**South Carolina General Assembly**

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**H. 4660**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. J.L. Johnson and Henegan

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Currently residing in the House Committee on **Judiciary**

Summary: Deceptive and fraudulent deepfake media in elections

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 12/14/2023 House Prefiled

 12/14/2023 House Referred to Committee on **Judiciary**

 1/9/2024 House Introduced and read first time (House Journal‑page 115)

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**VERSIONS OF THIS BILL**

[12/14/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/4660_20231214.docx)

A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 7‑25‑230 SO AS TO PROHIBIT THE DISTRIBUTION OF DECEPTIVE AND FRAUDULENT DEEPFAKE MEDIA OF A CANDIDATE WITHIN NINETY DAYS OF AN ELECTION UNLESS THE MEDIA INCLUDES REQUISITE DISCLOSURE LANGUAGE, and TO AUTHORIZE A CANDIDATE WHOSE LIKENESS IS DEPICTED IN MEDIA DISTRIBUTED IN VIOLATION OF THIS SECTION TO SEEK INJUNCTIVE OR OTHER EQUITABLE RELIEF AS WELL AS AN ACTION FOR DAMAGES AGAINST THE DISTRIBUTOR OF THE MEDIA.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 25, Title 7 of the S.C. Code is amended by adding:

 Section 7‑25‑230. (A) For purposes of this section:

 (1) “Synthetic media” means an image, audio recording, or video recording of an individual’s appearance, speech, or conduct that has been created or intentionally manipulated with the use of generative adversarial network techniques or other digital technology in a manner to create a realistic but false image, audio, or video.

 (2) “Deceptive and fraudulent deepfake” means synthetic media that depicts a candidate with the intent to injure the reputation of the candidate or otherwise deceive a voter that:

 (a) appears to a reasonable person to depict a real individual saying or doing something that did not actually occur in reality; or

 (b) provides a reasonable person 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.

 (B) Except as provided in subsection (C), a person, corporation, committee, or other entity shall not, within ninety days of an election at which a candidate for elective office will appear on the ballot, distribute a synthetic media message that the person, corporation, committee, or other entity knows or should have known is a deceptive and fraudulent deepfake of a candidate on the ballot.

 (C) The prohibition in subsection (B) does not apply if the audio or visual media includes a disclosure stating: “This \_\_\_\_\_\_\_\_\_ (image, video, or audio) has been manipulated or generated by artificial intelligence.”

 (1) 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.

 (2) 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.

 (D)(1) A candidate whose appearance, action, or speech is depicted through the use of a deceptive and fraudulent deepfake in violation of subsection (B) may seek injunctive or other equitable relief prohibiting the publication of such deceptive and fraudulent deepfake.

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

 (E) A person found to be in violation of subsection (B) is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than ninety days or fined not more than five hundred dollars, or both. For a second offense occurring within five years of a previous conviction for a violation of subsection (B), the offender is guilty of a felony and, upon conviction, must be imprisoned not more than five years or fined not more than one thousand dollars, or both.

 (F) This section does not apply to:

 (1) a radio or television broadcasting station, including a cable or satellite television operator, programmer, or producer, that broadcasts a deceptive and fraudulent deepfake 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;

 (2) a radio or television broadcasting station, including a cable or satellite television operator, programmer, or producer, when it is paid to broadcast a deceptive and fraudulent deepfake and has made a good faith effort to establish the depiction is not a deceptive and fraudulent deepfake;

 (3) 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; or

 (4) materially deceptive audio or visual media that constitutes satire or parody.

SECTION 2. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 3. This act takes effect upon approval by the Governor.

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