

1 S.23

2 An act relating to the use of synthetic media in elections

3 It is hereby enacted by the General Assembly of the State of Vermont:

4 Sec. 1. 17 V.S.A. chapter 35, subchapter 4 is added to read:

5 Subchapter 4. Use of Synthetic Media in Elections

6 § 2031. DEFINITIONS

7 As used in this subchapter:

8 (1) “Deceptive and fraudulent synthetic media” means synthetic media
9 that appears to a reasonable person to be a realistic representation of:

10 (A) a political candidate that injures the reputation of a political
11 candidate; or

12 (B) an individual that attempts to unduly influence the outcome of an
13 election, including a public question, by providing materially false information
14 to voters.

15 (2) “Synthetic media” means an image, an audio recording, or a video
16 recording of an individual’s appearance, speech, or conduct that has been
17 created or intentionally manipulated with the use of digital technology,
18 including artificial intelligence.

19 § 2032. DISCLOSURE OF DECEPTIVE AND FRAUDULENT

20 SYNTHETIC MEDIA

21 (a) Disclosure. A person shall not, within 90 days before an election in
22 Vermont, publish, communicate, or otherwise distribute synthetic media that

1 the person knows is deceptive and fraudulent synthetic media unless the person
2 includes a disclosure in the synthetic media stating: “This media has been
3 manipulated or generated by digital technology and depicts speech or conduct
4 that did not occur.”

5 (1) For deceptive and fraudulent synthetic media consisting of images
6 and video recordings, the text of the disclosure shall appear in a size that is
7 easily readable by the average viewer and inclusive to the greatest extent
8 possible of individuals with disabilities. For video recordings, the disclosure
9 shall appear for the full duration of the video recording.

10 (2) For deceptive and fraudulent synthetic media consisting of audio
11 recordings only, the disclosure shall be read in a clearly spoken manner and in
12 a pitch and pace that can be easily heard by the average listener and inclusive
13 to the greatest extent possible of individuals with disabilities, at the beginning
14 of the audio recording, at the end of the audio recording, and, if the audio is
15 greater than two minutes in length, interspersed within the audio recording at
16 intervals of not greater than two minutes each.

17 (b) Exceptions. Subsection (a) of this section shall not apply to:

18 (1) a radio or television broadcasting station, including a cable or
19 satellite television operator, programmer, or producer, or to a website,
20 streaming platform, or mobile application, that:

1 (A) broadcasts deceptive and fraudulent synthetic media as part of a
2 bona fide newscast, news interview, news documentary, commentary of
3 general interest, or on-the-spot coverage of bona fide news events, provided
4 the broadcast clearly acknowledges through content or a disclosure, in a
5 manner that can be easily heard or read by the average listener or viewer, that
6 there are questions about the authenticity of the deceptive and fraudulent
7 synthetic media;

8 (B) is paid to broadcast deceptive and fraudulent synthetic media; or

9 (C) is required by federal law to broadcast advertisements from
10 legally qualified candidates;

11 (2) a website or a regularly published newspaper, magazine, or other
12 periodical of general circulation, including an internet or electronic
13 publication, that routinely carries news and commentary of general interest,
14 and that publishes deceptive and fraudulent synthetic media, if the publication
15 clearly states that the deceptive and fraudulent synthetic media does not
16 accurately represent the speech or conduct of the represented individual;

17 (3) a person that produces or distributes deceptive and fraudulent
18 synthetic media constituting satire or parody;

19 (4) a provider of a telecommunications service or information service, as
20 those terms are defined in the Communications Act of 1934, 47 U.S.C. § 153,
21 for content provided by another person; or

1 (5) a provider of an interactive computer service, as defined in 47
2 U.S.C. § 230, for content provided by another person.

3 § 2033. PENALTIES

4 (a) A person that knowingly and intentionally violates a provision of this
5 subchapter shall be fined not more than \$1,000.00, unless:

6 (1) the person commits the violation with the intent to cause violence or
7 bodily harm, in which case the fine shall be not more than \$5,000.00;

8 (2) the person commits the violation within five years after one or more
9 prior violations under this section, in which case the fine shall be not more than
10 \$10,000.00; or

11 (3) the person commits the violation with the intent to cause violence or
12 bodily harm and the person commits the violation within five years after one or
13 more prior violations under this section, in which case the fine shall be not
14 more than \$15,000.00.

15 (b) A candidate whose appearance, speech, conduct, or environment is
16 misrepresented through the use of deceptive and fraudulent synthetic media in
17 violation of section 2032 of this title may seek injunctive or other equitable
18 relief prohibiting the publication, communication, or other distribution of such
19 deceptive and fraudulent synthetic media.

1 Sec. 2. 17 V.S.A. chapter 35, subchapter 5 is added to read:

2 Subchapter 5. Enforcement and Investigation

3 § 2041. ENFORCEMENT

4 In addition to the other remedies provided in this chapter, a State's Attorney
5 or the Attorney General may institute any appropriate action, injunction, or
6 other proceeding to prevent, restrain, correct, or abate any violation of this
7 chapter.

8 § 2042. CIVIL INVESTIGATIONS

9 (a)(1) The Attorney General or a State's Attorney, whenever there is reason
10 to believe any person to be or to have been in violation of this chapter, may
11 examine or cause to be examined by any designated agent or representative
12 any books, records, papers, memoranda, or physical objects of any nature
13 bearing upon each alleged violation and may demand written responses under
14 oath to questions bearing upon each alleged violation.

15 (2) The Attorney General or a State's Attorney may require the
16 attendance of such person or of any other person having knowledge in the
17 premises in the county where such person resides or has a place of business or
18 in Washington County if such person is a nonresident or has no place of
19 business within the State and may take testimony and require proof material
20 for that person's information and may administer oaths or take
21 acknowledgment in respect of any book, record, paper, or memorandum.

1 (3) The Attorney General or a State’s Attorney shall serve notice of the
2 time, place, and cause of such examination or attendance or notice of the cause
3 of the demand for written responses personally or by certified mail upon such
4 person at that person’s principal place of business or, if such place is not
5 known, to that person’s known address. Such notice shall include a statement
6 that a knowing and intentional violation of this chapter is subject to criminal
7 prosecution.

8 (4) Any book, record, paper, memorandum, or other information
9 produced by any person pursuant to this section shall not, unless otherwise
10 ordered by a court of this State for good cause shown, be disclosed to any
11 person other than the authorized agent or representative of the Attorney
12 General or a State’s Attorney or another law enforcement officer engaged in
13 legitimate law enforcement activities unless with the consent of the person
14 producing the same, except that any transcript of oral testimony, written
15 responses, documents, or other information produced pursuant to this section
16 may be used in the enforcement of this chapter, including in connection with
17 any civil action brought under this subchapter or subsection (c) of this section.

18 (5) Nothing in this subsection is intended to prevent the Attorney
19 General or a State’s Attorney from disclosing the results of an investigation
20 conducted under this section, including the grounds for the decision as to

1 whether to bring an enforcement action alleging a violation of this chapter or
2 of any rule made pursuant to this chapter.

3 (6) This subsection shall not be applicable to any criminal investigation
4 or prosecution brought under the laws of this or any state.

5 (b)(1) A person upon whom a notice is served pursuant to the provisions of
6 this section shall comply with its terms unless otherwise provided by the order
7 of a court of this State.

8 (2) Any person that, with intent to avoid, evade, or prevent compliance,
9 in whole or in part, with any civil investigation under this section, removes
10 from any place; conceals, withholds, or destroys; or mutilates, alters, or by any
11 other means falsifies any documentary material in the possession, custody, or
12 control of any person subject to such notice or mistakes or conceals any
13 information shall be fined not more than \$5,000.00.

14 (c)(1) Whenever any person fails to comply with any notice served upon
15 that person under this section or whenever satisfactory copying or reproduction
16 of any such material cannot be done and the person refuses to surrender the
17 material, the Attorney General or a State's Attorney may file, in the Superior
18 Court in the county in which the person resides or of that person's principal
19 place of business or in Washington County if the person is a nonresident or has
20 no principal place of business in this State, and serve upon the person a petition
21 for an order of the court for the enforcement of this section.

1 (2) Whenever any petition is filed under this section, the court shall have
2 jurisdiction to hear and determine the matter so presented and to enter any
3 order or orders as may be required to carry into effect the provisions of this
4 section. Any disobedience of any order entered under this section by any court
5 shall be punished as a contempt of the court.

6 (d) Any person aggrieved by a civil investigation conducted under this
7 section may seek relief from Washington Superior Court or the Superior Court
8 in the county in which the aggrieved person resides. Except for cases the court
9 considers to be of greater importance, proceedings before Superior Court as
10 authorized by this section shall take precedence on the docket over all other
11 cases.

12 Sec. 3. EFFECTIVE DATE

13 This act shall take effect on passage.