11	Election bribery.
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12.05	False representations affecting elections.	12.60	Penalties.

NOTE: 2005 Wis. Act 451, which made major revisions to the election laws, including to Chapter 12, contains an extensive prefatory note explaining the changes.

Cross-reference: See definitions in s. 5.02.

12.01 Definitions. The definitions given under s. 11.0101 apply to this chapter, except as follows:

- (1) “Candidate” includes a candidate for national office.
- (2) “Commission” means the elections commission.

History: 1973 c. 334; 1975 c. 93; 1977 c. 427; 1979 c. 89; 1983 a. 484; 2015 a. 118; 2017 a. 366.

12.02 Construction. In this chapter, criminal intent shall be construed in accordance with s. 939.23.

History: 1977 c. 427.

12.03 Campaigning restricted. (1) No election official may engage in electioneering on election day. No municipal clerk or employee of the clerk may engage in electioneering in the clerk’s office or at the alternate site under s. 6.855 during the hours that ballots may be cast at those locations.

(2) (a) 1. No person may engage in electioneering during polling hours on election day at a polling place.

2. No person may engage in electioneering in the municipal clerk’s office or at an alternate site under s. 6.855 during the hours that absentee ballots may be cast.

(b) 1. No person may engage in electioneering during polling hours on any public property on election day within 100 feet of an entrance to a building containing a polling place.

2. No person may engage in electioneering during the hours that absentee ballots may be cast on any public property within 100 feet of an entrance to a building containing the municipal clerk’s office or an alternate site under s. 6.855.

3. No person may engage in electioneering within 100 feet of an entrance to or within a qualified retirement home or residential care facility while special voting deputies are present at the home or facility under s. 6.875 (6).

(d) This subsection does not apply to the placement of any material on the bumper of a motor vehicle that is parked or operated at a place and time where electioneering is prohibited under this subsection.

(3) A municipal clerk, election inspector or law enforcement officer may remove posters or other advertising which is placed in violation of this section.

(4) In this section, “electioneering” means any activity which is intended to influence voting at an election.

History: 1973 c. 334; 1977 c. 427; 1979 c. 89; 1983 a. 484; 1993 a. 173; 2005 a. 451; 2011 a. 23; 2013 a. 159.

Violators may not be deprived of the right to vote, although penalties may follow. Constitutional issues are discussed. 61 Atty. Gen. 441.

12.035 Posting and distribution of election-related material. (1) In this section, “election-related material” means any written matter which describes, or purports to describe, the rights or responsibilities of individuals voting or registering to

vote at a polling place or voting an absentee ballot at the office of the municipal clerk or an alternate site under s. 6.855.

(2) The legislature finds that posting or distributing election-related material at the polling place, at locations where absentee ballots may be cast, or near the entrance to such locations when voting is taking place may mislead and confuse electors about their rights and responsibilities regarding the exercise of the franchise and tends to disrupt the flow of voting activities at such locations. The legislature finds that the restrictions imposed by this section on the posting or distribution of election-related material are necessary to protect the compelling governmental interest in orderly and fair elections.

(3) (a) No person may post or distribute any election-related material during polling hours on election day at a polling place.

(b) No person may post or distribute any election-related material during polling hours on any public property on election day within 100 feet of an entrance to a building containing a polling place.

(c) No person may post or distribute any election-related material at the office of the municipal clerk or at an alternate site under s. 6.855 during hours that absentee ballots may be cast.

(d) No person may post or distribute election-related material during the hours that absentee ballots may be cast on any public property within 100 feet of an entrance to a building containing the office of the municipal clerk or an alternate site under s. 6.855.

(4) Subsection (3) does not apply to any of the following:

(a) The posting or distribution of election-related material posted or distributed by the municipal clerk or other election officials.

(b) The placement of any material on the bumper of a motor vehicle located on public property.

(5) A municipal clerk, election inspector, or law enforcement officer may remove election-related material posted in violation of sub. (3) and may confiscate election-related material distributed in violation of sub. (3).

History: 2005 a. 451.

12.04 Communication of political messages. (1) In this section:

(a) “Election campaign period” means:

1. In the case of an election for office, the period beginning on the first day for circulation of nomination papers by candidates, or the first day on which candidates would circulate nomination papers were papers to be required, and ending on the day of the election.

2. In the case of a referendum, the period beginning on the day on which the question to be voted upon is submitted to the electorate and ending on the day on which the referendum is held.

(b) “Political message” means a message intended for a political purpose or a message which pertains to an issue of public policy of possible concern to the electorate, but does not include a message intended solely for a commercial purpose.

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(c) “Residential property” means property occupied or suitable to be occupied for residential purposes and property abutting that property for which the owner or renter is responsible for the maintenance or care. If property is utilized for both residential and nonresidential purposes, “residential property” means only the portion of the property occupied or suitable to be occupied for residential purposes.

(2) Except as provided in ss. 12.03 or 12.035 or as restricted under sub. (4), any individual may place a sign containing a political message upon residential property owned or occupied by that individual during an election campaign period.

(3) Except as provided in sub. (4), no county or municipality may regulate the size, shape, placement or content of any sign containing a political message placed upon residential property during an election campaign period.

(4) (a) A county or municipality may regulate the size, shape or placement of any sign if such regulation is necessary to ensure traffic or pedestrian safety. A county or municipality may regulate the size, shape or placement of any sign having an electrical, mechanical or audio auxiliary.

(b) In addition to regulation under par. (a), a municipality may regulate the size, shape or placement of a sign exceeding 11 square feet in area. This paragraph does not apply to a sign which is affixed to a permanent structure and does not extend beyond the perimeter of the structure, if the sign does not obstruct a window, door, fire escape, ventilation shaft or other area which is required by an applicable building code to remain unobstructed.

(5) (a) The renter of residential property may exercise the same right as the owner to place a sign upon the property under sub. (2) in any area of the property occupied exclusively by the renter. The terms of a lease or other agreement under which residential property is occupied shall control in determining whether property is occupied exclusively by a renter.

(b) The owner of residential property may exercise the right granted under sub. (2) in any portion of the property not occupied exclusively by a renter.

(6) This section does not apply to signs prohibited from being erected under s. 84.30.

History: 1985 a. 198; 1993 a. 246; 2005 a. 451; 2009 a. 173.

12.05 False representations affecting elections. No person may knowingly make or publish, or cause to be made or published, a false representation pertaining to a candidate or referendum which is intended or tends to affect voting at an election.

History: 1973 c. 334; 1993 a. 175.

A violation of this section does not constitute defamation per se. *Tatur v. Solsrud*, 174 Wis. 2d 735, 498 N.W.2d 232 (1993).

12.07 Election restrictions on employers. (1) No person may refuse an employee the privilege of time off for voting under s. 6.76 or subject an employee to a penalty therefor.

(2) No employer may refuse to allow an employee to serve as an election official under s. 7.30 or make any threats or offer any inducements of any kind to the employee for the purpose of preventing the employee from so serving.

(3) No employer or agent of an employer may distribute to any employee printed matter containing any threat, notice or information that if a particular ticket of a political party or organization or candidate is elected or any referendum question is adopted or rejected, work in the employer’s place or establishment will cease, in whole or in part, or the place or establishment will be closed, or the salaries or wages of the employees will be reduced, or other threats intended to influence the political opinions or actions of the employees.

(4) No person may, directly or indirectly, cause any person to make a contribution or provide any service or other thing of value to or for the benefit of a committee registered under ch. 11, with the purpose of influencing the election or nomination of a candidate to national, state or local office or the passage or defeat of a

referendum by means of the denial or the threat of denial of any employment, position, work or promotion, or any compensation or other benefit of such employment, position or work, or by means of discharge, demotion or disciplinary action or the threat to impose a discharge, demotion or disciplinary action. This subsection does not apply to employment by a committee registered under ch. 11 in connection with a campaign or political party activities. This subsection also does not apply to information provided by any person that expresses that person’s opinion on any candidate or committee, any referendum or the possible effects of any referendum, or the policies advocated by any candidate or committee.

History: 1973 c. 334; 1983 a. 484; 1991 a. 316; 2005 a. 451; 2015 a. 117; 2017 a. 365 s. 111.

12.08 Denial of government benefits. No person may, directly or indirectly, cause any person to make a contribution or provide any service or other thing of value to or for the benefit of a committee registered under ch. 11, with the purpose of influencing the election or nomination of a candidate to national, state, or local office or the passage or defeat of a referendum by means of the denial or threat of denial of any payment or other benefit of a program established or funded in whole or in part by this state or any local governmental unit of this state, or a program which has applied for funding by this state or any local governmental unit of this state.

History: 1983 a. 484; 1985 a. 304; 2015 a. 117; 2017 a. 365 s. 111.

12.09 Election threats. (1) No person may personally or through an agent make use of or threaten to make use of force, violence, or restraint in order to induce or compel any person to vote or refrain from voting at an election.

(2) No person may personally or through an agent, by abduction, duress, or any fraudulent device or contrivance, impede or prevent the free exercise of the franchise at an election.

(3) No person may personally or through an agent, by any act compel, induce, or prevail upon an elector either to vote or refrain from voting at any election for or against a particular candidate or referendum.

History: 1973 c. 334; 1991 a. 316; 2005 a. 451.

12.11 Election bribery. (1) In this section, “anything of value” includes any amount of money, or any object which has utility independent of any political message it contains and the value of which exceeds \$1. The prohibitions of this section apply to the distribution of material printed at public expense and available for free distribution if such materials are accompanied by a political message.

(1m) Any person who does any of the following violates this chapter:

(a) Offers, gives, lends or promises to give or lend, or endeavors to procure, anything of value, or any office or employment or any privilege or immunity to, or for, any elector, or to or for any other person, in order to induce any elector to:

1. Go to or refrain from going to the polls.
2. Vote or refrain from voting.
3. Vote or refrain from voting for or against a particular person.
4. Vote or refrain from voting for or against a particular referendum; or on account of any elector having done any of the above.

(b) Receives, agrees or contracts to receive or accept any money, gift, loan, valuable consideration, office or employment personally or for any other person, in consideration that the person or any elector will, so act or has so acted.

(c) Advances, pays or causes to be paid any money to or for the use of any person with the intent that such money or any part thereof will be used to bribe electors at any election.

(2) This section applies to any convention or meeting held for the purpose of nominating any candidate for any election, and to the signing of any nomination paper.

(3) (a) This section does not prohibit a candidate from publicly stating his or her preference for or support of any other candidate for any office to be voted for at the same election. A candidate for an office in which the person elected is charged with the duty of participating in the election or nomination of any person as a candidate for office is not prohibited from publicly stating or pledging his or her preference for or support of any person for such office or nomination.

(b) This section does not apply to money paid or agreed to be paid for or on account of authorized legal expenses which were legitimately incurred at or concerning any election.

(c) This section does not apply where an employer agrees that all or part of election day be given to its employees as a paid holiday, provided that such policy is made uniformly applicable to all similarly situated employees.

(d) This section does not prohibit any person from using his or her own vehicle to transport electors to or from the polls without charge.

(e) This section does not apply to any promise by a candidate to reduce public expenditures or taxes.

History: 1973 c. 334; 1975 c. 93; 1983 a. 484; 1991 a. 316; 1993 a. 213.

There are constitutional limits on the state's power to prohibit candidates from making promises in the course of an election campaign. Some promises are universally acknowledged as legitimate, indeed indispensable to decisionmaking in a democracy. *Brown v. Hartlage*, 456 U.S. 45 (1982).

12.13 Election fraud. (1) ELECTORS. Whoever intentionally does any of the following violates this chapter:

(a) Votes at any election or meeting if that person does not have the necessary elector qualifications and residence requirements.

(b) Falsely procures registration or makes false statements to the municipal clerk, board of election commissioners or any other election official whether or not under oath.

(c) Registers as an elector in more than one place for the same election.

(d) Impersonates a registered elector or poses as another person for the purpose of voting at an election.

(e) Votes more than once in the same election.

(f) Shows his or her marked ballot to any person or places a mark upon the ballot so it is identifiable as his or her ballot.

(g) Procures an official ballot and neglects or refuses to cast or return it. This paragraph does not apply to persons who have applied for and received absentee ballots.

(h) Procures, assists or advises someone to do any of the acts prohibited by this subsection.

(2) **ELECTION OFFICIALS.** (a) The willful neglect or refusal by an election official to perform any of the duties prescribed under chs. 5 to 12 is a violation of this chapter.

(b) No election official may:

1. Observe how an elector has marked a ballot unless the official is requested to assist the elector; intentionally permit anyone not authorized to assist in the marking of a ballot to observe how a person is voting or has voted; or disclose to anyone how an elector voted other than as is necessary in the course of judicial proceedings.

2. Illegally issue, write, change or alter a ballot on election day.

3. Permit registration or receipt of a vote from a person who the official knows is not a legally qualified elector or who has refused after being challenged to make the oath or to properly answer the necessary questions pertaining to the requisite requirements and residence; or put into the ballot box a ballot other than the official's own or other one lawfully received.

4. Intentionally assist or cause to be made a false statement, canvass, certificate or return of the votes cast at any election.

5. Willfully alter or destroy a poll or registration list.

6. Intentionally permit or cause a voting machine, voting device or automatic tabulating equipment to fail to correctly regis-

ter or record a vote cast thereon or inserted therein, or tamper with or disarrange the machine, device or equipment or any part or appliance thereof; cause or consent to the machine, device or automatic tabulating equipment being used for voting at an election with knowledge that it is out of order or is not perfectly set and adjusted so that it will correctly register or record all votes cast thereon or inserted therein; with the purpose of defrauding or deceiving any elector, cause doubt for what party, candidate or proposition a vote will be cast or cause the vote for one party, candidate or proposition to be cast so it appears to be cast for another; or remove, change or mutilate a ballot on a voting machine, device or a ballot to be inserted into automatic tabulating equipment, or do any similar act contrary to chs. 5 to 12.

6m. Obtain an absentee ballot for voting in a qualified retirement home or residential care facility under s. 6.875 (6) and fail to return the ballot to the issuing officer.

7. In the course of the person's official duties or on account of the person's official position, intentionally violate or intentionally cause any other person to violate any provision of chs. 5 to 12 for which no other penalty is expressly prescribed.

8. Intentionally disclose the name or address of any elector who obtains a confidential listing under s. 6.47 (2) to any person who is not authorized by law to obtain that information.

(3) **PROHIBITED ACTS.** No person may:

(a) Falsify any information in respect to or fraudulently deface or destroy a certificate of nomination, nomination paper, declaration of candidacy or petition for an election, including a recall petition or petition for a referendum; or file or receive for filing a certificate of nomination, nomination paper, declaration of candidacy or any such petition, knowing any part is falsely made.

(am) Fail to file an amended declaration of candidacy as provided in s. 8.21 with respect to a change in information filed in an original declaration within 3 days of the time the amended declaration becomes due for filing; or file a false declaration of candidacy or amended declaration of candidacy. This paragraph applies only to candidates for state or local office.

(b) Wrongfully suppress, neglect or fail to file nomination papers in the person's possession at the proper time and in the proper office; suppress a certificate of nomination which is duly filed.

(c) Willfully or negligently fail to deliver, after having undertaken to do so, official ballots prepared for an election to the proper person, or prevent their delivery within the required time, or destroy or conceal the ballots.

(d) Remove or destroy any of the supplies or conveniences placed in compartments or polling booths.

(e) Prepare or cause to be prepared an official ballot with intent to change the result of the election as to any candidate or referendum; prepare an official ballot which is premarked or which has an unauthorized sticker affixed prior to delivery to an elector; or deliver to an elector an official ballot bearing a mark opposite the name of a candidate or referendum question that might be counted as a vote for or against a candidate or question.

(f) Before or during any election, tamper with voting machines, voting devices or automatic tabulating equipment readied for voting or the counting of votes; disarrange, deface, injure or impair any such machine, device or equipment; or mutilate, injure or destroy a ballot placed or displayed on a voting machine or device, or to be placed or displayed on any such machine, device or automatic tabulating equipment or any other appliance used in connection with the machine, device or equipment.

(g) Falsify any statement relating to voter registration under chs. 5 to 12.

(h) Deface, destroy or remove any legally placed election campaign advertising poster with intent to disrupt the campaign advertising efforts of any committee registered under ch. 11, or alter the information printed thereon so as to change the meaning thereof to the disadvantage of the candidate or cause espoused. Nothing

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in this paragraph restricts the right of any owner or occupant of any real property, or the owner or operator of any motor vehicle, to remove campaign advertising posters from such property or vehicle.

(i) Falsely make any statement for the purpose of obtaining or voting an absentee ballot under ss. 6.85 to 6.87.

(j) When called upon to assist an elector who cannot read or write, has difficulty in reading, writing or understanding English, or is unable to mark a ballot or depress a lever or button on a voting machine, inform the elector that a ballot contains names or words different than are printed or displayed on the ballot with the intent of inducing the elector to vote contrary to his or her inclination, intentionally fail to cast a vote in accordance with the elector's instructions or reveal the elector's vote to any 3rd person.

(k) Forge or falsely make the official endorsement on a ballot or knowingly deposit a ballot in the ballot box upon which the names or initials of the ballot clerks, or those of issuing clerks do not appear.

(L) When not authorized, during or after an election, break open or violate the seals or locks on a ballot box containing ballots of that election or obtain unlawful possession of a ballot box with official ballots; conceal, withhold or destroy ballots or ballot boxes; willfully, fraudulently or forcibly add to or diminish the number of ballots legally deposited in a ballot box; or aid or abet any person in doing any of the acts prohibited by this paragraph.

(m) Fraudulently change a ballot of an elector so the elector is prevented from voting for whom the elector intended.

(n) Receive a ballot from or give a ballot to a person other than the election official in charge.

(o) Vote or offer to vote a ballot except as has been received from one of the inspectors.

(p) Receive a completed ballot from a voter unless qualified to do so.

(q) Solicit a person to show how his or her vote is cast.

(r) Remove a ballot from a polling place before the polls are closed.

(s) Solicit another elector to offer assistance under s. 6.82 (2) or 6.87 (5), except in the case of an elector who is blind or visually impaired to the extent that the elector cannot read a ballot.

(t) Obtain an absentee ballot as the agent of another elector under s. 6.86 (3) and fail or refuse to deliver it to such elector.

(u) Provide false documentation of identity for the purpose of inducing an election official to permit the person or another person to vote.

(w) Falsify a ballot application under s. 6.18.

(x) Refuse to obey a lawful order of an inspector made for the purpose of enforcing the election laws; engage in disorderly behavior at or near a polling place; or interrupt or disturb the voting or canvassing proceedings.

(y) After an election, break the locks or seals or reset the counters on a voting machine except in the course of official duties carried out at the time and in the manner prescribed by law; or disable a voting machine so as to prevent an accurate count of the votes from being obtained; or open the registering or recording compartments of a machine with intent to do any such act.

(z) Tamper with automatic tabulating equipment or any record of votes cast or computer program which is to be used in connection with such equipment to count or recount votes at any election so as to prevent or attempt to prevent an accurate count of the votes from being obtained.

(ze) Compensate a person who obtains voter registration forms from other persons at a rate that varies in relation to the number of voter registrations obtained by the person.

(zm) Willfully provide to a municipal clerk false information for the purpose of obtaining a confidential listing under s. 6.47 (2) for that person or another person.

(zn) Disclose to any person information provided under s. 6.47 (8) when not authorized to do so.

(5) UNAUTHORIZED RELEASE OF RECORDS OR INVESTIGATORY INFORMATION. (a) Except as specifically authorized by law and except as provided in par. (b), no investigator, prosecutor, employee of an investigator or prosecutor, or member or employee of the commission may disclose information related to an investigation or prosecution under chs. 5 to 10 or 12, or any other law specified in s. 978.05 (1) or (2) or provide access to any record of the investigator, prosecutor, or the commission that is not subject to access under s. 5.05 (5s) to any person other than an employee or agent of the prosecutor or investigator or a member, employee, or agent of the commission prior to presenting the information or record in a court of law.

(b) This subsection does not apply to any of the following communications made by an investigator, prosecutor, employee of an investigator or prosecutor, or member or employee of the commission:

1. Communications made in the normal course of an investigation or prosecution.

2. Communications with a local, state, or federal law enforcement or prosecutorial authority.

3. Communications made to the attorney of an investigator, prosecutor, employee, or member of the commission or to a person or the attorney of a person who is investigated or prosecuted by the commission.

History: 1973 c. 334; 1975 c. 85, 93, 199; 1977 c. 427, 447; 1979 c. 89, 249, 260, 311, 357; 1983 a. 183 s. 45; 1983 a. 192 s. 304; 1983 a. 484 ss. 135, 172 (3), 174; 1983 a. 491; 1985 a. 304; 1987 a. 391; 1989 a. 192; 1991 a. 316; 1999 a. 49; 2001 a. 16; 2003 a. 265; 2005 a. 451; 2007 a. 1; 2011 a. 23; 2013 a. 159; 2015 a. 117; 2015 a. 118 ss. 130, 266 (10).

Sub. (5) does not apply to district attorneys or law enforcement agencies. It only applies to the government accountability board, its employees and agents, and the investigators and prosecutors retained by the board, and the assistants to those persons. **OAG 7–09.**

12.60 Penalties. (1) (a) Whoever violates s. 12.09, 12.11 or 12.13 (1), (2) (b) 1. to 7. or (3) (a), (e), (f), (j), (k), (L), (m), (y) or (z) is guilty of a Class I felony.

(b) Whoever violates s. 12.03, 12.05, 12.07, 12.08 or 12.13 (2) (b) 8., (3) (b), (c), (d), (g), (i), (n) to (x), (ze), (zm) or (zn) may be fined not more than \$1,000, or imprisoned not more than 6 months or both.

(bm) Whoever violates s. 12.13 (5) may be fined not more than \$10,000 or imprisoned for not more than 9 months or both.

(c) Whoever violates s. 12.13 (3) (am) may be required to forfeit not more than \$500.

(d) Whoever violates s. 12.035 or 12.13 (3) (h) may be required to forfeit not more than \$100.

(1m) If a candidate for public office is adjudged guilty in a criminal action of any violation of this chapter under sub. (1) (a) committed during his or her candidacy, or of any violation of ch. 11 under s. 11.1401 (1) (a) or (b), the court's judgment shall include an order that the candidate's candidate committee be terminated in accordance with s. 11.0105 and that, notwithstanding s. 11.0105 (3), the committee pay its outstanding debts and then return the residual funds remaining in its depository account to the donors in an amount not exceeding the original contribution or donate the residual funds to the common school fund. The court shall appoint a new treasurer for the candidate committee to carry out the court's dissolution order. The court shall also include in its judgment an order specifying that the contributions made from the candidate's personal funds may not be returned to the candidate and that neither the candidate nor the new treasurer's predecessor may access the funds in the committee's depository account. The court shall also give notice of all actions taken pursuant to this subsection to the ethics commission.

(2) (a) If a successful candidate for public office, other than a candidate for the legislature or a candidate for national office, is adjudged guilty in a criminal action of any violation of this chapter

under sub. (1) (a) committed during his or her candidacy, the court shall after entering judgment enter a supplemental judgment declaring a forfeiture of the candidate's right to office. The supplemental judgment shall be transmitted to the officer or agency authorized to issue the certificate of nomination or election to the office for which the person convicted is a candidate. If the candidate's term has begun, the office shall become vacant. The office shall then be filled in the manner provided by law.

(b) If a successful candidate for the legislature or U.S. congress is adjudged guilty in a criminal action of any violation of this chapter under sub. (1) (a) committed during his or her candidacy,

the court shall after entering judgment certify its findings to the presiding officer of the legislative body to which the candidate was elected.

(3) Any election official who is convicted of any violation of this chapter shall, in addition to the punishment otherwise provided, be disqualified to act as an election official for a term of 5 years from the time of conviction.

(4) Prosecutions under this chapter shall be conducted in accordance with s. 11.1401 (2).

History: 1973 c. 334; 1975 c. 85; 1977 c. 418 s. 924 (18) (e); 1977 c. 427; 1979 c. 249, 311, 328; 1983 a. 484; 1985 a. 304; 1997 a. 283; 1999 a. 49; 2001 a. 109; 2005 a. 451; 2007 a. 1; 2015 a. 117; 2023 a. 52.

**State of California
ELECTIONS CODE
Section 20010**

20010. (a) Except as provided in subdivision (b), a person, committee, as defined in Section 82013 of the Government Code, or other entity shall not, within 60 days of an election at which a candidate for elective office will appear on the ballot, distribute, with actual malice, materially deceptive audio or visual media, as defined in subdivision (e), of the candidate with the intent to injure the candidate's reputation or to deceive a voter into voting for or against the candidate.

(b) (1) The prohibition in subdivision (a) does not apply if the audio or visual media includes a disclosure stating: "This _____ has been manipulated."

(2) The blank in the disclosure required by paragraph (1) shall be filled with whichever of the following terms most accurately describes the media:

(A) Image.

(B) Video.

(C) Audio.

(3) (A) For visual media, the text of the disclosure shall appear in a size that is easily readable by the average viewer and no smaller than the largest font size of other text appearing in the visual media. If the visual media does not include any other text, the disclosure shall appear in a size that is easily readable by the average viewer. For visual media that is video, the disclosure shall appear for the duration of the video.

(B) If the media consists of audio only, the disclosure shall 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 minutes in length, interspersed within the audio at intervals of not greater than two minutes each.

(c) (1) A candidate for elective office whose voice or likeness appears in a materially deceptive audio or visual media distributed in violation of this section may seek injunctive or other equitable relief prohibiting the distribution of audio or visual media in violation of this section. An action under this paragraph shall be entitled to precedence in accordance with Section 35 of the Code of Civil Procedure.

(2) A candidate for elective office whose voice or likeness appears in a materially deceptive audio or visual media distributed in violation of this section may bring an action for general or special damages against the person, committee, or other entity that distributed the materially deceptive audio or visual media. The court may also award a prevailing party reasonable attorney's fees and costs. This subdivision shall not be construed to limit or preclude a plaintiff from securing or recovering any other available remedy.

(3) In any civil action alleging a violation of this section, the plaintiff shall bear the burden of establishing the violation through clear and convincing evidence.

(d) (1) This section shall not be construed to alter or negate any rights, obligations, or immunities of an interactive service provider under Section 230 of Title 47 of the United States Code.

(2) This section does not apply to a radio or television broadcasting station, including a cable or satellite television operator, programmer, or producer, that broadcasts materially deceptive audio or visual media prohibited by this section as part of a bona fide newscast, news interview, news documentary, or on-the-spot coverage of bona fide news events, if the broadcast clearly acknowledges through content or a disclosure, in a manner that can be easily heard or read by the average listener or viewer, that there are questions about the authenticity of the materially deceptive audio or visual media.

(3) This section does not apply to a radio or television broadcasting station, including a cable or satellite television operator, programmer, or producer, when it is paid to broadcast materially deceptive audio or visual media.

(4) 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, that routinely carries news and commentary of general interest, and that publishes materially deceptive audio or visual media prohibited by this section, if the publication clearly states that the materially deceptive audio or visual media does not accurately represent the speech or conduct of the candidate.

(5) This section does not apply to materially deceptive audio or visual media that constitutes satire or parody.

(e) As used in this section, "materially deceptive audio or visual media" means an image or an audio or video recording of a candidate's appearance, speech, or conduct that has been intentionally manipulated in a manner such that both of the following conditions are met:

(1) The image or audio or video recording would falsely appear to a reasonable person to be authentic.

(2) The image or audio or video recording would cause a reasonable person to have a fundamentally different understanding or impression of the expressive content of the image or audio or video recording than that person would have if the person were hearing or seeing the unaltered, original version of the image or audio or video recording.

(f) The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

(g) This section shall remain in effect only until January 1, 2027, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2027, deletes or extends that date.

(Amended (as added by Stats. 2019, Ch. 493, Sec. 4) by Stats. 2022, Ch. 745, Sec. 3. (AB 972) Effective January 1, 2023.
Repealed as of January 1, 2027, by its own provisions. See related later operative section as amended by Sec. 4 of Stats. 2022, Ch. 745.)

ELECTION CODE

TITLE 15. REGULATING POLITICAL FUNDS AND CAMPAIGNS

CHAPTER 255. REGULATING POLITICAL ADVERTISING AND CAMPAIGN
COMMUNICATIONS

Sec. 255.001. REQUIRED DISCLOSURE ON POLITICAL ADVERTISING. (a) A person may not knowingly cause to be published, distributed, or broadcast political advertising containing express advocacy that does not indicate in the advertising:

(1) that it is political advertising; and

(2) the full name of:

(A) the person who paid for the political advertising;

(B) the political committee authorizing the political advertising; or

(C) the candidate or specific-purpose committee supporting the candidate, if the political advertising is authorized by the candidate.

(b) Political advertising that is authorized by a candidate, an agent of a candidate, or a political committee filing reports under this title shall be deemed to contain express advocacy.

(c) A person may not knowingly use, cause or permit to be used, or continue to use any published, distributed, or broadcast political advertising containing express advocacy that the person knows does not include the disclosure required by Subsection (a). A person is presumed to know that the use of political advertising is prohibited by this subsection if the commission notifies the person in writing that the use is prohibited. A person who learns that political advertising signs, as defined by Section 259.001, that have been distributed do not include the disclosure required by Subsection (a) or include a disclosure that does not comply with Subsection (a) does not commit a continuing violation of this subsection if the person makes a good faith attempt to remove or correct those signs. A person who learns that printed political advertising other than a political advertising sign that has been distributed does not include the disclosure

required by Subsection (a) or includes a disclosure that does not comply with Subsection (a) is not required to attempt to recover the political advertising and does not commit a continuing violation of this subsection as to any previously distributed political advertising.

(d) This section does not apply to:

(1) tickets or invitations to political fund-raising events;

(2) campaign buttons, pins, hats, or similar campaign materials; or

(3) circulars or flyers that cost in the aggregate less than \$500 to publish and distribute.

(e) A person who violates this section is liable to the state for a civil penalty in an amount determined by the commission not to exceed \$4,000.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987; Acts 2003, 78th Leg., ch. 249, Sec. 2.23, eff. Sept. 1, 2003.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 824 (H.B. [2554](#)), Sec. 5, eff. September 1, 2019.

Sec. 255.002. RATES FOR POLITICAL ADVERTISING. (a) The rate charged for political advertising by a radio or television station may not exceed:

(1) during the 45 days preceding a general or runoff primary election and during the 60 days preceding a general or special election, the broadcaster's lowest unit charge for advertising of the same class, for the same time, and for the same period; or

(2) at any time other than that specified by Subdivision (1), the amount charged other users for comparable use of the station.

(b) The rate charged for political advertising that is printed or published may not exceed the lowest charge made for comparable use of the space for any other purposes.

(c) In determining amounts charged for comparable use, the amount and kind of space or time used, number of times used,

frequency of use, type of advertising copy submitted, and any other relevant factors shall be considered.

(d) Discounts offered by a newspaper or magazine to its commercial advertisers shall be offered on equal terms to purchasers of political advertising from the newspaper or magazine.

(e) A person commits an offense if the person knowingly demands or receives or knowingly pays or offers to pay for political advertising more consideration than permitted by this section.

(f) An offense under this section is a Class C misdemeanor. Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987.

Sec. 255.003. UNLAWFUL USE OF PUBLIC FUNDS FOR POLITICAL ADVERTISING. (a) An officer or employee of a political subdivision may not knowingly spend or authorize the spending of public funds for political advertising.

(b) Subsection (a) does not apply to a communication that factually describes the purposes of a measure if the communication does not advocate passage or defeat of the measure.

(b-1) An officer or employee of a political subdivision may not spend or authorize the spending of public funds for a communication describing a measure if the communication contains information that:

- (1) the officer or employee knows is false; and
- (2) is sufficiently substantial and important as to be reasonably likely to influence a voter to vote for or against the measure.

(c) A person who violates Subsection (a) or (b-1) commits an offense. An offense under this section is a Class A misdemeanor.

(d) It is an affirmative defense to prosecution for an offense under this section or the imposition of a civil penalty for conduct under this section that an officer or employee of a political subdivision reasonably relied on a court order or an interpretation of this section in a written opinion issued by:

- (1) a court of record;
- (2) the attorney general; or
- (3) the commission.

(e) On written request of the governing body of a political subdivision that has ordered an election on a measure, the commission shall prepare an advance written advisory opinion as to whether a particular communication relating to the measure does or does not comply with this section.

(f) Subsections (d) and (e) do not apply to a port authority or navigation district.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 644 (H.B. 1720), Sec. 1, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 843 (S.B. 2085), Sec. 1, eff. September 1, 2009.

Sec. 255.0031. UNLAWFUL USE OF INTERNAL MAIL SYSTEM FOR POLITICAL ADVERTISING. (a) An officer or employee of a state agency or political subdivision may not knowingly use or authorize the use of an internal mail system for the distribution of political advertising.

(b) Subsection (a) does not apply to:

(1) the use of an internal mail system to distribute political advertising that is delivered to the premises of a state agency or political subdivision through the United States Postal Service; or

(2) the use of an internal mail system by a state agency or municipality to distribute political advertising that is the subject of or related to an investigation, hearing, or other official proceeding of the agency or municipality.

(c) A person who violates this section commits an offense. An offense under this section is a Class A misdemeanor.

(d) In this section:

(1) "Internal mail system" means a system operated by a state agency or political subdivision to deliver written documents to officers or employees of the agency or subdivision.

(2) "State agency" means:

(A) a department, commission, board, office, or

other agency that is in the legislative, executive, or judicial branch of state government;

(B) a university system or an institution of higher education as defined by Section 61.003, Education Code; or

(C) a river authority created under the constitution or a statute of this state.

Added by Acts 2003, 78th Leg., ch. 229, Sec. 1, eff. Sept. 1, 2003.

Sec. 255.004. TRUE SOURCE OF COMMUNICATION. (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.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1339 (S.B. 751), Sec. 1, eff. September 1, 2019.

Sec. 255.005. MISREPRESENTATION OF IDENTITY. (a) A person commits an offense if, with intent to injure a candidate or influence the result of an election, the person misrepresents the person's identity or, if acting or purporting to act as an agent,

misrepresents the identity of the agent's principal, in political advertising or a campaign communication.

(b) An offense under this section is a Class A misdemeanor. Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987; Acts 1997, 75th Leg., ch. 864, Sec. 249, eff. Sept. 1, 1997.

Sec. 255.006. MISLEADING USE OF OFFICE TITLE. (a) A person commits an offense if the person knowingly enters into a contract or other agreement to print, publish, or broadcast political advertising with the intent to represent to an ordinary and prudent person that a candidate holds a public office that the candidate does not hold at the time the agreement is made.

(b) A person commits an offense if the person knowingly represents in a campaign communication that a candidate holds a public office that the candidate does not hold at the time the representation is made.

(c) For purposes of this section, a person represents that a candidate holds a public office that the candidate does not hold if:

(1) the candidate does not hold the office that the candidate seeks; and

(2) the political advertising or campaign communication states the public office sought but does not include the word "for" in a type size that is at least one-half the type size used for the name of the office to clarify that the candidate does not hold that office.

(d) A person other than an officeholder commits an offense if the person knowingly uses a representation of the state seal in political advertising.

(e) An offense under this section is a Class A misdemeanor. Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 300, Sec. 30, eff. Aug. 30, 1993; Acts 1997, 75th Leg., ch. 864, Sec. 250, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1134, Sec. 9, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 5.17, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 737, Sec. 1, eff. Sept. 1, 1999.

Sec. 255.008. DISCLOSURE ON POLITICAL ADVERTISING FOR

JUDICIAL OFFICE. (a) This section applies only to a candidate or political committee covered by Subchapter F, Chapter 253.

(b) Political advertising by a candidate who files a declaration of intent to comply with the limits on expenditures under Subchapter F, Chapter 253, or a specific-purpose committee for supporting such a candidate may include the following statement: "Political advertising paid for by (name of candidate or committee) in compliance with the voluntary limits of the Judicial Campaign Fairness Act."

(c) Political advertising by a candidate who files a declaration of intent to comply with the limits on expenditures under Subchapter F, Chapter 253, or a specific-purpose committee for supporting such a candidate that does not contain the statement prescribed by Subsection (b) must comply with Section 255.001.

(d) Political advertising by a candidate who files a declaration of intent to exceed the limits on expenditures under Subchapter F, Chapter 253, or a specific-purpose committee for supporting such a candidate must include the following statement: "Political advertising paid for by (name of candidate or committee), (who or which) has rejected the voluntary limits of the Judicial Campaign Fairness Act."

(e) The commission shall adopt rules providing for:

(1) the minimum size of the disclosure required by this section in political advertising that appears on television or in writing; and

(2) the minimum duration of the disclosure required by this section in political advertising that appears on television or radio.

(f) A person who violates this section or a rule adopted under this section is liable for a civil penalty not to exceed:

(1) \$15,000, for a candidate for a statewide judicial office or a specific-purpose committee for supporting such a candidate;

(2) \$10,000, for a candidate for chief justice or justice, court of appeals, or a specific-purpose committee for supporting such a candidate; or

(3) \$5,000, for a candidate for any other judicial

office covered by Subchapter F, Chapter 253, or a specific-purpose committee for supporting such a candidate.

(g) Section 253.176 applies to the imposition and disposition of a civil penalty under this section.

Added by Acts 1995, 74th Leg., ch. 763, Sec. 6, eff. Sept. 1, 1995.

MICHIGAN ELECTION LAW (EXCERPT)
Act 116 of 1954

168.932f Distribution of materially deceptive media; prohibition; violation; misdemeanor; penalties; injunctive relief; definitions.

Sec. 932f. (1) Except as otherwise provided in subsection (2), a person shall not distribute, or enter into an agreement with another person to distribute, materially deceptive media if all of the following apply:

(a) The person knows the media falsely represents a depicted individual.

(b) The distribution occurs within 90 days before an election.

(c) The person intends the distribution to harm the reputation or electoral prospects of a candidate in an election, and the distribution is reasonably likely to cause that result.

(d) The person intends the distribution to change the voting behavior of electors in an election by deceiving the electors into incorrectly believing that the depicted individual in fact engaged in the speech or conduct depicted, and the distribution is reasonably likely to cause that result.

(2) The prohibition in subsection (1) does not apply if all of the following conditions are met:

(a) The media includes a disclaimer informing the viewer that the media has been manipulated by technical means and depicts speech or conduct that did not occur. The following disclaimer is sufficient, but not necessary, to satisfy the requirement under this subdivision:

"This _____ (image, audio, or video) has been manipulated by technical means and depicts speech or conduct that did not occur."

(b) If the media is a video, the disclaimer meets all of the following requirements:

(i) Appears throughout the entirety of the video.

(ii) Is clearly visible to and readable by an observer.

(iii) Is in letters at least as large as the majority of any text communication, or if there is no other text communication, in a size that is easily readable by the average viewer.

(iv) Is in the same language as the language used in the video media.

(c) If the media consists only of audio and contains no image or video, the disclaimer is read at the beginning and end of the media in a clearly spoken manner, in a pitch that can be easily heard by the average listener, and in the same language as the audio media.

(d) If the media is an image, the disclaimer meets all of the following requirements:

(i) Is clearly visible to and readable by the average viewer.

(ii) If the media contains other text, is in letters at least as large as the majority of the other text.

(iii) Is in the same language as the language used in the image media.

(e) If the media was generated by editing an existing image, audio, or video, the media includes a citation directing the viewer or listener to the original source from which the unedited version of the existing image, audio, or video was obtained.

(3) A person that violates this section is guilty of a crime as follows:

(a) For a first violation, a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$500.00, or both.

(b) If a violation occurs within 5 years of a previous conviction for a violation under this section, a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$1,000.00, or both.

(4) Subject to subsection (9), the attorney general, a depicted individual, a candidate for office who has been injured or is likely to be injured by the distribution of materially deceptive media, or any organization that represents the interests of voters likely to be deceived by the distribution of materially deceptive media, may seek permanent injunctive relief against a person that violates this section in any of the following courts:

(a) The circuit court for the county in which a party to the alleged violation resides.

(b) The circuit court for the county in which the materially deceptive media at issue could deceive and influence electors in an upcoming election.

(5) Upon the filing of a complaint for injunctive relief under subsection (4), the court must review the complaint to determine whether the complaint is frivolous. If the court determines that the complaint for injunctive relief is frivolous, the court shall issue an order suspending the defendant's obligation to respond to the complaint and shall order the plaintiff to show cause why the complaint for injunctive relief should not be dismissed. If the plaintiff fails to respond to the court or the plaintiff's response to the court confirms that the complaint for injunctive relief is frivolous, the court shall dismiss the complaint for injunctive relief. If the plaintiff's response to the court assures the court that the complaint for injunctive relief is not frivolous, the court shall direct the defendant to answer the complaint for injunctive relief.

(6) If a court finds that a complaint for injunctive relief is frivolous under subsection (5), the court, in addition to dismissing the complaint, may award costs and attorney fees to the defendant and may issue any

appropriate sanctions permitted under the Michigan court rules or the court's inherent authority against the plaintiff and the plaintiff's attorney.

(7) A plaintiff seeking permanent injunctive relief under subsection (4) must prove by clear and convincing evidence that the defendant against whom the injunction is sought knew the media at issue falsely represents the depicted individual.

(8) If a plaintiff, other than the attorney general, is awarded permanent injunctive relief under this section, the court may award costs and attorney fees to the plaintiff.

(9) A plaintiff shall not seek preliminary injunctive relief in an action described in subsection (4).

(10) As used in this section:

(a) "Depicted individual" means an individual who is falsely represented in a materially deceptive media.

(b) "Election" includes, but is not limited to, a federal, statewide, legislative, judicial, county, or local election or primary election.

(c) "Materially deceptive media" means any image, audio, or video that meets all of the following requirements:

(i) Falsely depicts an individual engaging in speech or conduct in which the depicted individual did not in fact engage.

(ii) A reasonable viewer or listener would incorrectly believe that the depicted individual engaged in the speech or conduct depicted.

(iii) Was produced by artificial intelligence as that term is defined in section 2 of the Michigan campaign finance act, 1976 PA 388, MCL 169.202.

History: Add. 2023, Act 265, Eff. Feb. 13, 2024.

Popular name: Election Code

Minn. Stat. § 609.771

Section 609.771 - USE OF DEEP FAKE TECHNOLOGY TO INFLUENCE AN ELECTION

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 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 reasonably should know that the item being disseminated is a deep fake and dissemination:

- (1) takes place within 90 days before an election;
- (2) is made without the consent of the depicted individual; and
- (3) is made with the intent to injure a candidate or influence the result of an election.

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 364 days 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.

Minn. Stat. § 609.771

Added by 2023 Minn. Laws, ch. 58,s 2, eff. 8/1/2023.

RCW 42.62.020 Action by candidate for relief and damages—

Defenses. (1) For purposes of this section "synthetic media" means an image, an audio recording, or a video recording of an individual's appearance, speech, or conduct that has been intentionally manipulated with the use of generative adversarial network techniques or other digital technology in a manner to create a realistic but false image, audio, or video that produces:

(a) A depiction that to a reasonable individual is of a real individual in appearance, action, or speech that did not actually occur in reality; and

(b) A fundamentally different understanding or impression of the appearance, action, or speech than a reasonable person would have from the unaltered, original version of the image, audio recording, or video recording.

(2) A candidate whose appearance, action, or speech is altered through the use of a synthetic media in an electioneering communication may seek injunctive or other equitable relief prohibiting the publication of such synthetic media.

(3) A candidate whose appearance, action, or speech is altered through the use of a synthetic media in an electioneering communication may bring an action for general or special damages against the sponsor. The court may also award a prevailing party reasonable attorneys' fees and costs. This subsection does not limit or preclude a plaintiff from securing or recovering any other available remedy.

(4) It is an affirmative defense for any action brought under this section that the electioneering communication containing a synthetic media includes a disclosure stating, "This (image/video/audio) has been manipulated," in the following manner:

(a) For visual media, the text of the disclosure must appear in size easily readable by the average viewer and no smaller than the largest font size of other text appearing in the visual media. If the visual media does not include any other text, the disclosure must appear in a size that is easily readable by the average viewer. For visual media that is a video, 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 minutes in length, interspersed within the audio at intervals of not more than two minutes each.

(5) In any action commenced under this section, the plaintiff bears the burden of establishing the use of synthetic media by clear and convincing evidence.

(6) Courts are encouraged to determine matters under this section expediently. [2023 c 360 § 2.]

ENROLLED

CS/HB 919

2024 Legislature

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An act relating to artificial intelligence use in political advertising; creating s. 106.145, F.S.; providing a definition; requiring certain political advertisements, electioneering communications, or other miscellaneous advertisements to include a specified disclaimer; specifying requirements for the disclaimer; providing for criminal and civil penalties; authorizing any person to file certain complaints; providing for expedited hearings; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 106.145, Florida Statutes, is created to read:

106.145 Use of artificial intelligence.-

(1) As used in this section, the term "generative artificial intelligence" means a machine-based system that can, for a given set of human-defined objectives, emulate the structure and characteristics of input data in order to generate derived synthetic content including images, videos, audio, text, and other digital content.

(2) If a political advertisement, an electioneering communication, or other miscellaneous advertisement of a

ENROLLED

CS/HB 919

2024 Legislature

26 political nature contains images, video, audio, graphics, or
27 other digital content created in whole or in part with the use
28 of generative artificial intelligence, if the generated content
29 appears to depict a real person performing an action that did
30 not actually occur, and if the generated content was created
31 with intent to injure a candidate or to deceive regarding a
32 ballot issue, the political advertisement, electioneering
33 communication, or other miscellaneous advertisement must
34 prominently state the following disclaimer: "Created in whole or
35 in part with the use of generative artificial intelligence
36 (AI)." The disclaimer required in this section is in addition to
37 any other disclaimer required under this chapter.

38 (3) The disclaimer must:

39 (a) For a printed communication, be stated in bold font
40 with a font size of at least 12 points.

41 (b) For a television or video communication, be clearly
42 readable throughout the communication and occupy at least 4
43 percent of the vertical picture height.

44 (c) For an Internet public communication that includes
45 text or graphic components, be viewable without the user taking
46 any action and be large enough to be clearly readable.

47 (d) For any audio component of a communication, be at
48 least 3 seconds in length and spoken in a clearly audible and
49 intelligible manner at either the beginning or the end of the
50 audio component of the communication.

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51 (e) For a graphic communication, be large enough to be
 52 clearly readable but no less than 4 percent of the vertical
 53 height of the communication.

54 (4)(a) In addition to any civil penalties provided by law,
 55 a person identified pursuant to another disclaimer required
 56 under this chapter as paying for, sponsoring, or approving a
 57 political advertisement, an electioneering communication, or
 58 other miscellaneous advertisement of a political nature which is
 59 required to contain the disclaimer prescribed in this section
 60 and who fails to include the required disclaimer commits a
 61 misdemeanor of the first degree, punishable as provided in s.
 62 775.082 or s. 775.083.

63 (b) Any person may file a complaint with the Florida
 64 Elections Commission pursuant to s. 106.25 alleging a violation
 65 of this section. The commission shall adopt rules to provide an
 66 expedited hearing of complaints filed under this section, or, in
 67 cases referred to the Division of Administrative Hearings
 68 pursuant to s. 106.25(5), the director shall assign an
 69 administrative law judge to provide an expedited hearing.

70 Section 2. This act shall take effect July 1, 2024.

HOUSE ENROLLED ACT No. 1133

AN ACT to amend the Indiana Code concerning elections.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 3-9-8 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 8. Use of Digitally Altered Media in Elections

Sec. 1. (a) As used in this chapter, "campaign communication" means a communication, regardless of the format of the communication or the medium through which the communication is disseminated:

- (1) that advocates for the election or defeat of a clearly identified candidate;**
- (2) the purpose of which is to:
 - (A) injure a candidate in an election; or**
 - (B) influence the outcome of an election; or****
- (3) that solicits a contribution.**

(b) For purposes of subsection (a)(1), a candidate is clearly identified if any of the following apply:

- (1) The communication includes one (1) or more of the following:
 - (A) The name of the candidate.**
 - (B) A video, photograph, or drawing of the candidate.**
 - (C) Fabricated media depicting the candidate.****
- (2) The identity of the candidate is apparent by unambiguous reference.**

Sec. 2. (a) For purposes of this chapter, subject to subsection (b), "candidate" has the meaning set forth in IC 3-5-2-6.

(b) For purposes of this chapter, "candidate" includes an individual who holds an elected office, including:

- (1) a federal or state office, including a federal or state legislative office;**
- (2) a school board office; or**
- (3) a local office.**

Sec. 3. As used in this chapter, "fabricated media" means any of the following:

- (1) Media that includes an audio or visual recording of an individual's speech, appearance, or conduct that has been altered without the individual's consent such that:
 - (A) the media conveys a materially inaccurate depiction of the individual's speech, appearance, or conduct as recorded in the unaltered recording; and**
 - (B) a reasonable person would be unable to recognize that the recording has been altered.****
- (2) Media in which an artificially generated audio or visual imitation of an individual that:
 - (A) has been created without the individual's consent; and**
 - (B) is sufficiently lifelike that a reasonable person would be unable to distinguish the speech or appearance of the imitation from the speech or appearance of the individual; is used to convey a fictional depiction of the individual's speech, appearance, or conduct.****
- (3) Media depicting the speech, appearance, or conduct of an artificially generated person, the appearance or speech of which is not a recognizable imitation of an identifiable individual.**

Sec. 4. As used in this chapter, "media" means:

- (1) recorded audio;**
- (2) a recorded image; or**
- (3) recorded video.**

Sec. 5. If a campaign communication includes fabricated media depicting a candidate, the person that paid for the campaign communication must include a disclaimer, separate from the disclaimer required under IC 3-9-3-2.5(d), that meets the following requirements:

- (1) The disclaimer must state: "Elements of this media have been digitally altered or artificially generated."**
- (2) If the campaign communication is a printed communication, the disclaimer must be printed in a manner that complies with IC 3-9-3-2.5(e).**
- (3) If the campaign communication is an audio communication, the disclaimer must be read:**
 - (A) in each language used in the campaign communication;**
 - (B) at a speed and pitch at which the disclaimer is reasonably understandable; and**
 - (C) at a volume that is not lower than the loudest audio included in the campaign communication; at the beginning of the campaign communication, at the end of the campaign communication, and, if the campaign communication is more than two (2) minutes in length, at intervals of two (2) minutes for the duration of the campaign communication.**
- (4) If the campaign communication is a video communication, the disclaimer must be:**
 - (A) printed in a manner that complies with IC 3-9-3-2.5(e); and**
 - (B) displayed continuously for the duration of the campaign communication.**

Sec. 6. (a) A candidate depicted in fabricated media that is included in a campaign communication that does not include a disclaimer required by section 5 of this chapter may bring a civil action against:

- (1) the person that paid for the campaign communication;**
 - (2) the person that sponsored the campaign communication; and**
 - (3) a person that disseminates the campaign communication, if:**
 - (A) the campaign communication included the disclaimer when provided to the person; and**
 - (B) the person knowingly, intentionally, or recklessly altered or removed the disclaimer before disseminating the campaign communication.**
- (b) A plaintiff who prevails in an action brought under subsection (a) is entitled to recover:**
- (1) the plaintiff's actual damages;**
 - (2) injunctive relief; and**
 - (3) the amount of any court costs and reasonable attorney's fees incurred by the plaintiff in connection with the action.**
- (c) The plaintiff in an action under this section has the burden of proving by clear and convincing evidence that the plaintiff was depicted in fabricated media in the campaign communication that is the subject of the action.**
- (d) A court shall expedite the hearing of an action brought under this section.**

SECTION 2. An emergency is declared for this act.

AN ACT RELATING TO ELECTIONS; AMENDING AND ENACTING SECTIONS OF THE CAMPAIGN REPORTING ACT BY ADDING DISCLAIMER REQUIREMENTS FOR ADVERTISEMENTS CONTAINING MATERIALLY DECEPTIVE MEDIA; CREATING THE CRIME OF DISTRIBUTING OR ENTERING INTO AN AGREEMENT WITH ANOTHER PERSON TO DISTRIBUTE MATERIALLY DECEPTIVE MEDIA; ADDING DEFINITIONS; PROVIDING PENALTIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 1-19-26 NMSA 1978 (being Laws 1979, Chapter 360, Section 2, as amended) is amended to read:

"1-19-26. DEFINITIONS.--As used in the Campaign Reporting Act:

A. "advertisement" means a communication referring to a candidate or ballot question that is published, disseminated, distributed or displayed to the public by print, broadcast, satellite, cable or electronic media, including recorded phone messages, or by printed materials, including mailers, handbills, signs and billboards, but "advertisement" does not include:

(1) a communication by a membership organization or corporation to its current members, stockholders or executive or administrative personnel;

(2) a communication appearing in a news story or editorial distributed through a print, broadcast, satellite, cable or electronic medium;

(3) a candidate debate or forum or a communication announcing a candidate debate or forum paid for on behalf of the debate or forum sponsor; provided that two or more candidates for the same position have been invited to participate or, in the case of an uncontested election, that the single candidate for the position has been invited to participate;

(4) nonpartisan voter guides allowed by the federal Internal Revenue Code of 1986, as amended, for Section 501(c)(3) organizations; or

(5) statements made to a court or administrative board in the course of a formal judicial or administrative proceeding;

B. "anonymous contribution" means a contribution the contributor of which is unknown to the candidate or the candidate's agent or the political committee or its agent who accepts the contribution;

C. "artificial intelligence" means a machine-based or computer-based system that through hardware or software uses input data to emulate the structure and characteristics of input data in order to generate synthetic content, including images, video or audio;

D. "ballot question" means a constitutional amendment or other question submitted to the voters in an election;

E. "bank account" means an account in a financial institution regulated by the United States or a state of the United States;

F. "campaign committee" means an association of two or more persons authorized by a candidate to act on the candidate's behalf for the purpose of electing the candidate to office; provided that a candidate shall not authorize more than one campaign committee;

G. "campaign expenditure" means an expenditure that is made by a campaign committee or by a candidate in support of the candidate's campaign in an election;

H. "candidate" means an individual who seeks or considers an office in an election covered by the Campaign Reporting Act, including a public official, who has filed a declaration of candidacy and has not subsequently filed a statement of withdrawal or:

(1) for a nonstatewide office, has received contributions or made expenditures of more than one thousand dollars (\$1,000) or authorized another person or campaign committee to receive contributions or make expenditures of more than one thousand dollars (\$1,000) for the purpose of seeking election to the office; or

(2) for a statewide office, has received contributions or made expenditures of more than three thousand dollars (\$3,000) or authorized another person or campaign committee to receive contributions or make

expenditures of more than three thousand dollars (\$3,000) for the purpose of seeking election to the office or for candidacy exploration purposes in the years prior to the year of the election;

I. "contribution":

(1) means a gift, subscription, loan, advance or deposit of money or other thing of value, including the estimated value of an in-kind contribution, that is made or received for a political purpose, including payment of a debt incurred in an election campaign;

(2) includes a coordinated expenditure;

(3) does not include the value of services provided without compensation or unreimbursed travel or other personal expenses of individuals who volunteer a portion or all of their time on behalf of a candidate or political committee nor does it include the administrative or solicitation expenses of a political committee that are paid by an organization that sponsors the committee; and

(4) does not include the value of the incidental use of the candidate's personal property, home or business office for campaign purposes;

J. "coordinated expenditure" means an expenditure that is made:

(1) by a person other than a candidate or campaign committee;

(2) at the request or suggestion of, or in cooperation, consultation or concert with, a candidate, campaign committee or political party or any agent or representative of a candidate, campaign committee or political party; and

(3) for the purpose of:

(a) supporting or opposing the nomination or election of a candidate; or

(b) paying for an advertisement that refers to a clearly identified candidate and is published and disseminated to the relevant electorate in New Mexico within thirty days before the primary election or sixty days before the general election in which the candidate is on the ballot;

K. "deliver" or "delivery" means to deliver by certified or registered mail, telecopier, electronic transmission or facsimile or by personal service;

L. "depicted individual" means an individual whose image, photo, likeness or voice is represented in an advertisement or other media in such a manner that results in the individual being identifiable;

M. "distribution platform" means a website, internet forum or message board, application or a published newspaper, magazine or other periodical of general circulation, including an internet or electronic publication, that carries news and commentary;

N. "election" means any primary, general or statewide special election in New Mexico and includes county and judicial retention elections but excludes federal, municipal, school board and special district elections;

O. "election year" means an even-numbered year in which an election covered by the Campaign Reporting Act is held;

P. "expenditure" means a payment, transfer or distribution or obligation or promise to pay, transfer or distribute any money or other thing of value for a political purpose, including payment of a debt incurred in an election campaign or pre-primary convention;

Q. "independent expenditure" means an expenditure that is:

(1) made by a person other than a candidate or campaign committee;

(2) not a coordinated expenditure as defined in the Campaign Reporting Act; and

(3) made to pay for an advertisement that:

(a) expressly advocates the election or defeat of a clearly identified candidate or the passage or defeat of a clearly identified ballot question;

(b) is susceptible to no other reasonable interpretation than as an appeal to vote for or against a clearly identified candidate or ballot question; or

(c) refers to a clearly identified candidate or ballot question and is published and disseminated to the relevant electorate in New Mexico within thirty days before the primary election or sixty days before the general election at which the candidate or ballot question is on the ballot;

R. "legislative caucus committee" means a political committee established by the members of a political

party in a chamber of the legislature;

S. "materially deceptive media" means an image, video or audio that:

- (1) depicts an individual engaged in conduct or speech in which the depicted individual did not engage;
- (2) was published, disseminated, distributed or displayed to the public without the consent of the

depicted individual; and

- (3) was produced in whole or in part by using artificial intelligence;

T. "person" means an individual or entity;

U. "political committee" means:

- (1) a political party;

- (2) a legislative caucus committee;

(3) an association that consists of two or more persons whose primary purpose is to make contributions to candidates, campaign committees or political committees or make coordinated expenditures or any combination thereof; or

(4) an association that consists of two or more persons whose primary purpose is to make independent expenditures and that has received more than five thousand dollars (\$5,000) in contributions or made independent expenditures of more than five thousand dollars (\$5,000) in the election cycle;

V. "political party" means an association that has qualified as a political party pursuant to the provisions of Section 1-7-2 NMSA 1978;

W. "political purpose" means for the purpose of supporting or opposing a ballot question or the nomination or election of a candidate;

X. "prescribed form" means a form or electronic format prepared and prescribed by the secretary of state;

Y. "public official" means a person elected to an office in an election covered by the Campaign Reporting Act or a person appointed to an office that is subject to an election covered by that act; and

Z. "reporting individual" means a public official, candidate or treasurer of a campaign committee or a treasurer of a political committee."

SECTION 2. Section 1-19-26.4 NMSA 1978 (being Laws 2019, Chapter 262, Section 2) is amended to read:

"1-19-26.4. DISCLAIMERS IN ADVERTISEMENTS—ARTIFICIAL INTELLIGENCE--MATERIALLY DECEPTIVE MEDIA--VIOLATION--PENALTY.--

A. A person who makes a campaign expenditure, a coordinated expenditure or an independent expenditure for an advertisement in an amount that exceeds one thousand dollars (\$1,000), or in an amount that, when added to the aggregate amount of the campaign expenditures, coordinated expenditures and independent expenditures for advertisements made by the same person during the election cycle, exceeds one thousand dollars (\$1,000), shall ensure that the advertisement contains the name of the candidate, committee or other person who authorized and paid for the advertisement.

B. The requirements of Subsection A of this section do not apply to the following:

(1) bumper stickers, pins, buttons, pens and similar small items upon which the disclaimer cannot be conveniently printed; or

(2) skywriting, water towers, wearing apparel or other means of displaying an advertisement of such a nature that the inclusion of a disclaimer would be impracticable.

C. The disclaimer statements required by Subsection A of this section shall be set forth legibly on any advertisement that is disseminated or displayed by visual media. If the advertisement is transmitted by audio media, the statement shall be clearly spoken during the advertisement. If the advertisement is transmitted by audiovisual media, the statement shall be both written legibly and spoken clearly during the advertisement.

D. If a person creates, produces or purchases an advertisement that contains materially deceptive media, the advertisement shall include a disclaimer. The disclaimer shall appear in a clear and conspicuous manner in every language used in the advertisement and shall indicate: "This ____ has been manipulated or

generated by artificial intelligence". The blank line in the disclaimer shall be filled with each of the following terms that describes the media:

- (1) image;
- (2) video; or
- (3) audio.

E. The disclaimer required in Subsection D of this section shall be included as follows:

(1) for visual media that is an image, the text of the disclaimer shall appear in a size that is easily readable;

(2) for visual media that is video, the disclaimer shall appear for the duration of the video in a size that is easily readable;

(3) for media that contains audio only, the disclaimer shall be read in a clearly spoken manner and in a pitch that can be easily heard at the beginning of the audio, at the end of the audio and, if the audio is greater than two minutes in length, interspersed within the audio at intervals of not greater than two minutes each; and

(4) for mixed media, there shall be a disclaimer in the same form as provided in this section for each form of media used.

F. Each occurrence of a person creating, producing or purchasing an advertisement subject to the disclaimer requirements as provided in Subsection D of this section that fails to meet the disclaimer requirements constitutes a separate violation. A person found to have violated the requirements provided in Subsection D of this section shall be subject to civil penalties as provided in Section 1-19-34.6 NMSA 1978.

G. It is not a violation of this section for:

(1) a radio or television broadcasting station, including a cable television, satellite television or streaming service operator, programmer or producer, that broadcasts an advertisement 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 clearly acknowledges through content or a disclaimer, in a manner that can be easily read or heard, that the advertisement was generated in whole or in part by using artificial intelligence and does not accurately represent the speech or conduct of the depicted individual;

(2) a radio or television broadcasting station, including a cable television, satellite television or streaming service operator, programmer or producer, that broadcasts an advertisement when the station or streaming service is paid to broadcast the advertisement if the station or streaming service can show that it has disclaimer requirements that are consistent with the requirements provided in Subsection D of this section and that it provided those disclaimer requirements to each person or entity that purchased the broadcast or streaming of the advertisement;

(3) an advertisement that reasonably constitutes satire or parody if the advertisement includes a disclaimer consistent with the requirements provided in Subsection D of this section; and

(4) a distribution platform that published, posted or distributed an advertisement or a prerecorded phone message if the distribution platform can show that it has disclaimer requirements that are consistent with the requirements provided in Subsection D of this section and that it provided those disclaimer requirements to the person or entity that purchased the distribution of the advertisement or prerecorded phone message by or on the distribution platform.

H. Nothing in this section shall be construed to preclude a claim pursuant to any other section of law or any civil action for damages."

SECTION 3. A new section of the Campaign Reporting Act, Section 1-19-26.8 NMSA 1978, is enacted to read:

"1-19-26.8. PROHIBITED USE OF MATERIALLY DECEPTIVE MEDIA--DISCLAIMERS REQUIRED--CRIME FOR VIOLATION--EXCEPTIONS--ENFORCEMENT.--

A. Except as otherwise provided in Subsections B through D of this section, it is a violation of the Campaign Reporting Act for a person to distribute or enter into an agreement with another person to distribute materially deceptive media. A person violates this subsection if that person distributes or enters into an agreement with another person to distribute materially deceptive media and:

(1) the person knows the materially deceptive media falsely represents a depicted individual;
(2) the distribution occurs within ninety days before an election; and
(3) the person intends the distribution to result in altering the voting behavior of electors in an election by misleading the electors into believing that the depicted individual engaged in the speech or conduct depicted, and the distribution is reasonably likely to cause that result.

B. The prohibition provided in Subsection A of this section does not apply to materially deceptive media if that media includes a disclaimer that appears in a clear and conspicuous manner in every language used in the media and indicates: "This ____ has been manipulated or generated by artificial intelligence". The blank line in the disclaimer shall be filled in with each of the following terms that describes the media:

- (1) image;
- (2) video; or
- (3) audio.

C. The disclaimer required in Subsection B of this section shall be included as follows:

- (1) for visual media that is an image, the text of the disclaimer shall appear in a size that is easily readable;
- (2) for visual media that is video, the disclaimer shall appear for the duration of the video;
- (3) for media that contains audio only, the disclaimer shall be read in a clearly spoken manner and in a pitch that can be easily heard at the beginning of the audio, at the end of the audio, and if the audio is greater than two minutes in length, interspersed within the audio at intervals of not greater than two minutes each; and
- (4) for mixed media, there shall be a disclaimer in the same form as provided in this section for each form of media used.

D. A person found to have willfully and knowingly violated the prohibition provided in Subsection A of this section is guilty of a crime as follows:

- (1) for a first conviction, a misdemeanor; and
- (2) for a second conviction, a fourth degree felony.

E. Enforcement of the provisions of this section, including injunctive relief, against a person who violates this section may be sought in any court of competent jurisdiction by any of the following:

- (1) the attorney general;
- (2) a district attorney;
- (3) a depicted individual who is falsely represented;
- (4) a candidate for office who has been injured or is likely to be injured by the distribution of materially deceptive media; or
- (5) any organization that represents the interests of voters who are likely to be misled by the distribution of materially deceptive media.

F. Nothing in this section shall be construed to preclude a claim pursuant to any other section of law or any civil action for damages."

Senate Bill 1571

Sponsored by Senators WOODS, MANNING JR, GELSER BLOUIN, Representative NERON; Senators CAMPOS, DEMBROW, FREDERICK, GOLDEN, HANSELL, JAMA, KNOPP, PATTERSON, PROZANSKI, WEBER, Representatives BOWMAN, BYNUM, FAHEY, GAMBA, GOMBERG, HARTMAN, HUDSON, LEVY E, LIVELY, MANNIX, NATHANSON, NELSON, NGUYEN D, PHAM H, PHAM K, SOSA (Presession filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act requires a disclosure of the use of AI in campaign ads. (Flesch Readability Score: 83).

Requires a disclosure of the use of artificial intelligence in campaign communications. Provides for the enforcement of the requirement. Subjects a violation of the requirement to a civil penalty not to exceed \$10,000.

Declares an emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to the use of artificial intelligence in campaign communications; creating new provisions;
3 amending ORS 260.345; and declaring an emergency.

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

SECTION 1. (1) As used in this section:

5
6 (a) **“Artificial intelligence” means digital technology used in a manner to create an im-**
7 **age, audio recording or video recording of an individual’s appearance, speech or conduct to**
8 **produce a depiction that a reasonable person would believe is of a real individual in appear-**
9 **ance, speech or conduct but that did not actually occur in reality.**

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

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

14 (2) **A campaign communication that includes any form of artificial intelligence must state**
15 **that the campaign communication uses artificial intelligence.**

16 (3) **The Secretary of State may institute proceedings to enjoin any violation of this sec-**
17 **tion, except that in the case of a violation by the Secretary of State or a candidate for the**
18 **office of the Secretary of State, the Attorney General may institute proceedings to enjoin**
19 **any violation of this section. In any action brought under this section, the circuit court may**
20 **at any time enter such injunctions, prohibitions or restraining orders, or take any other**
21 **actions as the court may deem proper. A restraining order, prohibition or injunction may**
22 **be issued under this section without proof of injury or damage to any person. The circuit**
23 **court shall give priority to the hearing and determination under this section. The court shall**
24 **award the prevailing party reasonable attorney fees at trial and on appeal.**

25 (4) **Upon proof of any violation of this section, the court shall impose a civil penalty of**
26 **not more than \$10,000. All penalties recovered under this section shall be paid into the State**
27 **Treasury and credited to the General Fund.**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 **(5) The remedy provided by this section is the exclusive remedy for a violation of this**
 2 **section.**

3 **SECTION 2. Section 1 of this 2024 Act is added to and made a part of ORS chapter 260.**

4 **SECTION 3.** ORS 260.345 is amended to read:

5 260.345. (1) Any elector may file with any filing officer a written complaint alleging that a vio-
 6 lation of an election law or rule adopted by the Secretary of State under ORS chapters 246 to 260
 7 has occurred and stating the reason for believing that the violation occurred and any evidence re-
 8 lating to it. A complaint and any evidence relating to it may be filed electronically. A complaint
 9 alleging a violation involving the Secretary of State, a candidate for the office of Secretary of State,
 10 or any political committee or person supporting the Secretary of State or a candidate for the office
 11 of Secretary of State may be filed with the Attorney General. The Secretary of State or Attorney
 12 General shall not accept an anonymous complaint.

13 (2) The Secretary of State by rule shall prescribe the procedure for processing a complaint filed
 14 with any person other than the Secretary of State. If the complaint concerns the Secretary of State,
 15 any candidate for the office of the Secretary of State, or any political committee or person sup-
 16 porting the candidacy of the Secretary of State or of another person for the office of Secretary of
 17 State, the complaint and any additional information relating to the complaint shall be sent to the
 18 Attorney General.

19 (3) Upon receipt of a complaint under subsection (1) or (2) of this section the Secretary of State
 20 or Attorney General immediately shall examine the complaint to determine whether a violation of
 21 an election law or rule has occurred and shall make any investigation the Secretary of State or
 22 Attorney General considers necessary. Except as provided in this subsection, within three business
 23 days of determining that an investigation is necessary to determine whether a violation of an
 24 election law or rule has occurred, the Secretary of State or Attorney General shall notify the person
 25 who is the subject of the complaint that an investigation will take place. If the Secretary of State
 26 or Attorney General receives a complaint or complaints involving 10 or more individuals, political
 27 committees or petition committees in any 48-hour period, the Secretary of State or Attorney General
 28 need not notify the persons who are the subjects of those complaints within three business days of
 29 receiving the complaints but shall notify those persons not later than 10 business days after deter-
 30 mining that an investigation is necessary to determine whether a violation of election law or rule
 31 has occurred.

32 (4) If the Secretary of State believes after an investigation under subsection (3) of this section
 33 that a violation of an election law or rule has occurred, the secretary:

34 (a) In the case of a violation that is subject to a penalty under ORS 260.993, immediately shall
 35 report the findings to the Attorney General and request prosecution. If the violation involves the
 36 Attorney General, a candidate for that office or a political committee or person supporting or op-
 37 posing the Attorney General or a candidate for that office, the Secretary of State shall appoint an-
 38 other prosecutor for that purpose;

39 (b) In the case of a violation not subject to a penalty under ORS 260.537 or 260.993 **or section**
 40 **1 of this 2024 Act**, may impose a civil penalty under ORS 260.995; [*or*]

41 (c) In the case of a violation under ORS 260.537, may institute civil proceedings in the manner
 42 described in ORS 260.537; **or**

43 **(d) In the case of a violation under section 1 of this 2024 Act, may institute civil pro-**
 44 **ceedings in the manner described in section 1 of this 2024 Act.**

45 (5) Upon receipt of a complaint or report under subsection (1), (2) or (4) of this section involving

1 an alleged violation subject to a penalty under ORS 260.993 or an alleged violation of ORS 260.537
2 **or section 1 of this 2024 Act**, the Attorney General or other prosecutor immediately shall examine
3 the complaint or report to determine whether a violation of an election law has occurred. If the
4 Attorney General or prosecutor determines that a violation has occurred, the Attorney General or
5 prosecutor immediately shall begin prosecution or civil proceedings in the name of the state. The
6 Attorney General or other prosecutor shall have the same powers in any county of this state as the
7 district attorney for the county.

8 (6) Upon receipt of a complaint under subsection (1) or (2) of this section involving an alleged
9 violation of an election law or rule not subject to a penalty under ORS 260.537 or 260.993 **or section**
10 **1 of this 2024 Act**, the Attorney General shall examine the complaint to determine whether a vio-
11 lation of an election law or rule has occurred and shall make any investigation the Attorney Gen-
12 eral considers necessary. If the Attorney General believes after an investigation that a violation of
13 an election law or rule has occurred, the Attorney General may impose a civil penalty under ORS
14 260.995.

15 (7) In the case of an alleged violation subject to a civil penalty under ORS 260.995 or an alleged
16 violation of ORS 260.537 **or section 1 of this 2024 Act**, a complaint shall be filed by an elector
17 under this section no later than 90 days following the election at which a violation of an election
18 law or rule is alleged to have occurred, or 90 days following the date the violation of an election
19 law or rule is alleged to have occurred, whichever is later.

20 (8) A filing officer having reason to believe that a violation of an election law or rule has oc-
21 curred shall proceed promptly as though the officer had received a complaint. Except as provided
22 in ORS 260.234, a filing officer shall proceed under this subsection no later than two years following
23 the election at which a violation of an election law or rule is alleged to have occurred, or two years
24 following the date the violation of an election law or rule is alleged to have occurred, whichever is
25 later. If a filing officer has not proceeded within two years because of fraud, deceit, misleading
26 representation or the filing officer could not have reasonably discovered the alleged violation, the
27 filing officer shall proceed no later than five years following the election at which a violation of an
28 election law or rule is alleged to have occurred, or five years following the date the violation of an
29 election law or rule is alleged to have occurred, whichever is later.

30 **SECTION 4. This 2024 Act being necessary for the immediate preservation of the public**
31 **peace, health and safety, an emergency is declared to exist, and this 2024 Act takes effect**
32 **on its passage.**

33

1 **INFORMATION TECHNOLOGY ACT AMENDMENTS**
2 2024 GENERAL SESSION
3 STATE OF UTAH
4 **Chief Sponsor: Wayne A. Harper**
5 House Sponsor: Ariel Defay

6
7 **LONG TITLE**

8 **General Description:**

9 This bill enacts provisions related to disclosures and penalties associated with the use of
10 synthetic media and artificial intelligence.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▸ defines terms;
- 14 ▸ for an audio or visual communication intended to influence voting that contains
15 synthetic media, requires that the communication include specified disclosures based on the
16 type of synthetic media included;
- 17 ▸ imposes penalties for violations; and
- 18 ▸ allows a court or other sentencing body to consider the use of artificial intelligence as an
19 aggravating factor in sentencing.

20 **Money Appropriated in this Bill:**

21 None

22 **Other Special Clauses:**

23 This bill provides a special effective date.

24 **Utah Code Sections Affected:**

25 ENACTS:

26 **20A-11-1104 (Effective 05/01/24)**, as Utah Code Annotated 1953

27 **76-3-203.18 (Effective 07/01/24)**, as Utah Code Annotated 1953

28 *Be it enacted by the Legislature of the state of Utah:*

29 Section 1. Section **20A-11-1104** is enacted to read:

30 **20A-11-1104 (Effective 05/01/24). Disclosure of synthetic media.**

- 28 (1) As used in this section:
- 29 (a) "Artificial intelligence" means a machine-based system that can, for a given set of
- 30 human-defined objectives, make predictions, recommendations, or decisions
- 31 influencing real or virtual environments.
- 32 (b) (i) "Creator" means a person that uses artificial intelligence to generate synthetic
- 33 media.
- 34 (ii) "Creator" does not include a person that solely provides the technology used in
- 35 the creation of the synthetic media.
- 36 (c) "Digital content provenance" means purely factual information that:
- 37 (i) details a digital resource's creator, origin, context, history, and editing process; and
- 38 (ii) conforms to an open industry technical standard.
- 39 (d) "Generative artificial intelligence" means artificial intelligence technology that is
- 40 capable of creating content such as text, audio, image, or video based on patterns
- 41 learned from large volumes of data rather than being explicitly programmed with
- 42 rules.
- 43 (e) "Sponsor" means a person that pays for the content that uses artificial intelligence to
- 44 generate synthetic media.
- 45 (f) "Synthetic audio media" means audio content that was substantially produced by
- 46 generative artificial intelligence.
- 47 (g) "Synthetic visual media" means an image or video that was substantially produced
- 48 by generative artificial intelligence.
- 49 (2) This section applies to an audio or visual communication that:
- 50 (a) is paid for by a candidate campaign committee, political action committee, political
- 51 issues committee, political party, or a person using a contribution;
- 52 (b) is intended to influence voting for or against a candidate or ballot proposition in an
- 53 election or primary in the state; and
- 54 (c) contains synthetic media.
- 55 (3) An audio communication described in Subsection (2) that contains synthetic audio
- 56 media shall include audibly at the beginning and end of the communication the words,
- 57 "Contains content generated by AI."
- 58 (4) A visual communication described in Subsection (2) that contains synthetic media shall
- 59 display throughout the duration of each portion of the communication containing
- 60 synthetic media, in legible writing, the words:
- 61 (a) "This video content generated by AI," if the content is a video that includes synthetic

- 62 visual media but not synthetic audio media;
- 63 (b) "This image generated by AI," if the content is an image that includes synthetic
- 64 visual media but not synthetic audio media;
- 65 (c) "This audio content generated by AI," if the video includes synthetic audio media but
- 66 not synthetic visual media; or
- 67 (d) "This content generated by AI," if the communication includes both synthetic audio
- 68 media and synthetic visual media.
- 69 (5) In addition to the requirements in Subsections (3) and (4), a creator or sponsor who
- 70 publishes an online digital audio or visual communication described in Subsection (2)
- 71 that is viewable, audible, or accessible in the state shall ensure the advertisement carries
- 72 embedded tamper-evident digital content provenance that discloses:
- 73 (a) the initial author and creator of the content;
- 74 (b) any subsequent entities that edited, altered, or otherwise modified the content; and
- 75 (c) any use of generative artificial intelligence in generating or modifying the
- 76 substantive content.
- 77 (6) (a) In a civil action brought against the creator or the sponsor of content that includes
- 78 synthetic media by a person to enforce this section, the court may impose a civil
- 79 penalty not to exceed \$1,000 against a person for each violation of this section that
- 80 the court finds a person has committed.
- 81 (b) Compliance with this section does not exempt a person from civil or criminal
- 82 liability for violations of other applicable law.
- 83 Section 2. Section **76-3-203.18** is enacted to read:
- 84 **76-3-203.18** (Effective 07/01/24). **Use of artificial intelligence -- Aggravating**
- 85 **factor.**
- 86 (1) As used in this section:
- 87 (a) "Artificial intelligence" means the same as that term is defined in Section
- 88 20A-11-1104.
- 89 (b) "Material assistance" means providing significant or essential support, information,
- 90 tools, or other means that facilitate planning, commission, or concealment of a
- 91 criminal offense.
- 92 (2) The sentencing judge or the Board of Pardons and Parole may consider as an
- 93 aggravating factor in their deliberations that the defendant committed or facilitated the
- 94 criminal offense with the intentional or knowing use and material assistance of an
- 95 artificial intelligence system.

96 (3) This section does not affect or restrict the exercise of judicial sentencing discretion
97 under any other provision of Utah law.

98 Section 3. **Effective date.**

99 (1) Except as provided in Subsection (2), this bill takes effect on May 1, 2024.

100 (2) The actions affecting Section 76-3-203.18 (Effective 07/01/24) take effect on July 1,
101 2024.