

1 S.23

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

3 The House proposes to the Senate to amend the bill by striking out all after
4 the enacting clause and inserting in lieu thereof the following:

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

6 Subchapter 4. Use of Synthetic Media in Elections

7 § 2031. DEFINITIONS

8 As used in this subchapter:

9 (1) “Deceptive and fraudulent synthetic media” means synthetic media
10 that appears to a reasonable person to be an authentic representation of a
11 political candidate and that injures the reputation of the candidate or attempts
12 to unduly influence the outcome of an election.

13 (2) “Synthetic media” means an image, an audio recording, or a video
14 recording of a political candidate’s appearance, speech, or conduct that has
15 been created or intentionally manipulated with the use of digital technology,
16 including artificial intelligence, without the consent of the candidate.

17 § 2032. DISCLOSURE OF A DECEPTIVE AND FRAUDULENT

18 SYNTHETIC MEDIA

19 (a) Disclosure. A person shall not, within 90 days before an election in
20 Vermont, publish, communicate, or otherwise distribute synthetic media that
21 the person knows is deceptive and fraudulent synthetic media unless the person

1 includes a disclosure in the synthetic media stating: “This media has been
2 created or intentionally manipulated by digital technology or artificial
3 intelligence.”

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

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

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

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

18 (A) broadcasts deceptive and fraudulent synthetic media as part of a
19 bona fide newscast, news interview, news documentary, commentary of
20 general interest, or on-the-spot coverage of bona fide news events, so long as
21 the broadcast clearly acknowledges through content or a disclosure, in a

1 manner that can be easily heard or read by the average listener or viewer, that
2 there are questions about the authenticity of the deceptive and fraudulent
3 synthetic media;

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

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

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

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

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

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

1 § 2033. PENALTIES

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

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

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

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

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

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

19 Subchapter 5. Enforcement and Investigation

1 § 2041. ENFORCEMENT

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

6 § 2042. CIVIL INVESTIGATIONS

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

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

20 (3) The Attorney General or a State's Attorney shall serve notice of the
21 time, place, and cause of such examination or attendance or notice of the cause

1 of the demand for written responses personally or by certified mail upon such
2 person at that person's principal place of business or, if such place is not
3 known, to that person's known address. Such notice shall include a statement
4 that a knowing and intentional violation of this chapter is subject to criminal
5 prosecution.

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

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

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

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

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

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

20 (2) Whenever any petition is filed under this section, the court shall have
21 jurisdiction to hear and determine the matter so presented and to enter any

1 order or orders as may be required to carry into effect the provisions of this
2 section. Any disobedience of any order entered under this section by any court
3 shall be punished as a contempt of the court.

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

10 Sec. 3. EFFECTIVE DATE

11 This act shall take effect on passage.