



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB4933

Introduced 2/7/2024, by Rep. Jennifer Gong-Gershowitz

SYNOPSIS AS INTRODUCED:

New Act

Creates the Digital Forgeries in Politics Act. Provides that an individual depicted in a digital forgery who is an Illinois resident and a candidate for office in this State has a cause of action against any person who knowingly distributes, or enters into an agreement with another person to distribute, a digital forgery if: (1) the distribution occurs within 90 days before a regular election; and (2) the distribution is reasonably likely to harm the reputation or electoral prospects of a candidate in an election. Sets forth exceptions. Allows a court to issue a temporary restraining order, preliminary injunction, or permanent injunction ordering the defendant to cease the display or distribution of the digital forgery. Includes additional awards to a prevailing plaintiff.

LRB103 39329 JRC 69487 b

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Digital Forgeries in Politics Act.

6 Section 5. Definitions. As used in this Act:

7 "Digital forgery" means any audio or visual material that
8 has been created, materially manipulated, altered, or
9 annotated to appear to be a realistic record of an act, speech,
10 conduct, absence, or appearance of an individual that a
11 reasonable person would incorrectly believe to be a true
12 depiction of that individual and that falsely depicts an
13 individual engaged in speech or conduct in which the depicted
14 individual did not engage.

15 "Regular election" has the meaning given to that term in
16 Section 1-3 of the Election Code.

17 Section 10. Civil action.

18 (a) An individual depicted in a digital forgery who is a
19 resident of Illinois and who is a candidate for office in this
20 State has a course of action against any person who knowingly
21 distributes or enter into an agreement with another person to
22 distribute a digital forgery if:.

1 (1) the distribution occurs within 90 days before a
2 regular election; and

3 (2) the distribution is reasonably likely to harm the
4 reputation or electoral prospects of a candidate in an
5 election.

6 (b) This Section does not apply to digitally manipulated
7 audiovisual material that includes a clear and conspicuous
8 disclaimer informing the viewer or listener that the media has
9 been manipulated by technical means and depicts speech or
10 conduct that did not occur. The following disclaimer is
11 sufficient, but not necessary, to satisfy the requirements
12 under this paragraph: "This (image, audio, or video) has been
13 manipulated by technical means and depicts speech or conduct
14 that did not occur."

15 The court shall consider the following factors in
16 determining whether the disclaimer was clear and conspicuous:

17 (1) if the media is a video, includes a disclaimer
18 that shall:

19 (A) appear throughout the entirety of the video;

20 (B) be clearly visible to and readable by an
21 observer;

22 (C) be in letters at least as large as the majority
23 of any text communication, or if there is no other text
24 communication, in a size that is easily readable by
25 the average viewer; and

26 (D) be in the same language as the language used in

1 the video media;

2 (2) if the media consists only of audio and contains
3 no image or video, includes a disclaimer that is read at
4 the beginning and end of the media in a clearly spoken
5 manner, in a pitch that can be easily heard by the average
6 listener, and in the same language as the audio media;

7 (3) if the media is an image, includes a disclaimer
8 that:

9 (A) is clearly visible to and readable by the
10 average viewer;

11 (B) if the media contains other text, is in
12 letters at least as large as the majority of the other
13 text; and

14 (C) is in the same language as the language used in
15 the image media; and

16 (4) if the media was generated by editing an existing
17 image, audio, or video, includes a citation directing the
18 viewer or listener to the original source from which the
19 unedited version of the existing image, audio, or video
20 was obtained.

21 Section 15. Remedies.

22 (a) A court in which an action is brought under this Act,
23 on the motion of a party, may issue a temporary restraining
24 order, preliminary injunction, or permanent injunction
25 ordering the defendant to cease the display or distribution of

1 the digital forgery.

2 (b) A prevailing plaintiff may additionally be awarded:

3 (1) the greater of:

4 (A) economic and noneconomic damages proximately
5 caused by the creation or distribution of the digital
6 forgery; or

7 (B) statutory damages not to exceed \$10,000
8 against each defendant found liable under this Act for
9 each instance that individual distributed the media or
10 for each instance the media was distributed under an
11 agreement made to distribute the media;

12 (2) punitive damages; or

13 (3) the costs of the action, including reasonable
14 attorney's fees and other reasonable litigation costs.

15 (c) This Act does not affect a right or remedy available
16 under any other law of this State.

17 Section 97. Severability. The provisions of this Act are
18 severable under Section 1.31 of the Statute on Statutes.