

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Government Operations and Military Affairs to which
3 was referred Senate Bill No. 23 entitled “An act relating to the use of synthetic
4 media in elections” respectfully reports that it has considered the same and
5 recommends that the House propose to the Senate that the bill be amended by
6 striking out all after the enacting clause and inserting in lieu thereof the
7 following:

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

9 Subchapter 4. Use of Synthetic Media in Elections

10 § 2031. DEFINITIONS

11 As used in this subchapter:

12 (1) “Deceptive and fraudulent synthetic media” means synthetic media
13 that creates a representation of an individual or individuals with the intent to
14 injure the reputation of a candidate, to influence the outcome of an election, or
15 to otherwise deceive a voter, in a manner that:

16 (A) appears to a reasonable person to be an authentic recording of an
17 individual saying or doing something that did not occur; or

18 (B) provides a reasonable person with a fundamentally different
19 understanding or impression of the appearance, speech, conduct, or
20 environment that a reasonable person would have from an unaltered and
21 original version of the image, audio recording, or video recording.

1 (2) “Synthetic media” means an image, an audio recording, or a video
2 recording of an individual’s appearance, speech, conduct, or environment that
3 has been created or intentionally manipulated with the use of digital
4 technology, including artificial intelligence, in a manner that creates a realistic
5 but false representation of the candidate.

6 § 2032. DISCLOSURE OF A DECEPTIVE AND FRAUDULENT

7 SYNTHETIC MEDIA

8 (a) Disclosure. A person shall not, within 90 days before an election in
9 Vermont, publish, communicate, or otherwise distribute synthetic media that
10 the person knows or should have known is deceptive and fraudulent synthetic
11 media unless the person includes a disclosure in the synthetic media stating:
12 “This media has been created or intentionally manipulated by digital
13 technology or artificial intelligence.”

14 (1) For deceptive and fraudulent synthetic media consisting of images
15 and video recordings, the text of the disclosure shall appear in a size that is
16 easily readable by the average viewer. For video recordings, the disclosure
17 shall appear for the full duration of the video recording.

18 (2) For deceptive and fraudulent synthetic media consisting of audio
19 recordings only, the disclosure shall be read in a clearly spoken manner and in
20 a pitch and pace that can be easily heard by the average listener, at the
21 beginning of the audio recording, at the end of the audio recording, and, if the

1 audio is greater than two minutes in length, interspersed within the audio
2 recording at intervals of not greater than two minutes each.

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

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

7 (A) broadcasts deceptive and fraudulent synthetic media as part of a
8 bona fide newscast, news interview, news documentary, commentary of
9 general interest, or on-the-spot coverage of bona fide news events, so long as
10 the broadcast clearly acknowledges through content or a disclosure, in a
11 manner that can be easily heard or read by the average listener or viewer, that
12 there are questions about the authenticity of the deceptive and fraudulent
13 synthetic media;

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

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

17 (2) a website or a regularly published newspaper, magazine, or other
18 periodical of general circulation, including an internet or electronic
19 publication, that routinely carries news and commentary of general interest,
20 and that publishes deceptive and fraudulent synthetic media, if the publication

1 clearly states that the deceptive and fraudulent synthetic media does not
2 accurately represent the speech or conduct of the represented individual;

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

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

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

10 § 2033. PENALTIES

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

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

15 (2) the person commits the violation within five years after one or more
16 prior **violations** under this section, in which case the fine shall be not more than
17 \$10,000.00; or

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

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

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

7 Subchapter 5. Enforcement and Investigation

8 § 2041. ENFORCEMENT

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

13 § 2042. CIVIL INVESTIGATIONS

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

20 (2) The Attorney General or a State's Attorney may require the
21 attendance of such person or of any other person having knowledge in the

1 premises in the county where such person resides or has a place of business or
2 in Washington County if such person is a nonresident or has no place of
3 business within the State and may take testimony and require proof material
4 for that person's information and may administer oaths or take
5 acknowledgment in respect of any book, record, paper, or memorandum.

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

13 (4) Any book, record, paper, memorandum, or other information
14 produced by any person pursuant to this section shall not, unless otherwise
15 ordered by a court of this State for good cause shown, be disclosed to any
16 person other than the authorized agent or representative of the Attorney
17 General or a State's Attorney or another law enforcement officer engaged in
18 legitimate law enforcement activities unless with the consent of the person
19 producing the same, except that any transcript of oral testimony, written
20 responses, documents, or other information produced pursuant to this section

1 may be used in the enforcement of this chapter, including in connection with
2 any civil action brought under this subchapter or subsection (c) of this section.

3 (5) Nothing in this subsection is intended to prevent the Attorney
4 General or a State's Attorney from disclosing the results of an investigation
5 conducted under this section, including the grounds for the decision as to
6 whether to bring an enforcement action alleging a violation of this chapter or
7 of any rule made pursuant to this chapter.

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

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

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

19 (c)(1) Whenever any person fails to comply with any notice served upon
20 that person under this section or whenever satisfactory copying or reproduction
21 of any such material cannot be done and the person refuses to surrender the

1 material, the Attorney General or a State's Attorney may file, in the Superior
2 Court in the county in which the person resides or of that person's principal
3 place of business or in Washington County if the person is a nonresident or has
4 no principal place of business in this State, and serve upon the person a petition
5 for an order of the court for the enforcement of this section.

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

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

17 Sec. 3. EFFECTIVE DATE

18 This act shall take effect on passage.

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21 (Committee vote: _____)

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Representative _____

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FOR THE COMMITTEE