

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

HOUSE BILL 3825

By: Alonso-Sandoval

AS INTRODUCED

An Act relating to elections; defining terms; prohibiting deceptive and fraudulent deepfakes of candidates for elective office; providing exception with certain disclosure; providing for certain relief; providing for penalties; providing exemptions; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4263 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. 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 created or 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.

B. For purposes of this section, "deceptive and fraudulent deepfake" is synthetic media that depicts a candidate or political

1 party with the intent to injure the reputation of the candidate or  
2 party or otherwise deceive a voter and that:

3 1. Appears to a reasonable person to depict a real individual  
4 saying or doing something that did not actually occur in reality; or

5 2. Provides a reasonable person a fundamentally different  
6 understanding or impression of the appearance, action, or speech  
7 than a reasonable person would have from the unaltered, original  
8 version of the image, audio recording, or video recording.

9 C. Except as provided in subsection D of this section, a  
10 person, corporation, committee, or other entity shall not, within  
11 ninety (90) days of an election at which a candidate for elective  
12 office will appear on the ballot, distribute a synthetic media  
13 message that the person, corporation, committee, or other entity  
14 knows or should have known is a deceptive and fraudulent deepfake of  
15 a candidate or party on the state or local ballot.

16 D. 1. The prohibition in subsection C of this section shall  
17 not apply if the audio or visual media includes a disclosure  
18 stating: "This \_\_\_\_\_ (image, audio, or video) has been  
19 manipulated by technical means and depicts speech or conduct that  
20 did not occur."

21 2. The blank in the disclosure required by subparagraph 1 of  
22 this section shall be filled with whichever of the following terms  
23 most accurately describes the media:

24 a. image,  
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1           b.    video, or

2           c.    audio.

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

10          4.    If the media consists of audio only, the disclosure shall be  
11 read in a clearly spoken manner and in a pitch that can be easily  
12 heard by the average listener, at the beginning of the audio, at the  
13 end of the audio, and, if the audio is greater than two (2) minutes  
14 in length, interspersed within the audio at intervals of not greater  
15 than two (2) minutes each.

16          E.   1.   A candidate whose appearance, action, or speech is  
17 depicted through the use of a deceptive and fraudulent deepfake in  
18 violation of subsection C of this section may seek injunctive or  
19 other equitable relief prohibiting the publication of such deceptive  
20 and fraudulent deepfake.

21          2.    A candidate whose appearance, action, or speech is depicted  
22 using a deceptive and fraudulent deepfake in violation of subsection  
23 B of this section may also bring an action for general or special  
24 damages against the sponsor. The court may award a prevailing  
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1 person reasonable attorney fees and costs. This subsection does not  
2 limit or preclude a plaintiff from securing or recovering any other  
3 available remedy.

4 3. A person that violates this section is guilty of a crime as  
5 follows:

6 a. for a first violation, a misdemeanor punishable by  
7 imprisonment for not more than ninety (90) days or a  
8 fine not to exceed Five Hundred Dollars (\$500.00), or  
9 both, and

10 b. if a violation occurs within five (5) years of a  
11 previous conviction for a violation under this  
12 section, a felony punishable by imprisonment for not  
13 more than five (5) years or a fine of not to exceed  
14 One Thousand Dollars (\$1,000.00), or both.

15 4. This section shall not apply to a radio or television  
16 broadcasting station, including a cable or satellite television  
17 operator, programmer, or producer, that broadcasts a deceptive and  
18 fraudulent deepfake prohibited by this section as part of a bona  
19 fide newscast, news interview, news documentary, or on-the-spot  
20 coverage of bona fide news events, if the broadcast clearly  
21 acknowledges through content or a disclosure, in a manner that can  
22 be easily heard or read by the average listener or viewer, that  
23 there are questions about the authenticity of the materially  
24 deceptive audio or visual media.

1           5. This section shall not apply to a radio or television  
2 broadcasting station, including a cable or satellite television  
3 operator, programmer, or producer, when it is paid to broadcast a  
4 deceptive and fraudulent deepfake and has made a good faith effort  
5 to establish the depiction is not a deceptive and fraudulent  
6 deepfake.

7           6. This section shall not apply to an Internet website or a  
8 regularly published newspaper, magazine, or other periodical of  
9 general circulation, including an Internet or electronic  
10 publication, that routinely carries news and commentary of general  
11 interest, and that publishes materially deceptive audio or visual  
12 media prohibited by this section, if the publication clearly states  
13 that the materially deceptive audio or visual media does not  
14 accurately represent the speech or conduct of the candidate.

15           7. This section shall not apply to materially deceptive audio  
16 or visual media that constitutes satire or parody.

17           SECTION 2. This act shall become effective November 1, 2024.

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19           59-2-9308           LRB           01/09/24  
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