



ARIZONA STATE SENATE
Fifty-Sixth Legislature, Second Regular Session

FACT SHEET FOR S.B. 1359

election communications; deep fakes; prohibition

Purpose

Prescribes requirements governing the distribution of a synthetic media message that is a deceptive and fraudulent deepfake (deepfake) of a candidate for elected office.

Background

On October 30, 2023, President Biden issued [Executive Order 13960](#) (EO) that aims to promote the safe and trustworthy development and use of artificial intelligence (AI). The EO directs multiple federal agencies to collaborate with joint efforts in research, development and implementation of strategies to detect and prevent the spread of deepfakes or other manipulated digital media. The EO urges for the standardization of guidelines to govern the ethical use of AI to ensure that AI is safe for use and emphasizes transparency and accountability to safeguard peoples' privacy and civil liberties. The EO directs the U.S. Department of Commerce to develop guidelines for AI content authentication and watermarks for the purposes of clearly disclosing AI-generated media. Federal agencies will be required to utilize the authentication and watermark tools to allow for people to know whether or not the communications that they receive are authentic.

The EO establishes the White House AI Council to coordinate the activities of the federal agencies to ensure the effective formulation, communication and timely implementation of AI-related policies.

There is no anticipated fiscal impact to the state General Fund associated with this legislation.

Provisions

1. Prescribes a disclosure that a person, corporation, committee or other entity must include on a deepfake of a candidate within 90 days before an election at which the candidate will appear on the ballot.
2. Prohibits a person, corporation, committee or entity from distributing a deepfake of a candidate that the entity knows or should know is a deepfake of the candidate or of a political party unless the deepfake includes the prescribed disclosure.
3. Requires, for visual media, the text of the disclosure to appear in a size that is easily readable by the average viewer and that is no smaller than the largest font size of other text appearing in the visual media.
4. Stipulates that if the visual media does not include any other text, then the disclosure must appear in a size that is easily readable by the average viewer.

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5. Requires the disclosure, for visual media that is a video, to appear for the duration of the video.
6. Requires, for an audio only media, the disclosure to be read in a clearly spoken manner and in a pitch that can be easily heard by the average listener at the beginning and end of the audio.
7. Stipulates that, if the audio only media is longer than two minutes in length, the verbal disclosure must be interspersed within the audio at least every two minutes.
8. Requires the prescribed disclosure to include a blank space for the entity to accurately describe whether the media is an image, video or audio.
9. Allows a candidate whose appearance, action or speech is depicted through a deepfake in violation of the deepfake disclosure requirements to seek injunctive or other equitable relief prohibiting the publication of the deepfake.
10. Specifies that the requirements relating to the disclosure of deepfakes do not apply to:
 - a) a radio or television broadcasting station, including a cable or satellite television operator, programmer or producer:
 - i. that broadcasts a deceptive and fraudulent deepfake that is prohibited by the deepfake disclosure requirements and that is part of a bona fide newscast, news interview or news documentary or on-the-spot coverage of bona fide news events, if the broadcast clearly acknowledges through its 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; and
 - ii. when it is paid to broadcast a deepfake and has made a good faith effort to establish that the depiction is not a deepfake;
 - b) an internet website or 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 depictive audio or visual media that is prohibited by the deepfake disclosure requirements if the publication clearly states that the materially depictive audio or visual media does not accurately represent the speech or conduct of the candidate; and
 - c) media that constitutes satire or parody.
11. Classifies, as a class 6 felony, a violation of the deepfake disclosure requirements with the intent to cause violence or bodily harm.
12. Classifies, as a class 4 felony, a violation of the deepfake disclosure requirements if a person commits the violation within five years of one or more prior deepfake violation convictions.
13. Classifies, as a class 1 misdemeanor, the violation of the deepfake disclosure requirements, with exceptions.
14. Defines *synthetic media* as 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.

15. Defines *deceptive and fraudulent deepfake* as synthetic media that depicts a candidate or political party with the intent to injure the reputation of the candidate or political party 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 to a reasonable person a fundamentally different understanding or impression of the appearance, action or speech in an image, audio recording or video recording than a reasonable person would have from an unaltered, original version of the image, audio recording or video recording.
16. Contains a severability clause.
17. Becomes effective on the general effective date.

Prepared by Senate Research

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