

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, **may possibly** be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT:	No	
LEGISLATIVE FISCAL ESTIMATE:	Yes	06/25/2024 06/28/2024 07/02/2024

S2544 (SS)

INTRODUCED BILL: (Includes sponsor(s) statement)	Yes	
REPRINT(S):	Yes	SLP 3/7/24 1R SBA 6/24/24 SCS Senate 1/14/25 SS SCS
TECHNICAL REVIEW OF BILL:	No	
COMMITTEE STATEMENT:		
ASSEMBLY:	No	
SENATE:	Yes	Law & Public Safety Budget & Appropriations

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FLOOR AMENDMENT STATEMENT:	No	
LEGISLATIVE FISCAL ESTIMATE:	Yes	06/28/2024 02/03/2025

VETO MESSAGE:	Yes	
GOVERNOR'S PRESS RELEASE ON SIGNING:	Yes	
LEGISLATOR STATEMENT:	Yes	

FOLLOWING WERE PRINTED:

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REPORTS:	No	
HEARINGS:	No	
NEWSPAPER ARTICLES:	Yes	

Brianna Kudisch - For South Jersey Times, 'Murphy signs bill outlawing deepfake AI deceptions Legislation prompted by fabricated imagery of female Westfield students.', *South Jersey Times* (online), 4 Apr 2025
003<<https://infoweb.newsbank.com/apps/news/document-view?p=NewsBank&docref=news/19FBE4BC14380680>>

CL/MMcB

P.L. 2025, CHAPTER 40, *approved April 2, 2025*
Assembly Committee Substitute (*Third Reprint*)
for Assembly, No. 3540

1 AN ACT establishing ³civil and³ criminal penalties for the
2 production and dissemination of deceptive audio or visual media
3 and supplementing Title 2C of the New Jersey Statutes.

4
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

7
8 ³1. The Legislature finds and declares that:

9 a. Technological advances in artificial intelligence have resulted in
10 widespread accessibility to sophisticated “deepfake” technology,
11 which can be used to manipulate audio and visual content to create
12 deceptive audio and visual media depictions that often cannot be
13 distinguished from reality.

14 b. Digitally altered media generated with this technology can
15 produce false and deceptive, but completely realistic and convincing,
16 media depicting events that never happened, interactions that never
17 took place, conduct that never occurred, and statements that were
18 never made.

19 c. While there are numerous valid and appropriate uses for this
20 sophisticated technology, such as criticism, comment, satire, parody,
21 news reporting, teaching, scholarship, or research, it may also be used
22 inappropriately, to deceive, humiliate, or violate the privacy of
23 individuals who are portrayed in deceptive audio and visual media
24 without their consent.

25 d. It is manifest that lawbreakers will use all available tools to
26 subvert the law, and “deepfake” technology, which may be readily
27 accessed through the Internet or computer software programs, can be a
28 powerful tool to accomplish illicit ends. Utilizing “deepfake”
29 technology, bad actors may engage in a broad range of criminal or
30 unlawful conduct such as creating audio and visual media depictions
31 of sexual abuse and sexual exploitation involving children or non-
32 consenting adults, creating false, misleading, and misattributed
33 political advertising and campaign materials, and targeting individuals
34 and corporate entities for harassment, damaging reputations and
35 ruining lives. Punishment for committing a crime using “deepfake”
36 technology should be cumulative, as the impact of the underlying

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined **thus** is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AAP committee amendments adopted June 24, 2024.

²Assembly ABU committee amendments adopted June 26, 2024.

³Assembly amendments adopted in accordance with Governor's recommendations March 17, 2025.

1 criminal conduct is amplified through the insidious use of “deepfake”
2 technology as the means to break the law.

3 e. With the readily available amplifiers of the Internet and social
4 media, digital media can be both ubiquitous and enduring, and the
5 harm to a person falsely depicted in a “deepfake” image or visual or
6 audio recording can result in widespread and pervasive emotional
7 distress, reputational damage, and indelible harm to that person’s
8 personal and professional relationships.

9 f. There is a compelling State interest in fostering the appropriate
10 use of “deepfake” technology and deterring the inappropriate
11 application of this technology to commit illicit conduct, in a way that
12 safeguards the health, safety, and welfare of the public without unduly
13 infringing on the First Amendment rights of content creators.
14 Similarly, the State has a compelling interest in protecting the privacy
15 and reputational interests of residents who might otherwise be falsely
16 depicted through “deepfake” technology, and in providing them a
17 meaningful mechanism through which to obtain appropriate redress.

18 g. While civil liability and enforcement may to some extent
19 prevent the misuse of this technology in furtherance of criminal
20 activity, the relative ease with which this technology may be accessed
21 and deployed, measured against the magnitude of the indelible and
22 long-lasting harms its use can inflict upon victims and their families,
23 warrants more severe consequences to more effectively punish and
24 deter the inappropriate use of “deepfake” technology.

25 h. Accordingly, the Legislature finds that it is necessary and
26 proper to establish robust specific criminal penalties to punish and
27 deter the use of “deepfake” technology to generate or create works of
28 deceptive audio or visual media for the purpose of attempting or
29 furthering the commission of a crime or offense, or to solicit, disclose,
30 or use a work of deceptive audio or visual media for that purpose, and
31 by providing the aggrieved victims of such conduct a civil recourse by
32 which they may seek appropriate recompense.³

33
34 ³[1.] ³2. ³a. As used in P.L. , c. (C.) (pending before the
35 Legislature as this bill):

36 “Deceptive audio or visual media” means any video recording,
37 motion picture film, sound recording, electronic image, photograph,
38 any technological representation of speech or conduct substantially
39 derivative thereof, or any forgery or facsimile of a document or
40 writing, that appears to a reasonable person to realistically depict any
41 speech, conduct, or writing of a person who did not in fact engage in
42 the speech, conduct, or writing, and the production of which was
43 substantially dependent upon technical means, rather than the ability of
44 another person to physically or verbally impersonate the person.

45 “Disclose” means to sell, give, provide, lend, trade, mail, deliver,
46 transfer, publish, distribute, circulate, disseminate, present, exhibit,
47 advertise, offer, share, or make ³externally³ available via the Internet
48 or by any other means, whether or not for pecuniary gain.

1 “Interactive computer service provider” shall have the same
2 meaning as set forth in 47 U.S.C. s.230.

3 “Solicit” means to offer to create or generate, or to advertise the
4 ability to create or generate, a work of deceptive audio or visual media,
5 whether or not for hire, commission, monetary remuneration, or
6 pecuniary gain. “Solicit” shall also mean to request the creation or
7 generation of a work of deceptive audio or visual media, whether or
8 not for monetary remuneration or compensation.

9 “Victim” means a person who suffers personal, physical, or
10 psychological injury or death or incurs loss of or injury to personal or
11 real property as a result of the conduct of another that would constitute
12 a violation of subsections b. or c. of this section. “Victim” also
13 includes the spouse, parent, legal guardian, grandparent, child, sibling,
14 domestic partner, or civil union partner of the decedent in the case of a
15 person’s death.

16 “Video streaming service” means a service that transmits video
17 content over the Internet that is played continuously without
18 download.

19 b. A natural person commits a crime of the third degree if,
20 without license or privilege to do so, the person generates or creates, or
21 causes to be generated or created, a work of deceptive audio or visual
22 media ³【with the intent that it be used as part of a plan or course of
23 conduct to commit】 for the purpose of attempting or furthering the
24 commission of³ any crime or offense, ³or with the knowledge that the
25 work is to be used by another for such purpose,³ including but not
26 limited to:

27 (1) a crime or offense under chapters 14, 16, 20, 21, 28, or 29 of
28 Title 2C of the New Jersey Statutes;

29 (2) advertising commercial sex abuse of a minor, pursuant to
30 subsection b. of section 12 of P.L.2013, c.51 (C.2C:13-10);

31 (3) endangering the welfare of children, pursuant to N.J.S.2C:24-
32 4;

33 (4) threats or improper influence in official and political matters,
34 pursuant to N.J.S.2C:27-3;

35 (5) false public alarms, pursuant to N.J.S.2C:33-3;

36 (6) harassment, pursuant to N.J.S.2C:33-4;

37 (7) cyber-harassment, pursuant to section 1 of P.L.2013, c.272
38 (C.2C:33-4.1); or

39 (8) hazing, pursuant to section 1 of P.L.1980, c.169 (C.2C:40-3).

40 ³【The trier of fact may infer that a work of deceptive audio or
41 visual media was generated or created without license or privilege to
42 do so if the work was generated or created using a commercially or
43 publicly available generative artificial intelligence system in violation
44 of the terms of service, terms of use, or end user license agreement of
45 the system.】³

46 c. (1) A natural person commits a crime of the third degree if,
47 without license or privilege to do so, the person solicits, discloses, or
48 uses a work of deceptive audio or visual media ³【as part of a plan or

1 course of conduct to commit] for the purpose of attempting or
2 furthering the commission of³ any crime or offense,³or with the
3 knowledge that the work is to be used by another for such purpose,³
4 including but not limited to any crime or offense listed in subsection b.
5 of this section.

6 (2) ²**[A]** Except as otherwise provided in subsection g. of this
7 section, a² natural person commits a crime of the ³**[third]** fourth³
8 degree if, without license or privilege to do so, the person ³knowingly
9 or recklessly³ discloses a work of deceptive audio or visual media
10 ³**[that the person knows or reasonably should know was]**³ created in
11 violation of subsection b. of this section.

12 d. In addition to any term of imprisonment imposed pursuant to
13 N.J.S.2C:43-6 and notwithstanding the provisions of subsection b. of
14 N.J.S.2C:43-3, a fine of up to \$30,000 may be imposed for a violation
15 of this section.

16 e. Notwithstanding the provisions of N.J.S.2C:1-8 or any other
17 provisions of law:

18 (1) a conviction arising under subsection b. of this section shall
19 not merge with a conviction under subsection c. of this section, nor
20 shall a conviction under subsection c. of this section merge with a
21 conviction under subsection b. of this section; and

22 (2) a conviction arising under subsection b. or paragraph (1) of
23 subsection c. of this section shall not merge with a conviction of any
24 underlying offense, nor shall any conviction for such underlying
25 offense merge with a conviction under subsection b. of this section.
26 The court shall impose ²**[separate]** consecutive² sentences upon a
27 conviction under subsection b. or paragraph (1) of subsection c. of this
28 section and a conviction of any underlying offense.

29 f. A ¹natural¹ person who violates the provisions of
30 P.L. , c. (C.) (pending before the Legislature as this bill) shall
31 ³also³ be liable to the victim of the violation, and the victim may bring
32 a civil action in the Superior Court. The court may award:

33 (1) actual damages, but not less than liquidated damages
34 computed at the rate of \$1,000 for each ³knowing or reckless³
35 violation of P.L. , c. (C.) (pending before the Legislature as
36 this bill);

37 (2) punitive damages upon proof of willful ³**[or reckless]**³
38 disregard of the law;

39 (3) reasonable attorney's fees and other litigation costs reasonably
40 incurred; and

41 (4) other such preliminary and equitable relief as the court
42 determines appropriate.

43 A conviction for a violation of P.L. , c. (C.) (pending
44 before the Legislature as this bill) shall not be a prerequisite for a civil
45 action brought pursuant to this subsection. The civil action authorized
46 by this subsection shall be in addition to, and not in lieu of, any other
47 civil action, injunctive relief, or other remedy available at law,

1 including, but not limited to, a civil action for common law
2 defamation, libel, slander, invasion of privacy, false light,
3 misappropriation of identity, intrusion of privacy, or public disclosure
4 of private facts.

5 g. (1) ²It shall be deemed a fair use and shall not be a violation
6 of] ²P.L. , c. (C.) (pending before the Legislature as this bill)
7 ²if a work of deceptive audio or visual media ¹[,] is ¹clearly
8 identified as a work of deceptive audio or visual media ¹or, if the
9 deceptive nature of the work is unknown or unverified, but is clearly
10 identified as a possible work of deceptive audio or visual media¹, is
11 disclosed in connection with] shall not apply to content that
12 ³constitutes² a reasonable viewer or listener would understand to
13 constitute³ criticism, comment, satire, parody, news reporting,
14 teaching, scholarship, ³or³ research ³, or to any content³ ²[,
15 pursuant to 17 U.S.C. s.107] that a reasonable viewer or listener
16 would not believe to authentically depict speech or conduct².

17 (2) P.L. , c. (C.) (pending before the Legislature as this
18 bill) ¹shall not apply to an interactive computer service provider, cloud
19 services provider, or commercial developer or provider of artificial
20 intelligence technology ², where such developer or provider is not
21 deemed to be a publisher, speaker, or information content provider
22 pursuant to 47 U.S.C. s.230², and¹ shall not be construed to alter or
23 negate any rights, obligations, or immunities of an interactive
24 computer service provider ¹or cloud services provider¹ pursuant to 47
25 U.S.C. s.230¹[, and shall not apply to a commercial developer or
26 provider of artificial intelligence technology, provided that to the
27 extent the provider or developer allows for the public dissemination of
28 consumer generated media as that term is defined pursuant to
29 paragraph (14) of 47 U.S.C. s.153, the provider or developer exercises
30 commercially reasonable efforts to ensure that consumer generated
31 media does not violate this section].¹

32 (3) P.L. , c. (C.) (pending before the Legislature as this
33 bill) shall not apply to any broadcasting station, cable service, radio
34 station, ³or³ telecommunications carrier, ³or television station,³ as
35 those terms are defined pursuant to 47 U.S.C. s.153, or to any
36 ³television station,³ billboard, Internet website, mobile application,
37 video streaming service, newspaper, magazine, publication, ²or²
38 printed matter ², or other advertising channel or medium² through
39 which an advertisement containing deceptive audio or visual media
40 appears ², where the advertising channel or medium's role in
41 disclosing the advertisement is limited to the selling of advertising
42 time or space, or where an advertising channel or medium is prohibited
43 by federal law from censoring the advertisement regardless of its
44 content² ¹], when the owner, publisher, or operator of the advertising
45 medium has no knowledge of the intent, design, or purpose of the
46 advertiser¹.

1 (4) This section shall not apply to any broadcasting station,
2 including a cable or satellite television company, programmer, or
3 producer, an Internet website, ²video streaming service,² or a regularly
4 published newspaper, magazine, or other periodical of general
5 circulation, including an Internet or electronic publication, that
6 routinely carries news and commentary of general interest, and that
7 broadcasts or publishes any deceptive audio or visual media prohibited
8 by this section ²solely² for the purpose of disseminating newsworthy
9 facts; provided that ²if the deceptive nature of the work is known or
10 verified,² the broadcast or publication shall clearly contain a
11 disclaimer which is either shown or read aloud that identifies ²the
12 work as a work of² deceptive audio or visual media ²[and states that
13 the deceptive audio or visual media contains manipulated images or
14 sound]². ²[¹If the deceptive nature of the work is unknown or
15 unverified, the broadcast or publication shall clearly contain a
16 disclaimer which is either shown or read aloud that identifies the work
17 as a possible work of deceptive audio or visual media.¹]²

18 (5) It shall not be a violation of this section to disclose any
19 deceptive audio or visual media to law enforcement officers in
20 connection with a criminal investigation or prosecution of a violation
21 of this section¹ [, or]¹ pursuant to a subpoena or court order requiring
22 the disclosure of a work of deceptive audio or visual media¹; ³to a
23 school administrator, attorney, family member, or other advocate for
24 purposes of reporting conduct that may constitute a violation of this
25 section;³ or in furtherance of an investigation concerning fraud,
26 cybersecurity, identity theft, harassment, or a violation of a
27 commercial computer network's contractual terms of service¹.

28
29 ³[2.] 3.³ This act shall take effect immediately.
30
31
32

33
34 _____
35 Establishes criminal penalties for production or dissemination of
deceptive audio or visual media, commonly known as “deepfakes.”

CHAPTER 40

AN ACT establishing civil and criminal penalties for the production and dissemination of deceptive audio or visual media and supplementing Title 2C of the New Jersey Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.2C:21-17.7 Findings, declarations.

1. The Legislature finds and declares that:

a. Technological advances in artificial intelligence have resulted in widespread accessibility to sophisticated “deepfake” technology, which can be used to manipulate audio and visual content to create deceptive audio and visual media depictions that often cannot be distinguished from reality.

b. Digitally altered media generated with this technology can produce false and deceptive, but completely realistic and convincing, media depicting events that never happened, interactions that never took place, conduct that never occurred, and statements that were never made.

c. While there are numerous valid and appropriate uses for this sophisticated technology, such as criticism, comment, satire, parody, news reporting, teaching, scholarship, or research, it may also be used inappropriately to deceive, humiliate, or violate the privacy of individuals who are portrayed in deceptive audio and visual media without their consent.

d. It is manifest that lawbreakers will use all available tools to subvert the law, and “deepfake” technology, which may be readily accessed through the Internet or computer software programs, can be a powerful tool to accomplish illicit ends. Utilizing “deepfake” technology, bad actors may engage in a broad range of criminal or unlawful conduct such as creating audio and visual media depictions of sexual abuse and sexual exploitation involving children or non-consenting adults, creating false, misleading, and misattributed political advertising and campaign materials, and targeting individuals and corporate entities for harassment, damaging reputations and ruining lives. Punishment for committing a crime using “deepfake” technology should be cumulative, as the impact of the underlying criminal conduct is amplified through the insidious use of “deepfake” technology as the means to break the law.

e. With the readily available amplifiers of the Internet and social media, digital media can be both ubiquitous and enduring, and the harm to a person falsely depicted in a “deepfake” image or visual or audio recording can result in widespread and pervasive emotional distress, reputational damage, and indelible harm to that person’s personal and professional relationships.

f. There is a compelling State interest in fostering the appropriate use of “deepfake” technology and deterring the inappropriate application of this technology to commit illicit conduct in a way that safeguards the health, safety, and welfare of the public without unduly infringing on the First Amendment rights of content creators. Similarly, the State has a compelling interest in protecting the privacy and reputational interests of residents who might otherwise be falsely depicted through “deepfake” technology and in providing them a meaningful mechanism through which to obtain appropriate redress.

g. While civil liability and enforcement may to some extent prevent the misuse of this technology in furtherance of criminal activity, the relative ease with which this technology may be accessed and deployed, measured against the magnitude of the indelible and long-lasting harms its use can inflict upon victims and their families, warrants more severe consequences to more effectively punish and deter the inappropriate use of “deepfake” technology.

h. Accordingly, the Legislature finds that it is necessary and proper to establish robust specific criminal penalties to punish and deter the use of “deepfake” technology to generate or create works of deceptive audio or visual media for the purpose of attempting or furthering the commission of a crime or offense, or to solicit, disclose, or use a work of deceptive audio or

visual media for that purpose, and by providing the aggrieved victims of such conduct a civil recourse by which they may seek appropriate recompense.

C.2C:21-17.8 Definitions, "deepfake", deceptive audio, visual media, crimes, penalties.

2. a. As used in P.L.2025, c.40 (C.2C:21-17.7 et seq.):

“Deceptive audio or visual media” means any video recording, motion picture film, sound recording, electronic image, photograph, any technological representation of speech or conduct substantially derivative thereof, or any forgery or facsimile of a document or writing that appears to a reasonable person to realistically depict any speech, conduct, or writing of a person who did not in fact engage in the speech, conduct, or writing, and the production of which was substantially dependent upon technical means, rather than the ability of another person to physically or verbally impersonate the person.

“Disclose” means to sell, give, provide, lend, trade, mail, deliver, transfer, publish, distribute, circulate, disseminate, present, exhibit, advertise, offer, share, or make externally available via the Internet or by any other means, whether or not for pecuniary gain.

“Interactive computer service provider” shall have the same meaning as set forth in 47 U.S.C. s.230.

“Solicit” means to offer to create or generate, or to advertise the ability to create or generate, a work of deceptive audio or visual media, whether or not for hire, commission, monetary remuneration, or pecuniary gain. “Solicit” shall also mean to request the creation or generation of a work of deceptive audio or visual media, whether or not for monetary remuneration or compensation.

“Victim” means a person who suffers personal, physical, or psychological injury or death or incurs loss of or injury to personal or real property as a result of the conduct of another that would constitute a violation of subsections b. or c. of this section. “Victim” also includes the spouse, parent, legal guardian, grandparent, child, sibling, domestic partner, or civil union partner of the decedent in the case of a person’s death.

“Video streaming service” means a service that transmits video content over the Internet that is played continuously without download.

b. A natural person commits a crime of the third degree if, without license or privilege to do so, the person generates or creates, or causes to be generated or created, a work of deceptive audio or visual media for the purpose of attempting or furthering the commission of any crime or offense, or with the knowledge that the work is to be used by another for such purpose, including, but not limited to:

(1) a crime or offense under chapters 14, 16, 20, 21, 28, or 29 of Title 2C of the New Jersey Statutes;

(2) advertising commercial sex abuse of a minor, pursuant to subsection b. of section 12 of P.L.2013, c.51 (C.2C:13-10);

(3) endangering the welfare of children, pursuant to N.J.S.2C:24-4;

(4) threats or improper influence in official and political matters, pursuant to N.J.S.2C:27-3;

(5) false public alarms, pursuant to N.J.S.2C:33-3;

(6) harassment, pursuant to N.J.S.2C:33-4;

(7) cyber-harassment, pursuant to section 1 of P.L.2013, c.272 (C.2C:33-4.1); or

(8) hazing, pursuant to section 1 of P.L.1980, c.169 (C.2C:40-3).

c. (1) A natural person commits a crime of the third degree if, without license or privilege to do so, the person solicits, discloses, or uses a work of deceptive audio or visual media for the purpose of attempting or furthering the commission of any crime or offense, or with the

knowledge that the work is to be used by another for such purpose, including, but not limited to, any crime or offense listed in subsection b. of this section.

(2) Except as otherwise provided in subsection g. of this section, a natural person commits a crime of the fourth degree if, without license or privilege to do so, the person knowingly or recklessly discloses a work of deceptive audio or visual media created in violation of subsection b. of this section.

d. In addition to any term of imprisonment imposed pursuant to N.J.S.2C:43-6 and notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, a fine of up to \$30,000 may be imposed for a violation of this section.

e. Notwithstanding the provisions of N.J.S.2C:1-8 or any other provisions of law:

(1) a conviction arising under subsection b. of this section shall not merge with a conviction under subsection c. of this section, nor shall a conviction under subsection c. of this section merge with a conviction under subsection b. of this section; and

(2) a conviction arising under subsection b. or paragraph (1) of subsection c. of this section shall not merge with a conviction of any underlying offense, nor shall any conviction for such underlying offense merge with a conviction under subsection b. of this section. The court shall impose consecutive sentences upon a conviction under subsection b. or paragraph (1) of subsection c. of this section and a conviction of any underlying offense.

f. A natural person who violates the provisions of P.L.2025, c.40 (C.2C:21-17.7 et seq.) shall also be liable to the victim of the violation, and the victim may bring a civil action in the Superior Court. The court may award:

(1) actual damages, but not less than liquidated damages computed at the rate of \$1,000 for each knowing or reckless violation of P.L.2025, c.40 (C.2C:21-17.7 et seq.);

(2) punitive damages upon proof of willful disregard of the law;

(3) reasonable attorney's fees and other litigation costs reasonably incurred; and

(4) other such preliminary and equitable relief as the court determines appropriate.

A conviction for a violation of P.L.2025, c.40 (C.2C:21-17.7 et seq.) shall not be a prerequisite for a civil action brought pursuant to this subsection. The civil action authorized by this subsection shall be in addition to, and not in lieu of, any other civil action, injunctive relief, or other remedy available at law, including, but not limited to, a civil action for common law defamation, libel, slander, invasion of privacy, false light, misappropriation of identity, intrusion of privacy, or public disclosure of private facts.

g. (1) P.L.2025, c.40 (C.2C:21-17.7 et seq.) shall not apply to content that a reasonable viewer or listener would understand to constitute criticism, comment, satire, parody, news reporting, teaching, scholarship, research, or to any content that a reasonable viewer or listener would not believe to authentically depict speech or conduct.

(2) P.L.2025, c.40 (C.2C:21-17.7 et seq.) shall not apply to an interactive computer service provider, cloud services provider, or commercial developer or provider of artificial intelligence technology, where such developer or provider is not deemed to be a publisher, speaker, or information content provider pursuant to 47 U.S.C. s.230, and shall not be construed to alter or negate any rights, obligations, or immunities of an interactive computer service provider or cloud services provider pursuant to 47 U.S.C. s.230.

(3) P.L.2025, c.40 (C.2C:21-17.7 et seq.) shall not apply to any broadcasting station, cable service, radio station, or telecommunications carrier, as those terms are defined pursuant to 47 U.S.C. s.153, or to any television station, billboard, Internet website, mobile application, video streaming service, newspaper, magazine, publication, printed matter, or other advertising channel or medium through which an advertisement containing deceptive audio or visual media appears, where the advertising channel or medium's role in disclosing the advertisement is

limited to the selling of advertising time or space, or where an advertising channel or medium is prohibited by federal law from censoring the advertisement regardless of its content.

(4) This section shall not apply to any broadcasting station, including a cable or satellite television company, programmer, or producer, an Internet website, video streaming service, or a 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 broadcasts or publishes any deceptive audio or visual media prohibited by this section solely for the purpose of disseminating newsworthy facts, provided that if the deceptive nature of the work is known or verified, the broadcast or publication shall clearly contain a disclaimer which is either shown or read aloud that identifies the work as a work of deceptive audio or visual media.

(5) It shall not be a violation of this section to disclose any deceptive audio or visual media to law enforcement officers in connection with a criminal investigation or prosecution of a violation of this section; pursuant to a subpoena or court order requiring the disclosure of a work of deceptive audio or visual media; to a school administrator, attorney, family member, or other advocate for purposes of reporting conduct that may constitute a violation of this section; or in furtherance of an investigation concerning fraud, cybersecurity, identity theft, harassment, or a violation of a commercial computer network's contractual terms of service.

3. This act shall take effect immediately.

Approved April 2, 2025.

ASSEMBLY, No. 3540

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED FEBRUARY 5, 2024

Sponsored by:

Assemblyman HERB CONAWAY, JR.

District 7 (Burlington)

Assemblyman LOUIS D. GREENWALD

District 6 (Burlington and Camden)

Assemblywoman ELLEN J. PARK

District 37 (Bergen)

Co-Sponsored by:

Assemblywomen Quijano, Haider and Assemblyman Karabinchak

SYNOPSIS

Establishes criminal penalties for production or dissemination of deceptive audio or visual media, commonly known as “deepfakes.”

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 3/4/2024)

1 AN ACT establishing criminal penalties for the production and
2 dissemination of deceptive audio or visual media and
3 supplementing Title 2C of the New Jersey Statutes.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. a. As used in P.L. , c. (C.) (pending before the
9 Legislature as this bill):

10 “Deceptive audio or visual media” means any video recording,
11 motion picture film, sound recording, electronic image, photograph,
12 or any technological representation of speech or conduct
13 substantially derivative thereof that appears to authentically depict
14 any speech or conduct of a person who did not in fact engage in the
15 speech or conduct and the production of which was substantially
16 dependent upon technical means, rather than the ability of another
17 person to physically or verbally impersonate the person.

18 “Disclose” means to sell, manufacture, give, provide, lend, trade,
19 mail, deliver, transfer, publish, distribute, circulate, disseminate,
20 present, exhibit, advertise, offer, share, or make available via the
21 Internet or by any other means, whether for pecuniary gain or not.

22 b. A person commits a crime of the third degree if, without
23 license or privilege to do so, the person generates or creates, or
24 causes to be generated or created, a work of deceptive audio or
25 visual media for an unlawful purpose.

26 The trier of fact may infer that the deceptive audio or visual
27 media was generated or created for an unlawful purpose if the work
28 is subsequently used as part of a plan or course of conduct to
29 commit one or more of the following offenses:

- 30 (1) harassment, pursuant to N.J.S.2C:33-4;
31 (2) cyber harassment, pursuant to section 1 of P.L.2013, c.272
32 (C.2C:33-4.1);
33 (3) theft by deception, pursuant to N.J.S.2C:20-4;
34 (4) theft by extortion, pursuant to N.J.S.2C:20-5;
35 (5) false incrimination or reports, pursuant to N.J.S.2C:28-4; or
36 (6) invasion of privacy, pursuant to section 1 of P.L.2003, c.206
37 (C.2C:14-9).

38 c. A person commits a crime of the third degree if, without
39 license or privilege to do so, the person discloses a work of
40 deceptive audio or visual media that the person knows or reasonably
41 should know was created in violation of subsection b. of this section
42 without clearly identifying it as a work of deceptive audio or visual
43 media.

44 In addition to any term of imprisonment imposed pursuant to
45 N.J.S.2C:43-6 and notwithstanding the provisions of subsection b.
46 of N.J.S.2C:43-3, a fine of up to \$30,000 may be imposed for a
47 violation of this subsection.

1 d. A person who violates the provisions of
2 P.L. , c. (C.) (pending before the Legislature as this bill)
3 shall be liable to the individual depicted in the deceptive audio or
4 visual media, who may bring a civil action in the Superior Court.
5 The court may award:

6 (1) actual damages, but not less than liquidated damages
7 computed at the rate of \$1,000 for each violation of P.L. , c.
8 (C.) (pending before the Legislature as this bill);

9 (2) punitive damages upon proof of willful or reckless disregard
10 of the law;

11 (3) reasonable attorney's fees and other litigation costs
12 reasonably incurred; and

13 (4) such other preliminary and equitable relief as the court
14 determines appropriate.

15 A conviction for a violation of P.L. , c. (C.) (pending
16 before the Legislature as this bill) shall not be a prerequisite for a
17 civil action brought pursuant to this subsection. The civil action
18 authorized by this subsection shall be in addition to, and not in lieu
19 of, any other civil action, injunctive relief, or other remedy
20 available at law, including, but not limited to, a civil action for
21 common law defamation, libel, slander, invasion of privacy, false
22 light, misappropriation of identity, intrusion of privacy, or public
23 disclosure of private facts.

24 e. A final judgment rendered in favor of the State in any
25 criminal proceeding shall estop the person from denying the same
26 conduct in any civil action brought pursuant to this section.

27 f. (1) This section shall not be construed to alter or negate any
28 rights, obligations, or immunities of an interactive computer service
29 provider pursuant to 47 U.S.C. s.230.

30 (2) Criminal and civil penalties imposed pursuant to this section
31 shall not apply to the news media or a news agency, as those terms
32 are defined in section 2 of P.L.1977, c.253 (C.2A:84A-21a), unless
33 the news media or news agency broadcasts or publishes a work of
34 deceptive audio or visual media, created in violation of this section,
35 that the news media or news agency knows was created in violation
36 of this section and fails to clearly identify the work as deceptive
37 audio or visual media.

38

39 2. This act shall take effect immediately.

40

41

42

STATEMENT

43

44 This bill establishes criminal penalties for production or
45 dissemination of deceptive audio or visual media, commonly known
46 as “deepfakes.”

47 The bill defines deceptive audio or visual media as “any video
48 recording, motion picture film, sound recording, electronic image,

1 photograph, or any technological representation of speech or
2 conduct substantially derivative thereof that appears to authentically
3 depict any speech or conduct of a person who did not in fact engage
4 in the speech or conduct and the production of which was
5 substantially dependent upon technical means, rather than the
6 ability of another person to physically or verbally impersonate the
7 person.”

8 The bill establishes a crime of the third degree if a person,
9 without license or privilege to do so, generates or creates, or causes
10 to be generated or created, deceptive audio or visual media for an
11 unlawful purpose. The bill provides that the trier of fact may infer
12 that the deceptive audio or visual media was generated or created
13 for an unlawful purpose if the work is subsequently used as part of
14 a plan or course of conduct to commit one or more of the following:

- 15 (1) harassment;
- 16 (2) cyber harassment;
- 17 (3) theft by deception;
- 18 (4) theft by extortion;
- 19 (5) false incrimination or reports; or
- 20 (6) invasion of privacy.

21 The bill also establishes a crime of the third degree if a person,
22 without license or privilege to do so, discloses a work of deceptive
23 audio or visual media that the person knows or should reasonably
24 know was created in violation of the provisions of this bill without
25 clearly identifying it as a work of deceptive audio or visual media.
26 A crime of the third degree is ordinarily punishable by a term of
27 three to five years imprisonment, a fine of up to \$15,000, or both.
28 However, the bill provides that a court may impose a fine of up to
29 \$30,000.

30 Under the bill, a person would be liable to the individual
31 depicted in the deceptive audio or visual media, who may bring a
32 civil action in the Superior Court. The bill further provides that a
33 conviction is not to be a prerequisite for a civil action. The civil
34 action authorized by this bill is to be in addition to, and not in lieu
35 of any other civil action, injunctive relief, or other remedy available
36 at law. The bill further provides that a final judgment rendered in
37 favor of the State in any criminal proceeding prevents the person
38 from denying the same conduct in any civil action brought under
39 the bill.

40 The bill provides that it should not be construed to alter or negate
41 any rights, obligations, or immunities of an interactive computer
42 service provider pursuant to 47 U.S.C. s.230. The bill also provides
43 that criminal and civil penalties imposed pursuant to the bill only
44 apply to the news media or a news agency if the news media or agency
45 broadcasts or publishes a work of deceptive audio or visual media that
46 the news media or agency knows was created in violation of the bill,
47 and fails to clearly identify the work as deceptive audio or visual
48 media.

[First Reprint]

ASSEMBLY, No. 3540

STATE OF NEW JERSEY
221st LEGISLATURE

INTRODUCED FEBRUARY 5, 2024

Sponsored by:

Assemblyman HERB CONAWAY, JR.

District 7 (Burlington)

Assemblyman LOUIS D. GREENWALD

District 6 (Burlington and Camden)

Assemblywoman ELLEN J. PARK

District 37 (Bergen)

Co-Sponsored by:

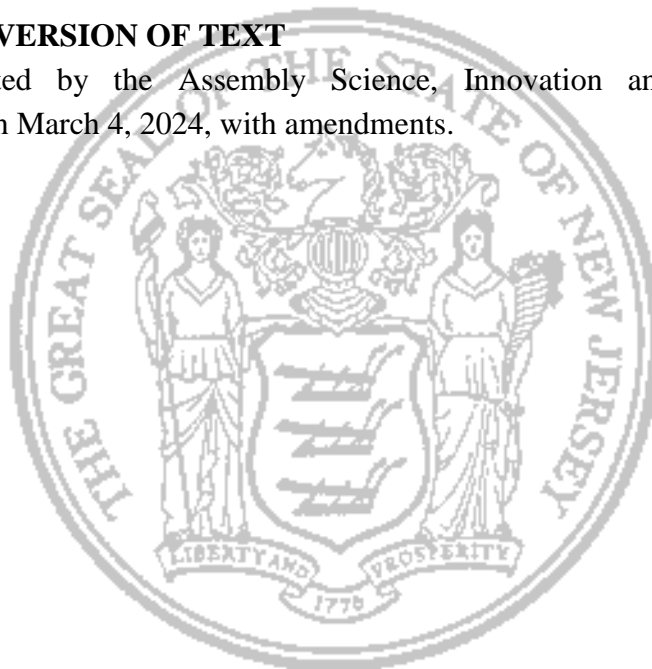
Assemblywomen Quijano, Haider and Assemblyman Karabinchak

SYNOPSIS

Establishes criminal penalties for production or dissemination of deceptive audio or visual media, commonly known as “deepfakes.”

CURRENT VERSION OF TEXT

As reported by the Assembly Science, Innovation and Technology Committee on March 4, 2024, with amendments.



(Sponsorship Updated As Of: 3/4/2024)

1 AN ACT establishing criminal penalties for the production and
2 dissemination of deceptive audio or visual media and
3 supplementing Title 2C of the New Jersey Statutes.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. a. As used in P.L. , c. (C.) (pending before the
9 Legislature as this bill):

10 “Deceptive audio or visual media” means any video recording,
11 motion picture film, sound recording, electronic image, photograph,
12 ¹**[or]**¹ any technological representation of speech or conduct
13 substantially derivative thereof ¹, or any forgery or facsimile of a
14 document or writing.¹ that appears to ¹**[authentically]** a reasonable
15 person to realistically¹ depict any speech ¹**[or]** ¹ conduct ¹, or
16 writing¹ of a person who did not in fact engage in the speech
17 ¹**[or]** ¹ conduct ¹, or writing¹ and the production of which was
18 substantially dependent upon technical means, rather than the
19 ability of another person to physically or verbally impersonate the
20 person.

21 “Disclose” means to sell, manufacture, give, provide, lend, trade,
22 mail, deliver, transfer, publish, distribute, circulate, disseminate,
23 present, exhibit, advertise, offer, share, or make available via the
24 Internet or by any other means, whether for pecuniary gain or not.

25 b. A person commits a crime of the third degree if, without
26 license or privilege to do so, the person generates or creates, or
27 causes to be generated or created, a work of deceptive audio or
28 visual media ¹**[for an unlawful purpose.**

29 The trier of fact may infer that the deceptive audio or visual
30 media was generated or created for an unlawful purpose if the
31 work ¹**[that]** ¹ is ¹**[subsequently]**¹ used as part of a plan or course of
32 conduct to commit ¹**[one or more of the following offenses:**

- 33 (1) harassment, pursuant to N.J.S.2C:33-4;
34 (2) cyber harassment, pursuant to section 1 of P.L.2013, c.272
35 (C.2C:33-4.1);
36 (3) theft by deception, pursuant to N.J.S.2C:20-4;
37 (4) theft by extortion, pursuant to N.J.S.2C:20-5;
38 (5) false incrimination or reports, pursuant to N.J.S.2C:28-4; or
39 (6) invasion of privacy, pursuant to section 1 of P.L.2003, c.206
40 (C.2C:14-9) ¹**[any crime or offense including but not limited to:**

41 (1) a crime or offense under chapters 14, 16, 20, 21, or 28 of
42 Title 2C of the New Jersey Statutes;

43 (2) advertising commercial sex abuse of a minor, pursuant to
44 section 12 of P.L.2013, c.51 (C.2C:13-10);

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AST committee amendments adopted March 4, 2024.

- 1 (3) endangering the welfare of children, pursuant to N.J.S.2C:24-
2 4;
3 (4) threats or improper influence in official and political matters,
4 pursuant to N.J.S.2C:27-3;
5 (5) false public alarms, pursuant to N.J.S.2C:33-3;
6 (6) harassment, pursuant to N.J.S.2C:33-4 et seq.; or
7 (7) hazing, pursuant to section 1 of P.L.1980, c.169 (C.2C:40-
8 3)¹.

9 c. A person commits a crime of the third degree if, without
10 license or privilege to do so, the person discloses a work of
11 deceptive audio or visual media that the person knows or reasonably
12 should know was created in violation of subsection b. of this section
13 ¹**【without】** .

14 It is an affirmative defense to prosecution under this subsection
15 if the disclosed work is¹ clearly ¹**【identifying it】 identified¹** as a
16 work of deceptive audio or visual media. ¹This affirmative defense
17 shall not apply where the disclosed work depicts less than
18 completely and opaquely covered intimate parts, sexual penetration,
19 or sexual contact, as those terms are defined in N.J.S.2C:14-1.¹

20 In addition to any term of imprisonment imposed pursuant to
21 N.J.S.2C:43-6 and notwithstanding the provisions of subsection b.
22 of N.J.S.2C:43-3, a fine of up to \$30,000 may be imposed for a
23 violation of this subsection.

24 d. A person who violates the provisions of
25 P.L. , c. (C.) (pending before the Legislature as this bill)
26 shall be liable to the individual depicted in the deceptive audio or
27 visual media, who may bring a civil action in the Superior Court.
28 The court may award:

29 (1) actual damages, but not less than liquidated damages
30 computed at the rate of \$1,000 for each violation of P.L. , c.
31 (C.) (pending before the Legislature as this bill);

32 (2) punitive damages upon proof of willful or reckless disregard
33 of the law;

34 (3) reasonable attorney's fees and other litigation costs
35 reasonably incurred; and

36 (4) such other preliminary and equitable relief as the court
37 determines appropriate.

38 A conviction for a violation of P.L. , c. (C.) (pending
39 before the Legislature as this bill) shall not be a prerequisite for a
40 civil action brought pursuant to this subsection. The civil action
41 authorized by this subsection shall be in addition to, and not in lieu
42 of, any other civil action, injunctive relief, or other remedy
43 available at law, including, but not limited to, a civil action for
44 common law defamation, libel, slander, invasion of privacy, false
45 light, misappropriation of identity, intrusion of privacy, or public
46 disclosure of private facts.

1 e. A final judgment rendered in favor of the State in any
2 criminal proceeding shall estop the person from denying the same
3 conduct in any civil action brought pursuant to this section.

4 f. (1) This section shall not be construed to alter or negate any
5 rights, obligations, or immunities of an interactive computer service
6 provider pursuant to 47 U.S.C. s.230.

7 (2) Criminal and civil penalties imposed pursuant to this section
8 shall not apply to the news media or a news agency, as those terms
9 are defined in section 2 of P.L.1977, c.253 (C.2A:84A-21a), unless
10 the news media or news agency broadcasts or publishes a work of
11 deceptive audio or visual media, created in violation of this section,
12 that the news media or news agency knows was created in violation
13 of this section and fails to clearly identify the work as deceptive
14 audio or visual media.

15 ¹g. Notwithstanding the provisions of N.J.S.2C:1-8 or any other
16 provisions of law:

17 (1) a conviction arising under subsection b. of this section shall
18 not merge with a conviction under subsection c. of this section, nor
19 shall a conviction under subsection c. of this section merge with a
20 conviction under subsection b. of this section; and

21 (2) a conviction arising under subsection b. of this section shall
22 not merge with a conviction of any of the underlying offenses
23 referred to in subsection b. of this section, nor shall any conviction
24 for such underlying offense merge with a conviction under
25 subsection b. of this section. The court shall impose separate
26 sentences upon a conviction under subsection b. of this section and
27 a conviction of any underlying offense.¹

28

29 2. This act shall take effect immediately.

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 3540

STATE OF NEW JERSEY
221st LEGISLATURE

ADOPTED MAY 20, 2024

Sponsored by:

Assemblyman HERB CONAWAY, JR.

District 7 (Burlington)

Assemblyman LOUIS D. GREENWALD

District 6 (Burlington and Camden)

Assemblywoman ELLEN J. PARK

District 37 (Bergen)

Co-Sponsored by:

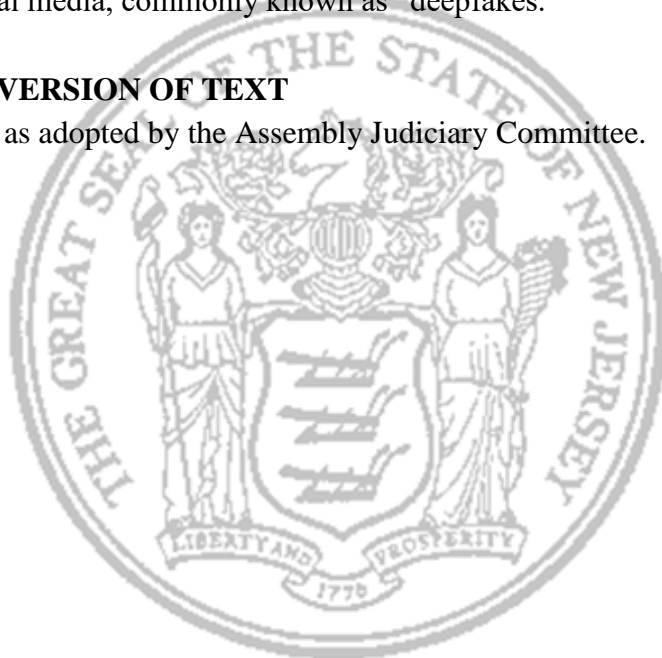
**Assemblywomen Quijano, Haider, Assemblymen Karabinchak and
Wimberly**

SYNOPSIS

Establishes criminal penalties for production or dissemination of deceptive audio or visual media, commonly known as “deepfakes.”

CURRENT VERSION OF TEXT

Substitute as adopted by the Assembly Judiciary Committee.



(Sponsorship Updated As Of: 6/24/2024)

1 AN ACT establishing criminal penalties for the production and
2 dissemination of deceptive audio or visual media and
3 supplementing Title 2C of the New Jersey Statutes.
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. a. As used in P.L. , c. (C.) (pending before the
9 Legislature as this bill):

10 “Deceptive audio or visual media” means any video recording,
11 motion picture film, sound recording, electronic image, photograph,
12 any technological representation of speech or conduct substantially
13 derivative thereof, or any forgery or facsimile of a document or
14 writing, that appears to a reasonable person to realistically depict any
15 speech, conduct, or writing of a person who did not in fact engage in
16 the speech, conduct, or writing, and the production of which was
17 substantially dependent upon technical means, rather than the
18 ability of another person to physically or verbally impersonate the
19 person.

20 “Disclose” means to sell, give, provide, lend, trade, mail, deliver,
21 transfer, publish, distribute, circulate, disseminate, present, exhibit,
22 advertise, offer, share, or make available via the Internet or by any
23 other means, whether or not for pecuniary gain.

24 “Interactive computer service provider” shall have the same
25 meaning as set forth in 47 U.S.C. s.230.

26 “Solicit” means to offer to create or generate, or to advertise the
27 ability to create or generate, a work of deceptive audio or visual
28 media, whether or not for hire, commission, monetary
29 remuneration, or pecuniary gain. “Solicit” shall also mean to
30 request the creation or generation of a work of deceptive audio or
31 visual media, whether or not for monetary remuneration or
32 compensation.

33 “Victim” means a person who suffers personal, physical, or
34 psychological injury or death or incurs loss of or injury to personal
35 or real property as a result of the conduct of another that would
36 constitute a violation of subsections b. or c. of this section.
37 “Victim” also includes the spouse, parent, legal guardian,
38 grandparent, child, sibling, domestic partner, or civil union partner
39 of the decedent in the case of a person’s death.

40 “Video streaming service” means a service that transmits video
41 content over the Internet that is played continuously without
42 download.

43 b. A natural person commits a crime of the third degree if,
44 without license or privilege to do so, the person generates or
45 creates, or causes to be generated or created, a work of deceptive
46 audio or visual media with the intent that it be used as part of a plan
47 or course of conduct to commit any crime or offense, including but
48 not limited to:

- 1 (1) a crime or offense under chapters 14, 16, 20, 21, 28, or 29 of
2 Title 2C of the New Jersey Statutes;
- 3 (2) advertising commercial sex abuse of a minor, pursuant to
4 subsection b. of section 12 of P.L.2013, c.51 (C.2C:13-10);
- 5 (3) endangering the welfare of children, pursuant to N.J.S.2C:24-
6 4;
- 7 (4) threats or improper influence in official and political matters,
8 pursuant to N.J.S.2C:27-3;
- 9 (5) false public alarms, pursuant to N.J.S.2C:33-3;
- 10 (6) harassment, pursuant to N.J.S.2C:33-4;
- 11 (7) cyber-harassment, pursuant to section 1 of P.L.2013, c.272
12 (C.2C:33-4.1); or
- 13 (8) hazing, pursuant to section 1 of P.L.1980, c.169 (C.2C:40-3).
- 14 The trier of fact may infer that a work of deceptive audio or
15 visual media was generated or created without license or privilege
16 to do so if the work was generated or created using a commercially
17 or publicly available generative artificial intelligence system in
18 violation of the terms of service, terms of use, or end user license
19 agreement of the system.
- 20 c. (1) A natural person commits a crime of the third degree if,
21 without license or privilege to do so, the person solicits, discloses,
22 or uses a work of deceptive audio or visual media as part of a plan
23 or course of conduct to commit any crime or offense, including but
24 not limited to any crime or offense listed in subsection b. of this
25 section.
- 26 (2) A natural person commits a crime of the third degree if,
27 without license or privilege to do so, the person discloses a work of
28 deceptive audio or visual media that the person knows or reasonably
29 should know was created in violation of subsection b. of this
30 section.
- 31 d. In addition to any term of imprisonment imposed pursuant to
32 N.J.S.2C:43-6 and notwithstanding the provisions of subsection b.
33 of N.J.S.2C:43-3, a fine of up to \$30,000 may be imposed for a
34 violation of this section.
- 35 e. Notwithstanding the provisions of N.J.S.2C:1-8 or any other
36 provisions of law:
- 37 (1) a conviction arising under subsection b. of this section shall
38 not merge with a conviction under subsection c. of this section, nor
39 shall a conviction under subsection c. of this section merge with a
40 conviction under subsection b. of this section; and
- 41 (2) a conviction arising under subsection b. or paragraph (1) of
42 subsection c. of this section shall not merge with a conviction of
43 any underlying offense, nor shall any conviction for such
44 underlying offense merge with a conviction under subsection b. of
45 this section. The court shall impose separate sentences upon a
46 conviction under subsection b. or paragraph (1) of subsection c. of
47 this section and a conviction of any underlying offense.

1 f. A person who violates the provisions of
2 P.L. , c. (C.) (pending before the Legislature as this bill)
3 shall be liable to the victim of the violation, and the victim may
4 bring a civil action in the Superior Court. The court may award:

5 (1) actual damages, but not less than liquidated damages
6 computed at the rate of \$1,000 for each violation of
7 P.L. , c. (C.) (pending before the Legislature as this bill);

8 (2) punitive damages upon proof of willful or reckless disregard
9 of the law;

10 (3) reasonable attorney's fees and other litigation costs
11 reasonably incurred; and

12 (4) other such preliminary and equitable relief as the court
13 determines appropriate.

14 A conviction for a violation of P.L. , c. (C.) (pending
15 before the Legislature as this bill) shall not be a prerequisite for a
16 civil action brought pursuant to this subsection. The civil action
17 authorized by this subsection shall be in addition to, and not in lieu
18 of, any other civil action, injunctive relief, or other remedy
19 available at law, including, but not limited to, a civil action for
20 common law defamation, libel, slander, invasion of privacy, false
21 light, misappropriation of identity, intrusion of privacy, or public
22 disclosure of private facts.

23 g. (1) It shall be deemed a fair use and shall not be a violation
24 of P.L. , c. (C.) (pending before the Legislature as this
25 bill) if a work of deceptive audio or visual media, clearly identified
26 as a work of deceptive audio or visual media, is disclosed in
27 connection with criticism, comment, satire, parody, news reporting,
28 teaching, scholarship, or research, pursuant to 17 U.S.C. s.107.

29 (2) P.L. , c. (C.) (pending before the Legislature as this
30 bill) shall not be construed to alter or negate any rights, obligations, or
31 immunities of an interactive computer service provider pursuant to 47
32 U.S.C. s.230, and shall not apply to a commercial developer or
33 provider of artificial intelligence technology, provided that to the
34 extent the provider or developer allows for the public dissemination of
35 consumer generated media as that term is defined pursuant to
36 paragraph (14) of 47 U.S.C. s.153, the provider or developer exercises
37 commercially reasonable efforts to ensure that consumer generated
38 media does not violate this section

39 (3) P.L. , c. (C.) (pending before the Legislature as this
40 bill) shall not apply to any broadcasting station, cable service, radio
41 station, telecommunications carrier, or television station, as those
42 terms are defined pursuant to 47 U.S.C. s.153, or to any billboard,
43 Internet website, mobile application, video streaming service,
44 newspaper, magazine, publication, or printed matter through which
45 an advertisement containing deceptive audio or visual media appears,
46 when the owner, publisher, or operator of the advertising medium
47 has no knowledge of the intent, design, or purpose of the advertiser.

1 (4) This section shall not apply to any broadcasting station,
2 including a cable or satellite television company, programmer, or
3 producer, an Internet website, or a regularly published newspaper,
4 magazine, or other periodical of general circulation, including an
5 Internet or electronic publication, that routinely carries news and
6 commentary of general interest, and that broadcasts or publishes
7 any deceptive audio or visual media prohibited by this section for
8 the purpose of disseminating newsworthy facts; provided that the
9 broadcast or publication shall clearly contain a disclaimer which is
10 either shown or read aloud that identifies the deceptive audio or
11 visual media and states that the deceptive audio or visual media
12 contains manipulated images or sound.

13 (5) It shall not be a violation of this section to disclose any
14 deceptive audio or visual media to law enforcement officers in
15 connection with a criminal investigation or prosecution of a violation
16 of this section, or pursuant to a subpoena or court order requiring the
17 disclosure of a work of deceptive audio or visual media.

18

19 2. This act shall take effect immediately.

[First Reprint]

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 3540

STATE OF NEW JERSEY
221st LEGISLATURE

ADOPTED MAY 20, 2024

Sponsored by:

Assemblyman HERB CONAWAY, JR.

District 7 (Burlington)

Assemblyman LOUIS D. GREENWALD

District 6 (Burlington and Camden)

Assemblywoman ELLEN J. PARK

District 37 (Bergen)

Co-Sponsored by:

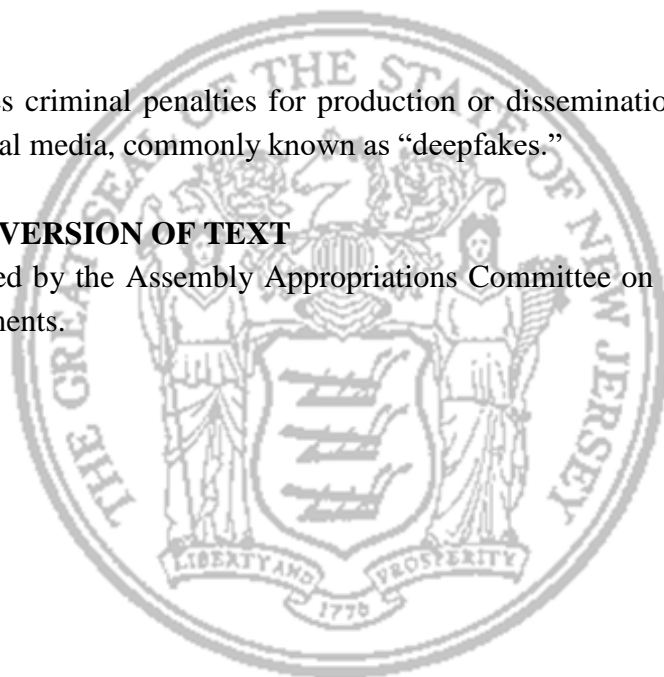
**Assemblywomen Quijano, Haider, Assemblymen Karabinchak and
Wimberly**

SYNOPSIS

Establishes criminal penalties for production or dissemination of deceptive audio or visual media, commonly known as “deepfakes.”

CURRENT VERSION OF TEXT

As reported by the Assembly Appropriations Committee on June 24, 2024, with amendments.



(Sponsorship Updated As Of: 6/24/2024)

1 AN ACT establishing criminal penalties for the production and
2 dissemination of deceptive audio or visual media and
3 supplementing Title 2C of the New Jersey Statutes.
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. a. As used in P.L. , c. (C.) (pending before the
9 Legislature as this bill):

10 “Deceptive audio or visual media” means any video recording,
11 motion picture film, sound recording, electronic image, photograph,
12 any technological representation of speech or conduct substantially
13 derivative thereof, or any forgery or facsimile of a document or
14 writing, that appears to a reasonable person to realistically depict any
15 speech, conduct, or writing of a person who did not in fact engage in
16 the speech, conduct, or writing, and the production of which was
17 substantially dependent upon technical means, rather than the ability of
18 another person to physically or verbally impersonate the person.

19 “Disclose” means to sell, give, provide, lend, trade, mail, deliver,
20 transfer, publish, distribute, circulate, disseminate, present, exhibit,
21 advertise, offer, share, or make available via the Internet or by any
22 other means, whether or not for pecuniary gain.

23 “Interactive computer service provider” shall have the same
24 meaning as set forth in 47 U.S.C. s.230.

25 “Solicit” means to offer to create or generate, or to advertise the
26 ability to create or generate, a work of deceptive audio or visual media,
27 whether or not for hire, commission, monetary remuneration, or
28 pecuniary gain. “Solicit” shall also mean to request the creation or
29 generation of a work of deceptive audio or visual media, whether or
30 not for monetary remuneration or compensation.

31 “Victim” means a person who suffers personal, physical, or
32 psychological injury or death or incurs loss of or injury to personal or
33 real property as a result of the conduct of another that would constitute
34 a violation of subsections b. or c. of this section. “Victim” also
35 includes the spouse, parent, legal guardian, grandparent, child, sibling,
36 domestic partner, or civil union partner of the decedent in the case of a
37 person’s death.

38 “Video streaming service” means a service that transmits video
39 content over the Internet that is played continuously without
40 download.

41 b. A natural person commits a crime of the third degree if,
42 without license or privilege to do so, the person generates or creates, or
43 causes to be generated or created, a work of deceptive audio or visual

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly AAP committee amendments adopted June 24, 2024.

1 media with the intent that it be used as part of a plan or course of
2 conduct to commit any crime or offense, including but not limited to:

3 (1) a crime or offense under chapters 14, 16, 20, 21, 28, or 29 of
4 Title 2C of the New Jersey Statutes;

5 (2) advertising commercial sex abuse of a minor, pursuant to
6 subsection b. of section 12 of P.L.2013, c.51 (C.2C:13-10);

7 (3) endangering the welfare of children, pursuant to N.J.S.2C:24-4;

8 (4) threats or improper influence in official and political matters,
9 pursuant to N.J.S.2C:27-3;

10 (5) false public alarms, pursuant to N.J.S.2C:33-3;

11 (6) harassment, pursuant to N.J.S.2C:33-4;

12 (7) cyber-harassment, pursuant to section 1 of P.L.2013, c.272
13 (C.2C:33-4.1); or

14 (8) hazing, pursuant to section 1 of P.L.1980, c.169 (C.2C:40-3).

15 The trier of fact may infer that a work of deceptive audio or visual
16 media was generated or created without license or privilege to do so if
17 the work was generated or created using a commercially or publicly
18 available generative artificial intelligence system in violation of the
19 terms of service, terms of use, or end user license agreement of the
20 system.

21 c. (1) A natural person commits a crime of the third degree if,
22 without license or privilege to do so, the person solicits, discloses, or
23 uses a work of deceptive audio or visual media as part of a plan or
24 course of conduct to commit any crime or offense, including but not
25 limited to any crime or offense listed in subsection b. of this section.

26 (2) A natural person commits a crime of the third degree if,
27 without license or privilege to do so, the person discloses a work of
28 deceptive audio or visual media that the person knows or reasonably
29 should know was created in violation of subsection b. of this section.

30 d. In addition to any term of imprisonment imposed pursuant to
31 N.J.S.2C:43-6 and notwithstanding the provisions of subsection b. of
32 N.J.S.2C:43-3, a fine of up to \$30,000 may be imposed for a violation
33 of this section.

34 e. Notwithstanding the provisions of N.J.S.2C:1-8 or any other
35 provisions of law:

36 (1) a conviction arising under subsection b. of this section shall not
37 merge with a conviction under subsection c. of this section, nor shall a
38 conviction under subsection c. of this section merge with a conviction
39 under subsection b. of this section; and

40 (2) a conviction arising under subsection b. or paragraph (1) of
41 subsection c. of this section shall not merge with a conviction of any
42 underlying offense, nor shall any conviction for such underlying
43 offense merge with a conviction under subsection b. of this section.
44 The court shall impose separate sentences upon a conviction under
45 subsection b. or paragraph (1) of subsection c. of this section and a
46 conviction of any underlying offense.

47 f. A ¹natural¹ person who violates the provisions of
48 P.L. , c. (C.) (pending before the Legislature as this bill) shall

1 be liable to the victim of the violation, and the victim may bring a civil
2 action in the Superior Court. The court may award:

3 (1) actual damages, but not less than liquidated damages computed
4 at the rate of \$1,000 for each violation of
5 P.L. , c. (C.) (pending before the Legislature as this bill);

6 (2) punitive damages upon proof of willful or reckless disregard of
7 the law;

8 (3) reasonable attorney's fees and other litigation costs reasonably
9 incurred; and

10 (4) other such preliminary and equitable relief as the court
11 determines appropriate.

12 A conviction for a violation of P.L. , c. (C.) (pending
13 before the Legislature as this bill) shall not be a prerequisite for a civil
14 action brought pursuant to this subsection. The civil action authorized
15 by this subsection shall be in addition to, and not in lieu of, any other
16 civil action, injunctive relief, or other remedy available at law,
17 including, but not limited to, a civil action for common law
18 defamation, libel, slander, invasion of privacy, false light,
19 misappropriation of identity, intrusion of privacy, or public disclosure
20 of private facts.

21 g. (1) It shall be deemed a fair use and shall not be a violation of
22 P.L. , c. (C.) (pending before the Legislature as this bill) if a
23 work of deceptive audio or visual media¹,¹ is¹ clearly identified as a
24 work of deceptive audio or visual media¹ or, if the deceptive nature of
25 the work is unknown or unverified, but is clearly identified as a
26 possible work of deceptive audio or visual media¹, is disclosed in
27 connection with criticism, comment, satire, parody, news reporting,
28 teaching, scholarship, or research, pursuant to 17 U.S.C. s.107.

29 (2) P.L. , c. (C.) (pending before the Legislature as this
30 bill) shall not apply to an interactive computer service provider, cloud
31 services provider, or commercial developer or provider of artificial
32 intelligence technology, and¹ shall not be construed to alter or negate
33 any rights, obligations, or immunities of an interactive computer
34 service provider or cloud services provider¹ pursuant to
35 47 U.S.C. s.230 ¹, and shall not apply to a commercial developer or
36 provider of artificial intelligence technology, provided that to the
37 extent the provider or developer allows for the public dissemination of
38 consumer generated media as that term is defined pursuant to
39 paragraph (14) of 47 U.S.C. s.153, the provider or developer exercises
40 commercially reasonable efforts to ensure that consumer generated
41 media does not violate this section¹.

42 (3) P.L. , c. (C.) (pending before the Legislature as this
43 bill) shall not apply to any broadcasting station, cable service, radio
44 station, telecommunications carrier, or television station, as those
45 terms are defined pursuant to 47 U.S.C. s.153, or to any billboard,
46 Internet website, mobile application, video streaming service,
47 newspaper, magazine, publication, or printed matter through which an

1 advertisement containing deceptive audio or visual media appears¹ [,
2 when the owner, publisher, or operator of the advertising medium has
3 no knowledge of the intent, design, or purpose of the advertiser]¹ .

4 (4) This section shall not apply to any broadcasting station,
5 including a cable or satellite television company, programmer, or
6 producer, an Internet website, or a regularly published newspaper,
7 magazine, or other periodical of general circulation, including an
8 Internet or electronic publication, that routinely carries news and
9 commentary of general interest, and that broadcasts or publishes any
10 deceptive audio or visual media prohibited by this section for the
11 purpose of disseminating newsworthy facts; provided that the
12 broadcast or publication shall clearly contain a disclaimer which is
13 either shown or read aloud that identifies the deceptive audio or visual
14 media and states that the deceptive audio or visual media contains
15 manipulated images or sound. ¹If the deceptive nature of the work is
16 unknown or unverified, the broadcast or publication shall clearly
17 contain a disclaimer which is either shown or read aloud that identifies
18 the work as a possible work of deceptive audio or visual media.¹

19 (5) It shall not be a violation of this section to disclose any
20 deceptive audio or visual media to law enforcement officers in
21 connection with a criminal investigation or prosecution of a violation
22 of this section¹ [, or]¹ pursuant to a subpoena or court order requiring
23 the disclosure of a work of deceptive audio or visual media¹; or in
24 furtherance of an investigation concerning fraud, cybersecurity,
25 identity theft, harassment, or a violation of a commercial computer
26 network's contractual terms of service¹ .

27
28 2. This act shall take effect immediately.

[Second Reprint]

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 3540

STATE OF NEW JERSEY
221st LEGISLATURE

ADOPTED MAY 20, 2024

Sponsored by:

Assemblyman HERB CONAWAY, JR.

District 7 (Burlington)

Assemblyman LOUIS D. GREENWALD

District 6 (Burlington and Camden)

Assemblywoman ELLEN J. PARK

District 37 (Bergen)

Senator PAUL D. MORIARTY

District 4 (Atlantic, Camden and Gloucester)

Senator KRISTIN M. CORRADO

District 40 (Bergen, Essex and Passaic)

Co-Sponsored by:

Assemblywomen Quijano, Haider, Assemblymen Karabinchak, Wimberly, Stanley, Sampson, Miller, Assemblywomen Bagolie, Lampitt, Speight, Ramirez, Swain, Assemblymen Hutchison, Tully, Senators Bramnick, Turner, Scutari and Amato

SYNOPSIS

Establishes criminal penalties for production or dissemination of deceptive audio or visual media, commonly known as “deepfakes.”

CURRENT VERSION OF TEXT

As reported by the Assembly Budget Committee on June 26, 2024, with amendments.

(Sponsorship Updated As Of: 1/30/2025)

1 AN ACT establishing criminal penalties for the production and
2 dissemination of deceptive audio or visual media and
3 supplementing Title 2C of the New Jersey Statutes.

4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7

8 1. a. As used in P.L. , c. (C.) (pending before the
9 Legislature as this bill):

10 “Deceptive audio or visual media” means any video recording,
11 motion picture film, sound recording, electronic image, photograph,
12 any technological representation of speech or conduct substantially
13 derivative thereof, or any forgery or facsimile of a document or
14 writing, that appears to a reasonable person to realistically depict
15 any speech, conduct, or writing of a person who did not in fact
16 engage in the speech, conduct, or writing, and the production of
17 which was substantially dependent upon technical means, rather
18 than the ability of another person to physically or verbally
19 impersonate the person.

20 “Disclose” means to sell, give, provide, lend, trade, mail, deliver,
21 transfer, publish, distribute, circulate, disseminate, present, exhibit,
22 advertise, offer, share, or make available via the Internet or by any
23 other means, whether or not for pecuniary gain.

24 “Interactive computer service provider” shall have the same
25 meaning as set forth in 47 U.S.C. s.230.

26 “Solicit” means to offer to create or generate, or to advertise the
27 ability to create or generate, a work of deceptive audio or visual
28 media, whether or not for hire, commission, monetary
29 remuneration, or pecuniary gain. “Solicit” shall also mean to
30 request the creation or generation of a work of deceptive audio or
31 visual media, whether or not for monetary remuneration or
32 compensation.

33 “Victim” means a person who suffers personal, physical, or
34 psychological injury or death or incurs loss of or injury to personal
35 or real property as a result of the conduct of another that would
36 constitute a violation of subsections b. or c. of this section.
37 “Victim” also includes the spouse, parent, legal guardian,
38 grandparent, child, sibling, domestic partner, or civil union partner
39 of the decedent in the case of a person’s death.

40 “Video streaming service” means a service that transmits video
41 content over the Internet that is played continuously without
42 download.

43 b. A natural person commits a crime of the third degree if,
44 without license or privilege to do so, the person generates or

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AAP committee amendments adopted June 24, 2024.

²Assembly ABU committee amendments adopted June 26, 2024.

1 creates, or causes to be generated or created, a work of deceptive
2 audio or visual media with the intent that it be used as part of a plan
3 or course of conduct to commit any crime or offense, including but
4 not limited to:

5 (1) a crime or offense under chapters 14, 16, 20, 21, 28, or 29 of
6 Title 2C of the New Jersey Statutes;

7 (2) advertising commercial sex abuse of a minor, pursuant to
8 subsection b. of section 12 of P.L.2013, c.51 (C.2C:13-10);

9 (3) endangering the welfare of children, pursuant to
10 N.J.S.2C:24-4;

11 (4) threats or improper influence in official and political matters,
12 pursuant to N.J.S.2C:27-3;

13 (5) false public alarms, pursuant to N.J.S.2C:33-3;

14 (6) harassment, pursuant to N.J.S.2C:33-4;

15 (7) cyber-harassment, pursuant to section 1 of P.L.2013, c.272
16 (C.2C:33-4.1); or

17 (8) hazing, pursuant to section 1 of P.L.1980, c.169 (C.2C:40-3).

18 The trier of fact may infer that a work of deceptive audio or
19 visual media was generated or created without license or privilege
20 to do so if the work was generated or created using a commercially
21 or publicly available generative artificial intelligence system in
22 violation of the terms of service, terms of use, or end user license
23 agreement of the system.

24 c. (1) A natural person commits a crime of the third degree if,
25 without license or privilege to do so, the person solicits, discloses,
26 or uses a work of deceptive audio or visual media as part of a plan
27 or course of conduct to commit any crime or offense, including but
28 not limited to any crime or offense listed in subsection b. of this
29 section.

30 (2) ²**[A]** Except as otherwise provided in subsection g. of this
31 section, a² natural person commits a crime of the third degree if,
32 without license or privilege to do so, the person discloses a work of
33 deceptive audio or visual media that the person knows or reasonably
34 should know was created in violation of subsection b. of this
35 section.

36 d. In addition to any term of imprisonment imposed pursuant to
37 N.J.S.2C:43-6 and notwithstanding the provisions of subsection b.
38 of N.J.S.2C:43-3, a fine of up to \$30,000 may be imposed for a
39 violation of this section.

40 e. Notwithstanding the provisions of N.J.S.2C:1-8 or any other
41 provisions of law:

42 (1) a conviction arising under subsection b. of this section shall
43 not merge with a conviction under subsection c. of this section, nor
44 shall a conviction under subsection c. of this section merge with a
45 conviction under subsection b. of this section; and

46 (2) a conviction arising under subsection b. or paragraph (1) of
47 subsection c. of this section shall not merge with a conviction of
48 any underlying offense, nor shall any conviction for such
49 underlying offense merge with a conviction under subsection b. of

1 this section. The court shall impose ²~~separate~~ consecutive²
2 sentences upon a conviction under subsection b. or paragraph (1) of
3 subsection c. of this section and a conviction of any underlying
4 offense.

5 f. A ¹natural¹ person who violates the provisions of
6 P.L. , c. (C.) (pending before the Legislature as this bill)
7 shall be liable to the victim of the violation, and the victim may
8 bring a civil action in the Superior Court. The court may award:

9 (1) actual damages, but not less than liquidated damages
10 computed at the rate of \$1,000 for each violation of P.L. , c.
11 (C.) (pending before the Legislature as this bill);

12 (2) punitive damages upon proof of willful or reckless disregard
13 of the law;

14 (3) reasonable attorney's fees and other litigation costs
15 reasonably incurred; and

16 (4) other such preliminary and equitable relief as the court
17 determines appropriate.

18 A conviction for a violation of P.L. , c. (C.) (pending
19 before the Legislature as this bill) shall not be a prerequisite for a
20 civil action brought pursuant to this subsection. The civil action
21 authorized by this subsection shall be in addition to, and not in lieu
22 of, any other civil action, injunctive relief, or other remedy
23 available at law, including, but not limited to, a civil action for
24 common law defamation, libel, slander, invasion of privacy, false
25 light, misappropriation of identity, intrusion of privacy, or public
26 disclosure of private facts.

27 g. (1) ²~~It shall be deemed a fair use and shall not be a~~
28 ~~violation of~~² P.L. , c. (C.) (pending before the
29 Legislature as this bill) ²~~if a work of deceptive audio or visual~~
30 ~~media~~¹~~,] is~~¹ clearly identified as a work of deceptive audio or
31 visual media ¹~~or, if the deceptive nature of the work is unknown or~~
32 ~~unverified, but is clearly identified as a possible work of deceptive~~
33 ~~audio or visual media~~¹, is disclosed in connection with] ~~shall not~~
34 ~~apply to content that constitutes~~² criticism, comment, satire, parody,
35 news reporting, teaching, scholarship, or research ²~~, pursuant to 17~~
36 ~~U.S.C. s.107] that a reasonable viewer or listener would not believe~~
37 ~~to authentically depict speech or conduct~~².

38 (2) P.L. , c. (C.) (pending before the Legislature as this
39 bill) ¹~~shall not apply to an interactive computer service provider,~~
40 ~~cloud services provider, or commercial developer or provider of~~
41 ~~artificial intelligence technology~~², ~~where such developer or~~
42 ~~provider is not deemed to be a publisher, speaker, or information~~
43 ~~content provider pursuant to 47 U.S.C. s.230~~², ~~and~~¹ shall not be
44 construed to alter or negate any rights, obligations, or immunities of
45 an interactive computer service provider ¹~~or cloud services~~
46 ~~provider~~¹ pursuant to 47 U.S.C. s.230¹~~, and shall not apply to a~~
47 commercial developer or provider of artificial intelligence

1 technology, provided that to the extent the provider or developer
2 allows for the public dissemination of consumer generated media as
3 that term is defined pursuant to paragraph (14) of 47 U.S.C. s.153,
4 the provider or developer exercises commercially reasonable efforts
5 to ensure that consumer generated media does not violate this
6 section¹.

7 (3) P.L. , c. (C.) (pending before the Legislature as this
8 bill) shall not apply to any broadcasting station, cable service, radio
9 station, telecommunications carrier, or television station, as those
10 terms are defined pursuant to 47 U.S.C. s.153, or to any billboard,
11 Internet website, mobile application, video streaming service,
12 newspaper, magazine, publication, ²[or]² printed matter ², or other
13 advertising channel or medium² through which an advertisement
14 containing deceptive audio or visual media appears ², where the
15 advertising channel or medium's role in disclosing the
16 advertisement is limited to the selling of advertising time or space,
17 or where an advertising channel or medium is prohibited by federal
18 law from censoring the advertisement regardless of its content^{2 1} [,
19 when the owner, publisher, or operator of the advertising medium
20 has no knowledge of the intent, design, or purpose of the
21 advertiser]¹.

22 (4) This section shall not apply to any broadcasting station,
23 including a cable or satellite television company, programmer, or
24 producer, an Internet website, ²video streaming service,² or a
25 regularly published newspaper, magazine, or other periodical of
26 general circulation, including an Internet or electronic publication,
27 that routinely carries news and commentary of general interest, and
28 that broadcasts or publishes any deceptive audio or visual media
29 prohibited by this section ²solely² for the purpose of disseminating
30 newsworthy facts; provided that ²if the deceptive nature of the work
31 is known or verified,² the broadcast or publication shall clearly
32 contain a disclaimer which is either shown or read aloud that
33 identifies ²the work as a work of² deceptive audio or visual media
34 ²[and states that the deceptive audio or visual media contains
35 manipulated images or sound]². ²[¹If the deceptive nature of the
36 work is unknown or unverified, the broadcast or publication shall
37 clearly contain a disclaimer which is either shown or read aloud that
38 identifies the work as a possible work of deceptive audio or visual
39 media.¹]²

40 (5) It shall not be a violation of this section to disclose any
41 deceptive audio or visual media to law enforcement officers in
42 connection with a criminal investigation or prosecution of a
43 violation of this section¹ [, or]¹; ¹pursuant to a subpoena or court
44 order requiring the disclosure of a work of deceptive audio or visual
45 media¹; or in furtherance of an investigation concerning fraud,

1 cybersecurity, identity theft, harassment, or a violation of a
2 commercial computer network's contractual terms of service¹.

3

4 2. This act shall take effect immediately.

[Third Reprint]

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 3540

STATE OF NEW JERSEY
221st LEGISLATURE

ADOPTED MAY 20, 2024

Sponsored by:

Assemblyman HERB CONAWAY, JR.

District 7 (Burlington)

Assemblyman LOUIS D. GREENWALD

District 6 (Burlington and Camden)

Assemblywoman ELLEN J. PARK

District 37 (Bergen)

Senator PAUL D. MORIARTY

District 4 (Atlantic, Camden and Gloucester)

Senator KRISTIN M. CORRADO

District 40 (Bergen, Essex and Passaic)

Co-Sponsored by:

Assemblywomen Quijano, Haider, Assemblymen Karabinchak, Wimberly, Stanley, Sampson, Miller, Assemblywomen Bagolie, Lampitt, Speight, Ramirez, Swain, Assemblymen Hutchison, Tully, Senators Bramnick, Turner, Scutari, Amato and Assemblywoman Hall

SYNOPSIS

Establishes criminal penalties for production or dissemination of deceptive audio or visual media, commonly known as “deepfakes.”

CURRENT VERSION OF TEXT

As amended on March 17, 2025 by the General Assembly pursuant to the Governor's recommendations.

(Sponsorship Updated As Of: 3/24/2025)

1 AN ACT establishing ³civil and³ criminal penalties for the
2 production and dissemination of deceptive audio or visual media
3 and supplementing Title 2C of the New Jersey Statutes.
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
7

8 ³1. The Legislature finds and declares that:

9 a. Technological advances in artificial intelligence have resulted in
10 widespread accessibility to sophisticated “deepfake” technology,
11 which can be used to manipulate audio and visual content to create
12 deceptive audio and visual media depictions that often cannot be
13 distinguished from reality.

14 b. Digitally altered media generated with this technology can
15 produce false and deceptive, but completely realistic and convincing,
16 media depicting events that never happened, interactions that never
17 took place, conduct that never occurred, and statements that were
18 never made.

19 c. While there are numerous valid and appropriate uses for this
20 sophisticated technology, such as criticism, comment, satire, parody,
21 news reporting, teaching, scholarship, or research, it may also be used
22 inappropriately, to deceive, humiliate, or violate the privacy of
23 individuals who are portrayed in deceptive audio and visual media
24 without their consent.

25 d. It is manifest that lawbreakers will use all available tools to
26 subvert the law, and “deepfake” technology, which may be readily
27 accessed through the Internet or computer software programs, can be a
28 powerful tool to accomplish illicit ends. Utilizing “deepfake”
29 technology, bad actors may engage in a broad range of criminal or
30 unlawful conduct such as creating audio and visual media depictions
31 of sexual abuse and sexual exploitation involving children or non-
32 consenting adults, creating false, misleading, and misattributed
33 political advertising and campaign materials, and targeting individuals
34 and corporate entities for harassment, damaging reputations and
35 ruining lives. Punishment for committing a crime using “deepfake”
36 technology should be cumulative, as the impact of the underlying
37 criminal conduct is amplified through the insidious use of “deepfake”
38 technology as the means to break the law.

39 e. With the readily available amplifiers of the Internet and social
40 media, digital media can be both ubiquitous and enduring, and the
41 harm to a person falsely depicted in a “deepfake” image or visual or
42 audio recording can result in widespread and pervasive emotional
43 distress, reputational damage, and indelible harm to that person’s
44 personal and professional relationships.

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined **thus** is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AAP committee amendments adopted June 24, 2024.

²Assembly ABU committee amendments adopted June 26, 2024.

³Assembly amendments adopted in accordance with Governor's recommendations March 17, 2025.

1 f. There is a compelling State interest in fostering the appropriate
2 use of “deepfake” technology and deterring the inappropriate
3 application of this technology to commit illicit conduct, in a way that
4 safeguards the health, safety, and welfare of the public without unduly
5 infringing on the First Amendment rights of content creators.
6 Similarly, the State has a compelling interest in protecting the privacy
7 and reputational interests of residents who might otherwise be falsely
8 depicted through “deepfake” technology, and in providing them a
9 meaningful mechanism through which to obtain appropriate redress.

10 g. While civil liability and enforcement may to some extent
11 prevent the misuse of this technology in furtherance of criminal
12 activity, the relative ease with which this technology may be accessed
13 and deployed, measured against the magnitude of the indelible and
14 long-lasting harms its use can inflict upon victims and their families,
15 warrants more severe consequences to more effectively punish and
16 deter the inappropriate use of “deepfake” technology.

17 h. Accordingly, the Legislature finds that it is necessary and
18 proper to establish robust specific criminal penalties to punish and
19 deter the use of “deepfake” technology to generate or create works of
20 deceptive audio or visual media for the purpose of attempting or
21 furthering the commission of a crime or offense, or to solicit, disclose,
22 or use a work of deceptive audio or visual media for that purpose, and
23 by providing the aggrieved victims of such conduct a civil recourse by
24 which they may seek appropriate recompense.³

25
26 ³[1.] 2.³ a. As used in P.L. , c. (C.) (pending before the
27 Legislature as this bill):

28 “Deceptive audio or visual media” means any video recording,
29 motion picture film, sound recording, electronic image, photograph,
30 any technological representation of speech or conduct substantially
31 derivative thereof, or any forgery or facsimile of a document or
32 writing, that appears to a reasonable person to realistically depict any
33 speech, conduct, or writing of a person who did not in fact engage in
34 the speech, conduct, or writing, and the production of which was
35 substantially dependent upon technical means, rather than the ability of
36 another person to physically or verbally impersonate the person.

37 “Disclose” means to sell, give, provide, lend, trade, mail, deliver,
38 transfer, publish, distribute, circulate, disseminate, present, exhibit,
39 advertise, offer, share, or make ³externally³ available via the Internet
40 or by any other means, whether or not for pecuniary gain.

41 “Interactive computer service provider” shall have the same
42 meaning as set forth in 47 U.S.C. s.230.

43 “Solicit” means to offer to create or generate, or to advertise the
44 ability to create or generate, a work of deceptive audio or visual media,
45 whether or not for hire, commission, monetary remuneration, or
46 pecuniary gain. “Solicit” shall also mean to request the creation or
47 generation of a work of deceptive audio or visual media, whether or
48 not for monetary remuneration or compensation.

1 “Victim” means a person who suffers personal, physical, or
2 psychological injury or death or incurs loss of or injury to personal or
3 real property as a result of the conduct of another that would constitute
4 a violation of subsections b. or c. of this section. “Victim” also
5 includes the spouse, parent, legal guardian, grandparent, child, sibling,
6 domestic partner, or civil union partner of the decedent in the case of a
7 person’s death.

8 “Video streaming service” means a service that transmits video
9 content over the Internet that is played continuously without
10 download.

11 b. A natural person commits a crime of the third degree if,
12 without license or privilege to do so, the person generates or creates, or
13 causes to be generated or created, a work of deceptive audio or visual
14 media ³【with the intent that it be used as part of a plan or course of
15 conduct to commit】 for the purpose of attempting or furthering the
16 commission of³ any crime or offense, ³or with the knowledge that the
17 work is to be used by another for such purpose,³ including but not
18 limited to:

19 (1) a crime or offense under chapters 14, 16, 20, 21, 28, or 29 of
20 Title 2C of the New Jersey Statutes;

21 (2) advertising commercial sex abuse of a minor, pursuant to
22 subsection b. of section 12 of P.L.2013, c.51 (C.2C:13-10);

23 (3) endangering the welfare of children, pursuant to N.J.S.2C:24-
24 4;

25 (4) threats or improper influence in official and political matters,
26 pursuant to N.J.S.2C:27-3;

27 (5) false public alarms, pursuant to N.J.S.2C:33-3;

28 (6) harassment, pursuant to N.J.S.2C:33-4;

29 (7) cyber-harassment, pursuant to section 1 of P.L.2013, c.272
30 (C.2C:33-4.1); or

31 (8) hazing, pursuant to section 1 of P.L.1980, c.169 (C.2C:40-3).

32 ³【The trier of fact may infer that a work of deceptive audio or
33 visual media was generated or created without license or privilege to
34 do so if the work was generated or created using a commercially or
35 publicly available generative artificial intelligence system in violation
36 of the terms of service, terms of use, or end user license agreement of
37 the system.】³

38 c. (1) A natural person commits a crime of the third degree if,
39 without license or privilege to do so, the person solicits, discloses, or
40 uses a work of deceptive audio or visual media ³【as part of a plan or
41 course of conduct to commit】 for the purpose of attempting or
42 furthering the commission of³ any crime or offense,³or with the
43 knowledge that the work is to be used by another for such purpose,³
44 including but not limited to any crime or offense listed in subsection b.
45 of this section.

46 (2) ²【A】 Except as otherwise provided in subsection g. of this
47 section, a² natural person commits a crime of the ³【third】 fourth³
48 degree if, without license or privilege to do so, the person ³knowingly

1 or recklessly³ discloses a work of deceptive audio or visual media
2 ³**[that the person knows or reasonably should know was]**³ created in
3 violation of subsection b. of this section.

4 d. In addition to any term of imprisonment imposed pursuant to
5 N.J.S.2C:43-6 and notwithstanding the provisions of subsection b. of
6 N.J.S.2C:43-3, a fine of up to \$30,000 may be imposed for a violation
7 of this section.

8 e. Notwithstanding the provisions of N.J.S.2C:1-8 or any other
9 provisions of law:

10 (1) a conviction arising under subsection b. of this section shall
11 not merge with a conviction under subsection c. of this section, nor
12 shall a conviction under subsection c. of this section merge with a
13 conviction under subsection b. of this section; and

14 (2) a conviction arising under subsection b. or paragraph (1) of
15 subsection c. of this section shall not merge with a conviction of any
16 underlying offense, nor shall any conviction for such underlying
17 offense merge with a conviction under subsection b. of this section.
18 The court shall impose ²**[separate]** consecutive² sentences upon a
19 conviction under subsection b. or paragraph (1) of subsection c. of this
20 section and a conviction of any underlying offense.

21 f. A ¹natural¹ person who violates the provisions of
22 P.L. , c. (C.) (pending before the Legislature as this bill) shall
23 ³also³ be liable to the victim of the violation, and the victim may bring
24 a civil action in the Superior Court. The court may award:

25 (1) actual damages, but not less than liquidated damages
26 computed at the rate of \$1,000 for each ³knowing or reckless³
27 violation of P.L. , c. (C.) (pending before the Legislature as
28 this bill);

29 (2) punitive damages upon proof of willful ³**[or reckless]**³
30 disregard of the law;

31 (3) reasonable attorney's fees and other litigation costs reasonably
32 incurred; and

33 (4) other such preliminary and equitable relief as the court
34 determines appropriate.

35 A conviction for a violation of P.L. , c. (C.) (pending
36 before the Legislature as this bill) shall not be a prerequisite for a civil
37 action brought pursuant to this subsection. The civil action authorized
38 by this subsection shall be in addition to, and not in lieu of, any other
39 civil action, injunctive relief, or other remedy available at law,
40 including, but not limited to, a civil action for common law
41 defamation, libel, slander, invasion of privacy, false light,
42 misappropriation of identity, intrusion of privacy, or public disclosure
43 of private facts.

44 g. (1) ²**[It shall be deemed a fair use and shall not be a violation**
45 **of]**² P.L. , c. (C.) (pending before the Legislature as this bill)
46 ²**[if a work of deceptive audio or visual media**¹**[,] is**¹
47 **identified as a work of deceptive audio or visual media** ¹or, if the
48 deceptive nature of the work is unknown or unverified, but is clearly

1 identified as a possible work of deceptive audio or visual media¹, is
2 disclosed in connection with] shall not apply to content that
3 ³[constitutes²] a reasonable viewer or listener would understand to
4 constitute³ criticism, comment, satire, parody, news reporting,
5 teaching, scholarship, ³[or]³ research ³, or to any content³ ²],
6 pursuant to 17 U.S.C. s.107] that a reasonable viewer or listener
7 would not believe to authentically depict speech or conduct².

8 (2) P.L. , c. (C.) (pending before the Legislature as this
9 bill) shall not apply to an interactive computer service provider, cloud
10 services provider, or commercial developer or provider of artificial
11 intelligence technology ², where such developer or provider is not
12 deemed to be a publisher, speaker, or information content provider
13 pursuant to 47 U.S.C. s.230², and¹ shall not be construed to alter or
14 negate any rights, obligations, or immunities of an interactive
15 computer service provider ¹or cloud services provider¹ pursuant to 47
16 U.S.C. s.230¹], and shall not apply to a commercial developer or
17 provider of artificial intelligence technology, provided that to the
18 extent the provider or developer allows for the public dissemination of
19 consumer generated media as that term is defined pursuant to
20 paragraph (14) of 47 U.S.C. s.153, the provider or developer exercises
21 commercially reasonable efforts to ensure that consumer generated
22 media does not violate this section].¹

23 (3) P.L. , c. (C.) (pending before the Legislature as this
24 bill) shall not apply to any broadcasting station, cable service, radio
25 station, ³or³ telecommunications carrier, ³[or television station,]³ as
26 those terms are defined pursuant to 47 U.S.C. s.153, or to any
27 ³television station,³ billboard, Internet website, mobile application,
28 video streaming service, newspaper, magazine, publication, ²[or]²
29 printed matter ², or other advertising channel or medium² through
30 which an advertisement containing deceptive audio or visual media
31 appears ², where the advertising channel or medium's role in
32 disclosing the advertisement is limited to the selling of advertising
33 time or space, or where an advertising channel or medium is prohibited
34 by federal law from censoring the advertisement regardless of its
35 content² ¹], when the owner, publisher, or operator of the advertising
36 medium has no knowledge of the intent, design, or purpose of the
37 advertiser]¹.

38 (4) This section shall not apply to any broadcasting station,
39 including a cable or satellite television company, programmer, or
40 producer, an Internet website, ²video streaming service,² or a regularly
41 published newspaper, magazine, or other periodical of general
42 circulation, including an Internet or electronic publication, that
43 routinely carries news and commentary of general interest, and that
44 broadcasts or publishes any deceptive audio or visual media prohibited
45 by this section ²solely² for the purpose of disseminating newsworthy
46 facts; provided that ²if the deceptive nature of the work is known or

1 verified,² the broadcast or publication shall clearly contain a
2 disclaimer which is either shown or read aloud that identifies ²the
3 work as a work of² deceptive audio or visual media ²[and states that
4 the deceptive audio or visual media contains manipulated images or
5 sound]². ²[¹If the deceptive nature of the work is unknown or
6 unverified, the broadcast or publication shall clearly contain a
7 disclaimer which is either shown or read aloud that identifies the work
8 as a possible work of deceptive audio or visual media.¹²

9 (5) It shall not be a violation of this section to disclose any
10 deceptive audio or visual media to law enforcement officers in
11 connection with a criminal investigation or prosecution of a violation
12 of this section¹[, or]¹ pursuant to a subpoena or court order requiring
13 the disclosure of a work of deceptive audio or visual media¹; ³to a
14 school administrator, attorney, family member, or other advocate for
15 purposes of reporting conduct that may constitute a violation of this
16 section;³ or in furtherance of an investigation concerning fraud,
17 cybersecurity, identity theft, harassment, or a violation of a
18 commercial computer network's contractual terms of service¹.

19

20 ³[2.] 3.³ This act shall take effect immediately.

ASSEMBLY SCIENCE, INNOVATION AND TECHNOLOGY
COMMITTEE

STATEMENT TO
ASSEMBLY, No. 3540

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 4, 2024

The Assembly Science, Innovation and Technology Committee reports favorably and with committee amendments Assembly Bill No. 3540.

As amended and reported, this bill establishes criminal penalties for the production or dissemination of deceptive audio or visual media, commonly known as “deepfakes.”

As amended, the bill defines deceptive audio or visual media as “any video recording, motion picture film, sound recording, electronic image, photograph, any technological representation of speech or conduct substantially derivative thereof, or any forgery or facsimile of a document or writing, that appears to a reasonable person to realistically depict any speech, conduct, or writing of a person who did not in fact engage in the speech, conduct, or writing and the production of which was substantially dependent upon technical means, rather than the ability of another person to physically or verbally impersonate the person.

The bill establishes a crime of the third degree if a person, without license or privilege to do so, generates or creates, or causes to be generated or created, deceptive audio or visual media that is used as part of a plan or course of conduct to commit any crime or offense including but not limited to certain crimes of offenses listed in the bill.

The bill also establishes a crime of the third degree if a person, without license or privilege to do so, discloses a work of deceptive audio or visual media that the person knows or should reasonably know was created in violation of the provisions of this bill. As amended, the bill establishes an affirmative defense if the disclosed work is clearly identified as a work of deceptive audio or visual media, but such affirmative defense shall not apply where the disclosed work depicts nudity or pornography. A crime of the third degree is ordinarily punishable by a term of three to five years imprisonment, a fine of up to \$15,000, or both. However, the bill provides that a court may impose a fine of up to \$30,000.

Under the bill, a person would be liable to the individual depicted in the deceptive audio or visual media, who may bring a civil action in

the Superior Court. The bill further provides that a conviction is not to be a prerequisite for a civil action. The civil action authorized by this bill is to be in addition to, and not in lieu of any other civil action, injunctive relief, or other remedy available at law. The bill further provides that a final judgment rendered in favor of the State in any criminal proceeding prevents the person from denying the same conduct in any civil action brought under the bill.

The bill provides that it should not be construed to alter or negate any rights, obligations, or immunities of an interactive computer service provider under federal law. The bill also provides that criminal and civil penalties imposed pursuant to the bill only apply to the news media or a news agency if the news media or agency broadcasts or publishes a work of deceptive audio or visual media that the news media or agency knows was created in violation of the bill, and fails to clearly identify the work as deceptive audio or visual media.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

- (1) change the definition of “deceptive audio or visual media”;
- (2) establish an affirmative defense to prosecution for unlawful disclosure of deceptive audio or visual media if the disclosed work is clearly identified as a work of deceptive audio or visual media, but such affirmative defense shall not apply where the disclosed work depicts nudity or pornography;
- (3) provide that a person commits a crime of the third degree if, without license or privilege to do so, the person generates or creates, or causes to be generated or created, a work of deceptive audio or visual media used as part of a plan or course of conduct to commit any crime or offense including, but not limited to, certain crimes and offenses listed in the bill. As introduced, the bill provides that a person commits a crime of the third degree, if without license or privilege to do so, the person generates or creates, or causes to be generated or created, a work of deceptive audio or visual media for an unlawful purpose and provides that a trier of fact may infer the deceptive audio or visual media was generated or created for an unlawful purpose if the work is subsequently used as part of a plan or course of conduct to commit certain offenses listed in the bill as introduced; and
- (4) provide that a conviction arising under this bill will not merge with another conviction arising under this bill or with any of the underlying offenses outlined in this bill.

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR ASSEMBLY, No. 3540

STATE OF NEW JERSEY

DATED: MAY 20, 2024

The Assembly Judiciary Committee reports favorably an Assembly Committee Substitute for Assembly Bill No. 3540.

This bill establishes criminal and civil penalties for the production or dissemination of deceptive audio or visual media, commonly known as “deepfakes.”

PROHIBITIONS

The bill establishes a crime of the third degree if a natural person, without license or privilege to do so, generates or creates, or causes to be generated or created, deceptive audio or visual media with the intent that it be used as part of a plan or course of conduct to commit any crime, including but not limited to:

- (1) a crime or offense under chapters 14 (sexual offenses), 16 (bias crimes), 20 (theft), 21 (forgery and fraud), 28 (perjury), or 29 (obstruction of justice) of Title 2C of the New Jersey Statutes;
- (2) advertising commercial sex abuse of a minor;
- (3) endangering the welfare of children and child pornography;
- (4) threats or improper influence in official and political matters;
- (5) false public alarms;
- (6) harassment;
- (7) cyber-harassment; or
- (8) hazing.

The trier of fact may infer that a work of deceptive audio or visual media was generated or created without license or privilege to do so if the work was generated or created using a commercially or publicly available generative artificial intelligence system in violation of the terms of service, terms of use, or end user license agreement of the system.

The bill also establishes a crime of the third degree if a natural person, without license or privilege to do so, solicits, uses, or discloses a work of deceptive audio or visual media as part of a plan or course of conduct to commit any crime.

The bill also establishes a crime of the third degree if a natural person, without license or privilege to do so, discloses a work of deceptive audio or visual media that the person knows or should reasonably know was created in violation of this bill.

CRIMINAL PENALTIES

A crime of the third degree is punishable by a three to five year term of imprisonment, a fine of up to \$15,000, or both. In addition, the bill imposes an additional fine of up to \$30,000. A conviction for a violation of this bill does not merge with a conviction for the underlying crime in which the deepfake is used.

CIVIL REMEDIES

Under the bill, a person would be liable to the victim of a violation of the bill, who may bring a civil action in the Superior Court. Victims are not limited to persons depicted in the deepfake, but includes any person who suffers personal, physical, or psychological injury or incurs loss of or injury to personal or real property as a result of the violation. The bill further provides that a conviction is not a prerequisite for a civil action. The civil action authorized by this bill is to be in addition to, and not in lieu of any other civil action, injunctive relief, or other remedy available at law.

EXCEPTIONS

The bill contains certain free speech exceptions if a deepfake that is clearly identified as a work of deceptive audio or visual media is disclosed in connection with criticism, comment, satire, parody, news reporting, teaching, scholarship, or research. Additionally, the bill does not apply to interactive computer service providers pursuant to 47 U.S.C. s.230, such as websites or social media platforms, nor to developers or providers of artificial intelligence technology, provided that to the extent the developer provider allows for the public dissemination of consumer generated media, the developer or provider exercises commercially reasonable efforts to ensure that consumer generated media does not violate the bill. The bill does not apply to television, cable, or radio stations, or other carriers of advertising, such as websites, billboards, newspapers, magazines, mobile apps, or streaming video platforms, through which an advertisement containing deceptive audio or visual media appears, when the owner, publisher, or operator of the advertising medium has no knowledge of the intent, design, or purpose of the advertiser. Finally, the bill does not apply to broadcasters, websites, newspapers, or magazines that routinely carry news and commentary of general interest that broadcast or publish a deepfake, provided that it is done for the purpose of disseminating newsworthy facts and contains a disclaimer concerning the inaccurate nature of the deepfake.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR **ASSEMBLY, No. 3540**

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 24, 2024

The Assembly Appropriations Committee reports favorably and with committee amendments Assembly Bill No. 3540 ACS.

This bill establishes criminal and civil penalties for the production or dissemination of deceptive audio or visual media, commonly known as “deepfakes.” As amended, the bill clarifies certain free speech exceptions applicable to interactive computer service providers, cloud services providers, commercial developers or providers of artificial intelligence technology, advertisers, the news media, and other media companies.

Prohibitions

The bill establishes a crime of the third degree if a natural person, without license or privilege to do so, generates or creates, or causes to be generated or created, deceptive audio or visual media with the intent that it be used as part of a plan or course of conduct to commit any crime, including but not limited to:

- (1) a crime or offense under chapters 14 (sexual offenses), 16 (bias crimes), 20 (theft), 21 (forgery and fraud), 28 (perjury), or 29 (obstruction of justice) of Title 2C of the New Jersey Statutes;
- (2) advertising commercial sex abuse of a minor;
- (3) endangering the welfare of children and child pornography;
- (4) threats or improper influence in official and political matters;
- (5) false public alarms;
- (6) harassment;
- (7) cyber-harassment; or
- (8) hazing.

The trier of fact may infer that a work of deceptive audio or visual media was generated or created without license or privilege to do so if the work was generated or created using a commercially or publicly available generative artificial intelligence system in violation of the terms of service, terms of use, or end user license agreement of the system.

The bill also establishes a crime of the third degree if a natural person, without license or privilege to do so, solicits, uses, or discloses

a work of deceptive audio or visual media as part of a plan or course of conduct to commit any crime.

The bill also establishes a crime of the third degree if a natural person, without license or privilege to do so, discloses a work of deceptive audio or visual media that the person knows or should reasonably know was created in violation of this bill.

Criminal Penalties

A crime of the third degree is punishable by a three to five year term of imprisonment, a fine of up to \$15,000, or both. In addition, the bill imposes an additional fine of up to \$30,000. A conviction for a violation of this bill does not merge with a conviction for the underlying crime in which the deepfake is used.

Civil Remedies

Under the bill, a person would be liable to the victim of a violation of the bill, who may bring a civil action in the Superior Court. Victims are not limited to persons depicted in the deepfake, but includes any person who suffers personal, physical, or psychological injury or incurs loss of or injury to personal or real property as a result of the violation. The bill further provides that a conviction is not a prerequisite for a civil action. The civil action authorized by this bill is to be in addition to, and not in lieu of any other civil action, injunctive relief, or other remedy available at law.

Exceptions

As amended, the bill contains certain free speech exceptions if a deepfake that is clearly identified as a work of deceptive audio or visual media or, if the deceptive nature of the work is unknown or unverified, clearly identified as a possible work of deceptive audio or visual media, is disclosed in connection with criticism, comment, satire, parody, news reporting, teaching, scholarship, or research. Additionally, the bill does not apply to interactive computer service providers, cloud services providers, or commercial developer or provider of artificial intelligence technology pursuant to 47 U.S.C. s.230. The bill does not apply to television, cable, or radio stations, or other carriers of advertising, such as websites, billboards, newspapers, magazines, mobile apps, or streaming video platforms, through which an advertisement containing deceptive audio or visual media appears. The bill does not apply to broadcasters, websites, newspapers, or magazines that routinely carry news and commentary of general interest that broadcast or publish a deepfake, provided that it is done for the purpose of disseminating newsworthy facts and contains a disclaimer concerning the inaccurate nature of the deepfake. If the deceptive nature of the work is unknown or unverified, the broadcast or publication is required to clearly contain a disclaimer which is either shown or read aloud that identifies the work as a possible work

of deceptive audio or visual media. Finally, the bill does not apply to disclosures in connection with a law enforcement investigation or pursuant to court order, or in furtherance of an investigation concerning fraud, cybersecurity, identity theft, harassment, or a violation of a commercial computer network's contractual terms of service.

COMMITTEE AMENDMENTS:

The committee amended the bill to clarify that:

1. If the deceptive nature of the work is unknown or unverified, a person disclosing a possible deepfake is required to clearly identify the work as a possible work of deceptive audio or visual media in order to comply with the bill;

2. The bill will not apply to an interactive computer service provider, cloud services provider, or commercial developer or provider of artificial intelligence technology.

3. The bill no longer requires that an interactive computer service provider, cloud services provider, or commercial developer or provider of artificial intelligence technology exercise commercially reasonable efforts to ensure that consumer generated media does not violate the bill;

4. The bill will not apply to advertisers whether or not the advertiser has knowledge of the intent, design, or purpose of the advertiser; and

5. Disclosure of a deepfake can be allowed in connection with a law enforcement investigation, pursuant to a court order, or in furtherance of an investigation concerning fraud, cybersecurity, identity theft, harassment, or a violation of a commercial computer network's contractual terms of service.

FISCAL IMPACT:

Fiscal information for this bill is currently unavailable.

ASSEMBLY BUDGET COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY COMMITTEE SUBSTITUTE FOR ASSEMBLY, No. 3540

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 26, 2024

The Assembly Budget Committee reports favorably and with committee amendments Assembly Bill No. 3540 (1R) ACS.

This bill establishes criminal and civil penalties for the production or dissemination of deceptive audio or visual media, commonly known as “deepfakes.” As amended, the bill clarifies certain free speech exceptions applicable to interactive computer service providers, cloud services providers, commercial developers or providers of artificial intelligence technology, advertisers, the news media, and other media companies.

Prohibitions

The bill establishes a crime of the third degree if a natural person, without license or privilege to do so, generates or creates, or causes to be generated or created, deceptive audio or visual media with the intent that it be used as part of a plan or course of conduct to commit any crime, including but not limited to:

- (1) a crime or offense under chapters 14 (sexual offenses), 16 (bias crimes), 20 (theft), 21 (forgery and fraud), 28 (perjury), or 29 (obstruction of justice) of Title 2C of the New Jersey Statutes;
- (2) advertising commercial sex abuse of a minor;
- (3) endangering the welfare of children and child pornography;
- (4) threats or improper influence in official and political matters;
- (5) false public alarms;
- (6) harassment;
- (7) cyber-harassment; or
- (8) hazing.

The trier of fact may infer that a work of deceptive audio or visual media was generated or created without license or privilege to do so if the work was generated or created using a commercially or publicly available generative artificial intelligence system in violation of the terms of service, terms of use, or end user license agreement of the system.

The bill also establishes a crime of the third degree if a natural person, without license or privilege to do so, solicits, uses, or discloses a work of deceptive audio or visual media as part of a plan or course of conduct to commit any crime.

The bill also establishes a crime of the third degree if a natural person, without license or privilege to do so, discloses a work of deceptive audio or visual media that the person knows or should reasonably know was created in violation of this bill.

Criminal Penalties

A crime of the third degree is punishable by a three to five year term of imprisonment, a fine of up to \$15,000, or both. In addition, the bill imposes an additional fine of up to \$30,000. A conviction for a violation of this bill does not merge with a conviction for the underlying crime in which the deepfake is used.

Civil Remedies

Under the bill, a person would be liable to the victim of a violation of the bill, who may bring a civil action in the Superior Court. Victims are not limited to persons depicted in the deepfake, but includes any person who suffers personal, physical, or psychological injury or incurs loss of or injury to personal or real property as a result of the violation. The bill further provides that a conviction is not a prerequisite for a civil action. The civil action authorized by this bill is to be in addition to, and not in lieu of any other civil action, injunctive relief, or other remedy available at law.

Exceptions

As amended, the bill contains certain free speech exceptions if a deepfake is disclosed in connection with criticism, comment, satire, parody, news reporting, teaching, scholarship, or research that a reasonable viewer or listener would not believe to authentically depict speech or conduct. Additionally, the bill does not apply to interactive computer service providers, cloud services providers, or commercial developer or provider of artificial intelligence technology pursuant to 47 U.S.C. s.230. The bill does not apply to television, cable, or radio stations, or other carriers of advertising, such as websites, billboards, newspapers, magazines, mobile apps, or streaming video platforms through which an advertisement containing deceptive audio or visual media appears, where the advertising channel or medium's role in disclosing the advertisement is limited to the selling of advertising time or space, or where an advertising channel or medium is prohibited by federal law from censoring the advertisement regardless of its content. The bill does not apply to broadcasters, websites, newspapers, or magazines that routinely carry news and commentary of general interest that broadcast or publish a deepfake, provided that it is done solely for the purpose of disseminating newsworthy facts and

contains a disclaimer identifying the deepfake. Finally, the bill does not apply to disclosures in connection with a law enforcement investigation or pursuant to court order, or in furtherance of an investigation concerning fraud, cybersecurity, identity theft, harassment, or a violation of a commercial computer network's contractual terms of service.

COMMITTEE AMENDMENTS:

The committee amended the bill to clarify that:

1. A person who discloses a deepfake that the person knows or reasonably should know was created in violation of the bill commits a crime of the third degree, unless one of the free speech exception under subsection g. of the bill applies;

2. A sentence for a conviction for a violation of the bill will run consecutively to a sentence for a conviction of the underlying crime pursuant to subsections b. and e. of the bill;

3. The disclosure of a deepfake that constitutes criticism, comment, satire, parody, news reporting, teaching, scholarship, or research does not violate the bill where a reasonable viewer or listener would not believe the deepfake to authentically depict speech or conduct;

4. The bill does not apply to television, cable, or radio stations, or other carriers of advertising, such as websites, billboards, newspapers, magazines, mobile apps, or streaming video platforms, through which an advertisement containing deceptive audio or visual media appears, where the advertising channel or medium's role in disclosing the advertisement is limited to the selling of advertising time or space, or where an advertising channel or medium is prohibited by federal law from censoring the advertisement regardless of its content; and

5. The bill does not apply to broadcasters, websites, newspapers, or magazines that routinely carry news and commentary of general interest that broadcast or publish a deepfake, provided that it is done solely for the purpose of disseminating newsworthy facts and contains a disclaimer identifying the deepfake.

FISCAL IMPACT:

Fiscal information for this bill is currently unavailable.

LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 3540
STATE OF NEW JERSEY
221st LEGISLATURE

DATED: JUNE 25, 2024

SUMMARY

- Synopsis:** Establishes criminal penalties for production or dissemination of deceptive audio or visual media, commonly known as “deepfakes.”
- Type of Impact:** Annual State expenditure and revenue increases.
- Agencies Affected:** The Judiciary; Department of Corrections; Department of Law and Public Safety; Office of the Public Defender; State Parole Board.

Office of Legislative Services Estimate

Fiscal Impact	<u>Annual</u>
State Cost Increase	Indeterminate
State Revenue Increase	Indeterminate

- The Office of Legislative Services (OLS) estimates that this bill may result in indeterminate annual State cost and revenue increases.
- The bill’s establishment of criminal penalties may result in the Department of Law and Public Safety prosecuting additional cases; the Judiciary adjudicating additional cases; the Office of the Public Defender representing additional indigent criminal offenders; the Department of Corrections housing repeat offenders convicted under the bill; and the State Parole Board supervising the return to society of any additional incarcerated persons. The OLS cannot quantify the exact fiscal impact since the number of cases, convictions, and any terms of imprisonment resulting from the bill’s provisions cannot be known.
- The State may realize an indeterminate increase in annual revenues from the collection of regular and enhanced fines and court fees. However, the State’s ability to collect these penalties and fees has historically been limited.

BILL DESCRIPTION

This bill establishes criminal and civil penalties for the production or dissemination of deceptive audio or visual media, commonly known as “deepfakes.”

The bill establishes a crime of the third degree if a natural person, without license or privilege to do so, generates or creates, or causes to be generated or created, deceptive audio or visual media with the intent that it be used as part of a plan or course of conduct to commit any crime, including but not limited to:

(1) a crime or offense under chapters 14 (sexual offenses), 16 (bias crimes), 20 (theft), 21 (forgery and fraud), 28 (perjury), or 29 (obstruction of justice) of Title 2C of the New Jersey Statutes;

(2) advertising commercial sex abuse of a minor;

(3) endangering the welfare of children and child pornography;

(4) threats or improper influence in official and political matters;

(5) false public alarms;

(6) harassment;

(7) cyber-harassment; or

(8) hazing.

The bill also establishes a crime of the third degree if a natural person, without license or privilege to do so, solicits, uses, or discloses a work of deceptive audio or visual media as part of a plan or course of conduct to commit any crime.

The bill also establishes a crime of the third degree if a natural person, without license or privilege to do so, discloses a work of deceptive audio or visual media that the person knows or should reasonably know was created in violation of this bill.

A crime of the third degree is punishable by a three to five year term of imprisonment, a fine of up to \$15,000, or both. In addition, the bill imposes an additional fine of up to \$30,000. A conviction for a violation of this bill does not merge with a conviction for the underlying crime in which the deepfake is used.

Under the bill, a person would be liable to the victim of a violation of the bill, who may bring a civil action in the Superior Court. The civil action authorized by this bill is to be in addition to, and not in lieu of any other civil action, injunctive relief, or other remedy available at law.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that this bill may result in indeterminate annual State cost and revenue increases.

The bill’s establishment of criminal penalties may result in the Department of Law and Public Safety prosecuting additional cases; the Judiciary adjudicating additional cases; the Office of the Public Defender representing additional indigent criminal offenders; the Department of Corrections housing repeat offenders convicted under the bill; and the State Parole Board supervising the return to society of any additional incarcerated persons. The OLS cannot quantify

the exact fiscal impact since the number of cases, convictions, and any terms of imprisonment resulting from the bill's provisions cannot be known.

The OLS notes that since a presumption of non-incarceration generally applies for first-time offenders of crimes of the third degree, the Department of Corrections and the State Parole Board may not necessarily experience an increase in costs for offenders convicted under the bill's provisions.

The bill establishes crimes of the third degree for certain deceptive audio or visual media crimes. A crime of the third degree is ordinarily punishable by a term of three to five years imprisonment, a fine of up to \$15,000, or both. However, the bill provides that a court may impose a fine of up to \$30,000. The State may realize an indeterminate increase in annual revenues from the collection of regular and enhanced fines and court fees; however, the State's ability to collect these penalties and fees has historically been limited.

Section: Judiciary

Analyst: Anuja Pande Joshi
Senior Fiscal Analyst

Approved: Thomas Koenig
Legislative Budget and Finance Officer

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY COMMITTEE SUBSTITUTE FOR

ASSEMBLY, No. 3540

STATE OF NEW JERSEY

221st LEGISLATURE

DATED: JUNE 28, 2024

SUMMARY

- Synopsis:** Establishes criminal penalties for production or dissemination of deceptive audio or visual media, commonly known as “deepfakes.”
- Type of Impact:** Annual State expenditure and revenue increases.
- Agencies Affected:** The Judiciary; Department of Law and Public Safety; Office of the Public Defender.

Office of Legislative Services Estimate

Fiscal Impact	<u>Annual</u>
State Cost Increase	Indeterminate
State Revenue Increase	Indeterminate

- The Office of Legislative Services (OLS) estimates that this bill may result in indeterminate annual State cost and revenue increases.
- The bill’s establishment of criminal penalties may result in the Department of Law and Public Safety prosecuting additional cases; the Judiciary adjudicating additional cases; and the Office of the Public Defender representing additional indigent defendants. The OLS cannot quantify the exact fiscal impact since the number of cases and convictions resulting from the bill’s provisions cannot be known.
- The State may realize an indeterminate increase in annual revenues from the collection of regular and enhanced fines and court fees. However, the State’s ability to collect these penalties and fees has historically been limited.

BILL DESCRIPTION

This bill establishes criminal and civil penalties for the production or dissemination of deceptive audio or visual media, commonly known as “deepfakes.”

The bill establishes a crime of the third degree if a natural person, without license or privilege to do so, generates or creates, or causes to be generated or created, deceptive audio or visual media with the intent that it be used as part of a plan or course of conduct to commit any crime, including but not limited to:

(1) a crime or offense under chapters 14 (sexual offenses), 16 (bias crimes), 20 (theft), 21 (forgery and fraud), 28 (perjury), or 29 (obstruction of justice) of Title 2C of the New Jersey Statutes;

(2) advertising commercial sex abuse of a minor;

(3) endangering the welfare of children and child pornography;

(4) threats or improper influence in official and political matters;

(5) false public alarms;

(6) harassment;

(7) cyber-harassment; or

(8) hazing.

The bill also establishes a crime of the third degree if a natural person, without license or privilege to do so, solicits, uses, or discloses a work of deceptive audio or visual media as part of a plan or course of conduct to commit any crime.

The bill also establishes a crime of the third degree if a natural person, without license or privilege to do so, discloses a work of deceptive audio or visual media that the person knows or should reasonably know was created in violation of this bill.

A crime of the third degree is punishable by a three to five year term of imprisonment, a fine of up to \$15,000, or both. In addition, the bill imposes an additional fine of up to \$30,000. A conviction for a violation of this bill does not merge with a conviction for the underlying crime in which the deepfake is used.

Under the bill, a person would be liable to the victim of a violation of the bill, who may bring a civil action in the Superior Court. The civil action authorized by this bill is to be in addition to, and not in lieu of any other civil action, injunctive relief, or other remedy available at law.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that this bill may result in indeterminate annual State cost and revenue increases.

The bill’s establishment of criminal penalties may result in the Department of Law and Public Safety prosecuting additional cases; the Judiciary adjudicating additional cases; and the Office of the Public Defender representing additional indigent defendants. The OLS cannot quantify the exact fiscal impact since the number of cases and convictions resulting from the bill’s provisions cannot be known. Generally, a presumption of non-incarceration applies for first time offenders

of crimes of the third degree, and therefore no costs are anticipated for the Department of Corrections or the State Parole Board.

The bill establishes crimes of the third degree for certain deceptive audio or visual media crimes. A crime of the third degree is ordinarily punishable by a term of three to five years imprisonment, a fine of up to \$15,000, or both. However, the bill provides that a court may impose a fine of up to \$30,000. The State may realize an indeterminate increase in annual revenues from the collection of regular and enhanced fines and court fees; however, the State's ability to collect these penalties and fees has historically been limited.

Section: Judiciary

*Analyst: William Lim
 Deputy Counsel*

*Approved: Thomas Koenig
 Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

LEGISLATIVE FISCAL ESTIMATE
[Second Reprint]
ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 3540
STATE OF NEW JERSEY
221st LEGISLATURE

DATED: JULY 2, 2024

SUMMARY

- Synopsis:** Establishes criminal penalties for production or dissemination of deceptive audio or visual media, commonly known as “deepfakes.”
- Type of Impact:** Annual State expenditure and revenue increases.
- Agencies Affected:** The Judiciary; Department of Law and Public Safety; Office of the Public Defender.

Office of Legislative Services Estimate

Fiscal Impact	<u>Annual</u>
State Cost Increase	Indeterminate
State Revenue Increase	Indeterminate

- The Office of Legislative Services (OLS) estimates that this bill may result in indeterminate annual State cost and revenue increases.
- The bill’s establishment of criminal penalties may result in the Department of Law and Public Safety prosecuting additional cases; the Judiciary adjudicating additional cases; and the Office of the Public Defender representing additional indigent defendants. The OLS cannot quantify the exact fiscal impact since the number of cases and convictions resulting from the bill’s provisions cannot be known.
- The State may realize an indeterminate increase in annual revenues from the collection of regular and enhanced fines and court fees. However, the State’s ability to collect these penalties and fees has historically been limited.

BILL DESCRIPTION

This bill establishes criminal and civil penalties for the production or dissemination of deceptive audio or visual media, commonly known as “deepfakes.”

The bill establishes a crime of the third degree if a natural person, without license or privilege to do so, generates or creates, or causes to be generated or created, deceptive audio or visual media with the intent that it be used as part of a plan or course of conduct to commit any crime, including but not limited to:

(1) a crime or offense under chapters 14 (sexual offenses), 16 (bias crimes), 20 (theft), 21 (forgery and fraud), 28 (perjury), or 29 (obstruction of justice) of Title 2C of the New Jersey Statutes;

- (2) advertising commercial sex abuse of a minor;
- (3) endangering the welfare of children and child pornography;
- (4) threats or improper influence in official and political matters;
- (5) false public alarms;
- (6) harassment;
- (7) cyber-harassment; or
- (8) hazing.

The bill also establishes a crime of the third degree if a natural person, without license or privilege to do so, solicits, uses, or discloses a work of deceptive audio or visual media as part of a plan or course of conduct to commit any crime.

The bill also establishes a crime of the third degree if a natural person, without license or privilege to do so, discloses a work of deceptive audio or visual media that the person knows or should reasonably know was created in violation of this bill.

A crime of the third degree is punishable by a three to five year term of imprisonment, a fine of up to \$15,000, or both. In addition, the bill imposes an additional fine of up to \$30,000. A conviction for a violation of this bill does not merge with a conviction for the underlying crime in which the deepfake is used.

Under the bill, a person would be liable to the victim of a violation of the bill, who may bring a civil action in the Superior Court. The civil action authorized by this bill is to be in addition to, and not in lieu of any other civil action, injunctive relief, or other remedy available at law.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that this bill may result in indeterminate annual State cost and revenue increases.

The bill's establishment of criminal penalties may result in the Department of Law and Public Safety prosecuting additional cases; the Judiciary adjudicating additional cases; and the Office of the Public Defender representing additional indigent defendants. The OLS cannot quantify the exact fiscal impact since the number of cases and convictions resulting from the bill's provisions cannot be known. Generally, a presumption of non-incarceration applies for first time offenders of crimes of the third degree, and therefore no costs are anticipated for the Department of Corrections or the State Parole Board.

The bill establishes crimes of the third degree for certain deceptive audio or visual media crimes. A crime of the third degree is ordinarily punishable by a term of three to five years imprisonment, a fine of up to \$15,000, or both. However, the bill provides that a court may impose a fine of up to \$30,000. The State may realize an indeterminate increase in annual revenues from

the collection of regular and enhanced fines and court fees; however, the State's ability to collect these penalties and fees has historically been limited.

Section: Judiciary

*Analyst: William Lim
Deputy Counsel*

*Approved: Thomas Koenig
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

SENATE, No. 2544

STATE OF NEW JERSEY 221st LEGISLATURE

INTRODUCED FEBRUARY 8, 2024

Sponsored by:

Senator PAUL D. MORIARTY

District 4 (Atlantic, Camden and Gloucester)

Senator KRISTIN M. CORRADO

District 40 (Bergen, Essex and Passaic)

Co-Sponsored by:

Senator Bramnick

SYNOPSIS

Establishes criminal penalties for production or dissemination of deceptive audio or visual media, commonly known as “deepfakes.”

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 3/7/2024)

1 AN ACT establishing criminal penalties for the production and
2 dissemination of deceptive audio or visual media and
3 supplementing Title 2C of the New Jersey Statutes.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. a. As used in P.L. , c. (C.) (pending before the
9 Legislature as this bill):

10 “Deceptive audio or visual media” means any video recording,
11 motion picture film, sound recording, electronic image, photograph,
12 or any technological representation of speech or conduct
13 substantially derivative thereof that appears to authentically depict
14 any speech or conduct of a person who did not in fact engage in the
15 speech or conduct and the production of which was substantially
16 dependent upon technical means, rather than the ability of another
17 person to physically or verbally impersonate the person.

18 “Disclose” means to sell, manufacture, give, provide, lend, trade,
19 mail, deliver, transfer, publish, distribute, circulate, disseminate,
20 present, exhibit, advertise, offer, share, or make available via the
21 Internet or by any other means, whether for pecuniary gain or not.

22 b. A person commits a crime of the third degree if, without
23 license or privilege to do so, the person generates or creates, or causes
24 to be generated or created, a work of deceptive audio or visual media
25 for an unlawful purpose.

26 The trier of fact may infer that the deceptive audio or visual media
27 was generated or created for an unlawful purpose if the work is
28 subsequently used as part of a plan or course of conduct to commit
29 one or more of the following offenses:

- 30 (1) harassment, pursuant to N.J.S.2C:33-4;
31 (2) cyber harassment, pursuant to section 1 of P.L.2013, c.272
32 (C.2C:33-4.1);
33 (3) theft by deception, pursuant to N.J.S.2C:20-4;
34 (4) theft by extortion, pursuant to N.J.S.2C:20-5;
35 (5) false incrimination or reports, pursuant to N.J.S.2C:28-4; or
36 (6) invasion of privacy, pursuant to section 1 of P.L.2003, c.206
37 (C.2C:14-9).

38 c. A person commits a crime of the third degree if, without license
39 or privilege to do so, the person discloses a work of deceptive audio
40 or visual media that the person knows or reasonably should know was
41 created in violation of subsection b. of this section without clearly
42 identifying it as a work of deceptive audio or visual media.

43 In addition to any term of imprisonment imposed pursuant to
44 N.J.S.2C:43-6 and notwithstanding the provisions of subsection b. of
45 N.J.S.2C:43-3, a fine of up to \$30,000 may be imposed for a violation
46 of this subsection.

47 d. A person who violates the provisions of P.L. , c. (C.)
48 (pending before the Legislature as this bill) shall be liable to the

1 individual depicted in the deceptive audio or visual media, who may
2 bring a civil action in the Superior Court. The court may award:

3 (1) actual damages, but not less than liquidated damages computed
4 at the rate of \$1,000 for each violation of P.L. , c.
5 (C.) (pending before the Legislature as this bill);

6 (2) punitive damages upon proof of willful or reckless disregard
7 of the law;

8 (3) reasonable attorney's fees and other litigation costs reasonably
9 incurred; and

10 (4) such other preliminary and equitable relief as the court
11 determines appropriate.

12 A conviction for a violation of P.L. , c. (C.) (pending
13 before the Legislature as this bill) shall not be a prerequisite for a
14 civil action brought pursuant to this subsection. The civil action
15 authorized by this subsection shall be in addition to, and not in lieu
16 of, any other civil action, injunctive relief, or other remedy available
17 at law, including, but not limited to, a civil action for common law
18 defamation, libel, slander, invasion of privacy, false light,
19 misappropriation of identity, intrusion of privacy, or public
20 disclosure of private facts.

21 e. A final judgment rendered in favor of the State in any criminal
22 proceeding shall estop the person from denying the same conduct in
23 any civil action brought pursuant to this section.

24 f. (1) This section shall not be construed to alter or negate any
25 rights, obligations, or immunities of an interactive computer service
26 provider pursuant to 47 U.S.C. s.230.

27 (2) Criminal and civil penalties imposed pursuant to this section
28 shall not apply to the news media or a news agency, as those terms
29 are defined in section 2 of P.L.1977, c.253 (C.2A:84A-21a), unless
30 the news media or news agency broadcasts or publishes a work of
31 deceptive audio or visual media, created in violation of this section,
32 that the news media or news agency knows was created in violation
33 of this section and fails to clearly identify the work as deceptive audio
34 or visual media.

35
36 2. This act shall take effect immediately.
37
38

39 STATEMENT
40

41 This bill establishes criminal penalties for production or
42 dissemination of deceptive audio or visual media, commonly known
43 as “deepfakes.”

44 The bill defines deceptive audio or visual media as “any video
45 recording, motion picture film, sound recording, electronic image,
46 photograph, or any technological representation of speech or conduct
47 substantially derivative thereof that appears to authentically depict
48 any speech or conduct of a person who did not in fact engage in the

1 speech or conduct and the production of which was substantially
2 dependent upon technical means, rather than the ability of another
3 person to physically or verbally impersonate the person.”

4 The bill establishes a crime of the third degree if a person, without
5 license or privilege to do so, generates or creates, or causes to be
6 generated or created, deceptive audio or visual media for an unlawful
7 purpose. The bill provides that the trier of fact may infer that the
8 deceptive audio or visual media was generated or created for an
9 unlawful purpose if the work is subsequently used as part of a plan
10 or course of conduct to commit one or more of the following:

- 11 (1) harassment;
- 12 (2) cyber harassment;
- 13 (3) theft by deception;
- 14 (4) theft by extortion;
- 15 (5) false incrimination or reports; or
- 16 (6) invasion of privacy.

17 The bill also establishes a crime of the third degree if a person,
18 without license or privilege to do so, discloses a work of deceptive
19 audio or visual media that the person knows or should reasonably
20 know was created in violation of the provisions of this bill without
21 clearly identifying it as a work of deceptive audio or visual media. A
22 crime of the third degree is ordinarily punishable by a term of three
23 to five years imprisonment, a fine of up to \$15,000, or both.
24 However, the bill provides that a court may impose a fine of up to
25 \$30,000.

26 Under the bill, a person would be liable to the individual depicted
27 in the deceptive audio or visual media, who may bring a civil action
28 in the Superior Court. The bill further provides that a conviction is
29 not to be a prerequisite for a civil action. The civil action authorized
30 by this bill is to be in addition to, and not in lieu of any other civil
31 action, injunctive relief, or other remedy available at law. The bill
32 further provides that a final judgment rendered in favor of the State
33 in any criminal proceeding prevents the person from denying the
34 same conduct in any civil action brought under the bill.

35 The bill provides that it should not be construed to alter or negate any
36 rights, obligations, or immunities of an interactive computer service
37 provider pursuant to 47 U.S.C. s.230. The bill also provides that
38 criminal and civil penalties imposed pursuant to the bill only apply to
39 the news media or a news agency if the news media or agency
40 broadcasts or publishes a work of deceptive audio or visual media that
41 the news media or agency knows was created in violation of the bill,
42 and fails to clearly identify the work as deceptive audio or visual media.

[First Reprint]

SENATE, No. 2544

STATE OF NEW JERSEY
221st LEGISLATURE

INTRODUCED FEBRUARY 8, 2024

Sponsored by:

Senator PAUL D. MORIARTY

District 4 (Atlantic, Camden and Gloucester)

Senator KRISTIN M. CORRADO

District 40 (Bergen, Essex and Passaic)

Co-Sponsored by:

Senators Bramnick, Turner and Scutari

SYNOPSIS

Establishes criminal penalties for production or dissemination of deceptive audio or visual media, commonly known as “deepfakes.”

CURRENT VERSION OF TEXT

As reported by the Senate Law and Public Safety Committee on March 7, 2024, with amendments.



(Sponsorship Updated As Of: 6/3/2024)

1 AN ACT establishing criminal penalties for the production and
2 dissemination of deceptive audio or visual media and
3 supplementing Title 2C of the New Jersey Statutes.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. a. As used in P.L. , c. (C.) (pending before the
9 Legislature as this bill):

10 “Deceptive audio or visual media” means any video recording,
11 motion picture film, sound recording, electronic image, photograph,
12 ¹[or] ¹any technological representation of speech or conduct
13 substantially derivative thereof ¹, or any forgery or facsimile of a
14 document or writing.¹ that appears to ¹[authentically] a reasonable
15 person to realistically¹ depict any speech ¹[or] ¹conduct ¹, or
16 writing¹ of a person who did not in fact engage in the speech
17 ¹[or] ¹conduct ¹, or writing¹ and the production of which was
18 substantially dependent upon technical means, rather than the
19 ability of another person to physically or verbally impersonate the
20 person.

21 “Disclose” means to sell, manufacture, give, provide, lend, trade,
22 mail, deliver, transfer, publish, distribute, circulate, disseminate,
23 present, exhibit, advertise, offer, share, or make available via the
24 Internet or by any other means, whether for pecuniary gain or not.

25 b. A person commits a crime of the third degree if, without
26 license or privilege to do so, the person generates or creates, or
27 causes to be generated or created, a work of deceptive audio or
28 visual media ¹[for an unlawful purpose].

29 The trier of fact may infer that the deceptive audio or visual
30 media was generated or created for an unlawful purpose if the
31 work ¹that¹ is ¹[subsequently]¹ used as part of a plan or course of
32 conduct to commit ¹[one or more of the following offenses:

33 (1) harassment, pursuant to N.J.S.2C:33-4;

34 (2) cyber harassment, pursuant to section 1 of P.L.2013, c.272
35 (C.2C:33-4.1);

36 (3) theft by deception, pursuant to N.J.S.2C:20-4;

37 (4) theft by extortion, pursuant to N.J.S.2C:20-5;

38 (5) false incrimination or reports, pursuant to N.J.S.2C:28-4; or

39 (6) invasion of privacy, pursuant to section 1 of P.L.2003, c.206
40 (C.2C:14-9) ¹any crime or offense including but not limited to:

41 (1) a crime or offense under chapters 14, 16, 20, 21, or 28 of
42 Title 2C of the New Jersey Statutes;

43 (2) advertising commercial sex abuse of a minor, pursuant to
44 section 12 of P.L.2013, c.51 (C.2C:13-10);

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SLP committee amendments adopted March 7, 2024.

1 (3) endangering the welfare of children, pursuant to
2 N.J.S.2C:24-4;

3 (4) threats or improper influence in official and political matters,
4 pursuant to N.J.S.2C:27-3;

5 (5) false public alarms, pursuant to N.J.S.2C:33-3;

6 (6) harassment, pursuant to N.J.S.2C:33-4 et seq.; or

7 (7) hazing, pursuant to section 1 of P.L.1980, c.169
8 (C.2C:40-3)¹.

9 c. A person commits a crime of the third degree if, without
10 license or privilege to do so, the person discloses a work of
11 deceptive audio or visual media that the person knows or reasonably
12 should know was created in violation of subsection b. of this section
13 ¹**【without】** .

14 It is an affirmative defense to prosecution under this subsection
15 if the disclosed work is¹ clearly ¹**【identifying it】 identified¹** as a
16 work of deceptive audio or visual media. ¹This affirmative defense
17 shall not apply where the disclosed work depicts less than
18 completely and opaquely covered intimate parts, sexual penetration,
19 or sexual contact, as those terms are defined in N.J.S.2C:14-1.¹

20 In addition to any term of imprisonment imposed pursuant to
21 N.J.S.2C:43-6 and notwithstanding the provisions of subsection b.
22 of N.J.S.2C:43-3, a fine of up to \$30,000 may be imposed for a
23 violation of this subsection.

24 d. A person who violates the provisions of
25 P.L. , c. (C.) (pending before the Legislature as this bill)
26 shall be liable to the individual depicted in the deceptive audio or
27 visual media, who may bring a civil action in the Superior Court.
28 The court may award:

29 (1) actual damages, but not less than liquidated damages
30 computed at the rate of \$1,000 for each violation of P.L. ,
31 c. (C.) (pending before the Legislature as this bill);

32 (2) punitive damages upon proof of willful or reckless disregard
33 of the law;

34 (3) reasonable attorney's fees and other litigation costs
35 reasonably incurred; and

36 (4) such other preliminary and equitable relief as the court
37 determines appropriate.

38 A conviction for a violation of P.L. , c. (C.) (pending
39 before the Legislature as this bill) shall not be a prerequisite for a
40 civil action brought pursuant to this subsection. The civil action
41 authorized by this subsection shall be in addition to, and not in lieu
42 of, any other civil action, injunctive relief, or other remedy
43 available at law, including, but not limited to, a civil action for
44 common law defamation, libel, slander, invasion of privacy, false
45 light, misappropriation of identity, intrusion of privacy, or public
46 disclosure of private facts.

1 e. A final judgment rendered in favor of the State in any
2 criminal proceeding shall estop the person from denying the same
3 conduct in any civil action brought pursuant to this section.

4 f. (1) This section shall not be construed to alter or negate any
5 rights, obligations, or immunities of an interactive computer service
6 provider pursuant to 47 U.S.C. s.230.

7 (2) Criminal and civil penalties imposed pursuant to this section
8 shall not apply to the news media or a news agency, as those terms
9 are defined in section 2 of P.L.1977, c.253 (C.2A:84A-21a), unless
10 the news media or news agency broadcasts or publishes a work of
11 deceptive audio or visual media, created in violation of this section,
12 that the news media or news agency knows was created in violation
13 of this section and fails to clearly identify the work as deceptive
14 audio or visual media.

15 ¹g. Notwithstanding the provisions of N.J.S.2C:1-8 or any other
16 provisions of law:

17 (1) a conviction arising under subsection b. of this section shall
18 not merge with a conviction under subsection c. of this section, nor
19 shall a conviction under subsection c. of this section merge with a
20 conviction under subsection b. of this section; and

21 (2) a conviction arising under subsection b. of this section shall
22 not merge with a conviction of any of the underlying offenses
23 referred to in subsection b. of this section, nor shall any conviction
24 for such underlying offense merge with a conviction under
25 subsection b. of this section. The court shall impose separate
26 sentences upon a conviction under subsection b. of this section and
27 a conviction of any underlying offense.¹

28

29 2. This act shall take effect immediately.

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 2544

STATE OF NEW JERSEY
221st LEGISLATURE

ADOPTED JUNE 24, 2024

Sponsored by:

Senator PAUL D. MORIARTY

District 4 (Atlantic, Camden and Gloucester)

Senator KRISTIN M. CORRADO

District 40 (Bergen, Essex and Passaic)

Co-Sponsored by:

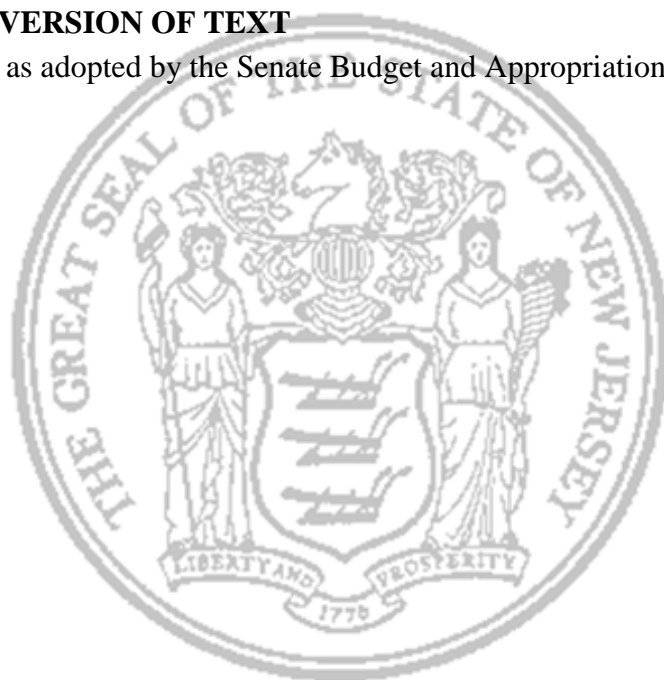
Senators Bramnick, Turner, Scutari and Amato

SYNOPSIS

Establishes criminal penalties for production or dissemination of deceptive audio or visual media, commonly known as “deepfakes.”

CURRENT VERSION OF TEXT

Substitute as adopted by the Senate Budget and Appropriations Committee.



(Sponsorship Updated As Of: 9/30/2024)

1 AN ACT establishing criminal penalties for the production and
2 dissemination of deceptive audio or visual media and
3 supplementing Title 2C of the New Jersey Statutes.
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. a. As used in P.L. , c. (C.) (pending before the
9 Legislature as this bill):

10 “Deceptive audio or visual media” means any video recording,
11 motion picture film, sound recording, electronic image, photograph,
12 any technological representation of speech or conduct substantially
13 derivative thereof, or any forgery or facsimile of a document or
14 writing, that appears to a reasonable person to realistically depict
15 any speech, conduct, or writing of a person who did not in fact
16 engage in the speech, conduct, or writing, and the production of
17 which was substantially dependent upon technical means, rather
18 than the ability of another person to physically or verbally
19 impersonate the person.

20 “Disclose” means to sell, give, provide, lend, trade, mail, deliver,
21 transfer, publish, distribute, circulate, disseminate, present, exhibit,
22 advertise, offer, share, or make available via the Internet or by any
23 other means, whether or not for pecuniary gain.

24 “Interactive computer service provider” shall have the same
25 meaning as set forth in 47 U.S.C. s.230.

26 “Solicit” means to offer to create or generate, or to advertise the
27 ability to create or generate, a work of deceptive audio or visual
28 media, whether or not for hire, commission, monetary
29 remuneration, or pecuniary gain. “Solicit” shall also mean to
30 request the creation or generation of a work of deceptive audio or
31 visual media, whether or not for monetary remuneration or
32 compensation.

33 “Victim” means a person who suffers personal, physical, or
34 psychological injury or death or incurs loss of or injury to personal
35 or real property as a result of the conduct of another that would
36 constitute a violation of subsections b. or c. of this section.
37 “Victim” also includes the spouse, parent, legal guardian,
38 grandparent, child, sibling, domestic partner, or civil union partner
39 of the decedent in the case of a person’s death.

40 “Video streaming service” means a service that transmits video
41 content over the Internet that is played continuously without
42 download.

43 b. A natural person commits a crime of the third degree if,
44 without license or privilege to do so, the person generates or
45 creates, or causes to be generated or created, a work of deceptive
46 audio or visual media with the intent that it be used as part of a plan
47 or course of conduct to commit any crime or offense, including but
48 not limited to:

- 1 (1) a crime or offense under chapters 14, 16, 20, 21, 28, or 29 of
2 Title 2C of the New Jersey Statutes;
- 3 (2) advertising commercial sex abuse of a minor, pursuant to
4 subsection b. of section 12 of P.L.2013, c.51 (C.2C:13-10);
- 5 (3) endangering the welfare of children, pursuant to
6 N.J.S.2C:24-4;
- 7 (4) threats or improper influence in official and political matters,
8 pursuant to N.J.S.2C:27-3;
- 9 (5) false public alarms, pursuant to N.J.S.2C:33-3;
- 10 (6) harassment, pursuant to N.J.S.2C:33-4;
- 11 (7) cyber-harassment, pursuant to section 1 of P.L.2013, c.272
12 (C.2C:33-4.1); or
- 13 (8) hazing, pursuant to section 1 of P.L.1980, c.169 (C.2C:40-3).
- 14 The trier of fact may infer that a work of deceptive audio or
15 visual media was generated or created without license or privilege
16 to do so if the work was generated or created using a commercially
17 or publicly available generative artificial intelligence system in
18 violation of the terms of service, terms of use, or end user license
19 agreement of the system.
- 20 c. (1) A natural person commits a crime of the third degree if,
21 without license or privilege to do so, the person solicits, discloses,
22 or uses a work of deceptive audio or visual media as part of a plan
23 or course of conduct to commit any crime or offense, including but
24 not limited to any crime or offense listed in subsection b. of this
25 section.
- 26 (2) A natural person commits a crime of the third degree if,
27 without license or privilege to do so, the person discloses a work of
28 deceptive audio or visual media that the person knows or reasonably
29 should know was created in violation of subsection b. of this
30 section.
- 31 d. In addition to any term of imprisonment imposed pursuant to
32 N.J.S.2C:43-6 and notwithstanding the provisions of subsection b.
33 of N.J.S.2C:43-3, a fine of up to \$30,000 may be imposed for a
34 violation of this section.
- 35 e. Notwithstanding the provisions of N.J.S.2C:1-8 or any other
36 provisions of law:
- 37 (1) a conviction arising under subsection b. of this section shall
38 not merge with a conviction under subsection c. of this section, nor
39 shall a conviction under subsection c. of this section merge with a
40 conviction under subsection b. of this section; and
- 41 (2) a conviction arising under subsection b. or paragraph (1) of
42 subsection c. of this section shall not merge with a conviction of
43 any underlying offense, nor shall any conviction for such
44 underlying offense merge with a conviction under subsection b. of
45 this section. The court shall impose separate sentences upon a
46 conviction under subsection b. or paragraph (1) of subsection c. of
47 this section and a conviction of any underlying offense.

1 f. A natural person who violates the provisions of
2 P.L. , c. (C.) (pending before the Legislature as this bill)
3 shall be liable to the victim of the violation, and the victim may
4 bring a civil action in the Superior Court. The court may award:

5 (1) actual damages, but not less than liquidated damages
6 computed at the rate of \$1,000 for each violation of P.L. , c.
7 (C.) (pending before the Legislature as this bill);

8 (2) punitive damages upon proof of willful or reckless disregard
9 of the law;

10 (3) reasonable attorney's fees and other litigation costs
11 reasonably incurred; and

12 (4) other such preliminary and equitable relief as the court
13 determines appropriate.

14 A conviction for a violation of P.L. , c. (C.) (pending
15 before the Legislature as this bill) shall not be a prerequisite for a
16 civil action brought pursuant to this subsection. The civil action
17 authorized by this subsection shall be in addition to, and not in lieu
18 of, any other civil action, injunctive relief, or other remedy
19 available at law, including, but not limited to, a civil action for
20 common law defamation, libel, slander, invasion of privacy, false
21 light, misappropriation of identity, intrusion of privacy, or public
22 disclosure of private facts.

23 g. (1) It shall be deemed a fair use and shall not be a violation
24 of P.L. , c. (C.) (pending before the Legislature as this
25 bill) if a work of deceptive audio or visual media is clearly
26 identified as a work of deceptive audio or visual media or, if the
27 deceptive nature of the work is unknown or unverified, but is
28 clearly identified as a possible work of deceptive audio or visual
29 media, is disclosed in connection with criticism, comment, satire,
30 parody, news reporting, teaching, scholarship, or research, pursuant
31 to 17 U.S.C. s.107.

32 (2) P.L. , c. (C.) (pending before the Legislature as this
33 bill) shall not apply to an interactive computer service provider,
34 cloud services provider, or commercial developer or provider of
35 artificial intelligence technology, and shall not be construed to alter
36 or negate any rights, obligations, or immunities of an interactive
37 computer service provider or cloud services provider pursuant to 47
38 U.S.C. s.230.

39 (3) P.L. , c. (C.) (pending before the Legislature as this
40 bill) shall not apply to any broadcasting station, cable service, radio
41 station, telecommunications carrier, or television station, as those
42 terms are defined pursuant to 47 U.S.C. s.153, or to any billboard,
43 Internet website, mobile application, video streaming service,
44 newspaper, magazine, publication, or printed matter through which
45 an advertisement containing deceptive audio or visual media
46 appears.

47 (4) This section shall not apply to any broadcasting station,
48 including a cable or satellite television company, programmer, or

1 producer, an Internet website, or a regularly published newspaper,
2 magazine, or other periodical of general circulation, including an
3 Internet or electronic publication, that routinely carries news and
4 commentary of general interest, and that broadcasts or publishes
5 any deceptive audio or visual media prohibited by this section for
6 the purpose of disseminating newsworthy facts; provided that the
7 broadcast or publication shall clearly contain a disclaimer which is
8 either shown or read aloud that identifies the deceptive audio or
9 visual media and states that the deceptive audio or visual media
10 contains manipulated images or sound. If the deceptive nature of
11 the work is unknown or unverified, the broadcast or publication
12 shall clearly contain a disclaimer which is either shown or read
13 aloud that identifies the work as a possible work of deceptive audio
14 or visual media.

15 (5) It shall not be a violation of this section to disclose any
16 deceptive audio or visual media to law enforcement officers in
17 connection with a criminal investigation or prosecution of a
18 violation of this section; pursuant to a subpoena or court order
19 requiring the disclosure of a work of deceptive audio or visual
20 media; or in furtherance of an investigation concerning fraud,
21 cybersecurity, identity theft, harassment, or a violation of a
22 commercial computer network's contractual terms of service.

23

24 2. This act shall take effect immediately.

SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 2544

STATE OF NEW JERSEY
221st LEGISLATURE

ADOPTED JANUARY 14, 2025

Sponsored by:

Senator PAUL D. MORIARTY

District 4 (Atlantic, Camden and Gloucester)

Senator KRISTIN M. CORRADO

District 40 (Bergen, Essex and Passaic)

Co-Sponsored by:

Senators Bramnick, Turner, Scutari and Amato

SYNOPSIS

Establishes criminal penalties for production or dissemination of deceptive audio or visual media, commonly known as “deepfakes.”

CURRENT VERSION OF TEXT

Substitute as adopted by the Senate.



(Sponsorship Updated As Of: 9/30/2024)

1 AN ACT establishing criminal penalties for the production and
2 dissemination of deceptive audio or visual media and
3 supplementing Title 2C of the New Jersey Statutes.
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. a. As used in P.L. , c. (C.) (pending before the
9 Legislature as this bill):

10 “Deceptive audio or visual media” means any video recording,
11 motion picture film, sound recording, electronic image, photograph,
12 any technological representation of speech or conduct substantially
13 derivative thereof, or any forgery or facsimile of a document or
14 writing, that appears to a reasonable person to realistically depict
15 any speech, conduct, or writing of a person who did not in fact
16 engage in the speech, conduct, or writing, and the production of
17 which was substantially dependent upon technical means, rather
18 than the ability of another person to physically or verbally
19 impersonate the person.

20 “Disclose” means to sell, give, provide, lend, trade, mail, deliver,
21 transfer, publish, distribute, circulate, disseminate, present, exhibit,
22 advertise, offer, share, or make available via the Internet or by any
23 other means, whether or not for pecuniary gain.

24 “Interactive computer service provider” shall have the same
25 meaning as set forth in 47 U.S.C. s.230.

26 “Solicit” means to offer to create or generate, or to advertise the
27 ability to create or generate, a work of deceptive audio or visual
28 media, whether or not for hire, commission, monetary
29 remuneration, or pecuniary gain. “Solicit” shall also mean to
30 request the creation or generation of a work of deceptive audio or
31 visual media, whether or not for monetary remuneration or
32 compensation.

33 “Victim” means a person who suffers personal, physical, or
34 psychological injury or death or incurs loss of or injury to personal
35 or real property as a result of the conduct of another that would
36 constitute a violation of subsections b. or c. of this section.
37 “Victim” also includes the spouse, parent, legal guardian,
38 grandparent, child, sibling, domestic partner, or civil union partner
39 of the decedent in the case of a person’s death.

40 “Video streaming service” means a service that transmits video
41 content over the Internet that is played continuously without
42 download.

43 b. A natural person commits a crime of the third degree if,
44 without license or privilege to do so, the person generates or
45 creates, or causes to be generated or created, a work of deceptive
46 audio or visual media with the intent that it be used as part of a plan
47 or course of conduct to commit any crime or offense, including but
48 not limited to:

- 1 (1) a crime or offense under chapters 14, 16, 20, 21, 28, or 29 of
2 Title 2C of the New Jersey Statutes;
- 3 (2) advertising commercial sex abuse of a minor, pursuant to
4 subsection b. of section 12 of P.L.2013, c.51 (C.2C:13-10);
- 5 (3) endangering the welfare of children, pursuant to
6 N.J.S.2C:24-4;
- 7 (4) threats or improper influence in official and political matters,
8 pursuant to N.J.S.2C:27-3;
- 9 (5) false public alarms, pursuant to N.J.S.2C:33-3;
- 10 (6) harassment, pursuant to N.J.S.2C:33-4;
- 11 (7) cyber-harassment, pursuant to section 1 of P.L.2013, c.272
12 (C.2C:33-4.1); or
- 13 (8) hazing, pursuant to section 1 of P.L.1980, c.169 (C.2C:40-3).
- 14 The trier of fact may infer that a work of deceptive audio or
15 visual media was generated or created without license or privilege
16 to do so if the work was generated or created using a commercially
17 or publicly available generative artificial intelligence system in
18 violation of the terms of service, terms of use, or end user license
19 agreement of the system.
- 20 c. (1) A natural person commits a crime of the third degree if,
21 without license or privilege to do so, the person solicits, discloses,
22 or uses a work of deceptive audio or visual media as part of a plan
23 or course of conduct to commit any crime or offense, including but
24 not limited to any crime or offense listed in subsection b. of this
25 section.
- 26 (2) Except as otherwise provided in subsection g. of this section,
27 a natural person commits a crime of the third degree if, without
28 license or privilege to do so, the person discloses a work of
29 deceptive audio or visual media that the person knows or reasonably
30 should know was created in violation of subsection b. of this
31 section.
- 32 d. In addition to any term of imprisonment imposed pursuant to
33 N.J.S.2C:43-6 and notwithstanding the provisions of subsection b.
34 of N.J.S.2C:43-3, a fine of up to \$30,000 may be imposed for a
35 violation of this section.
- 36 e. Notwithstanding the provisions of N.J.S.2C:1-8 or any other
37 provisions of law:
- 38 (1) a conviction arising under subsection b. of this section shall
39 not merge with a conviction under subsection c. of this section, nor
40 shall a conviction under subsection c. of this section merge with a
41 conviction under subsection b. of this section; and
- 42 (2) a conviction arising under subsection b. or paragraph (1) of
43 subsection c. of this section shall not merge with a conviction of
44 any underlying offense, nor shall any conviction for such
45 underlying offense merge with a conviction under subsection b. of
46 this section. The court shall impose consecutive sentences upon a
47 conviction under subsection b. or paragraph (1) of subsection c. of
48 this section and a conviction of any underlying offense.

1 f. A natural person who violates the provisions of P.L. , c.
2 (C. (pending before the Legislature as this bill)) shall be liable
3 to the victim of the violation, and the victim may bring a civil
4 action in the Superior Court. The court may award:

5 (1) actual damages, but not less than liquidated damages
6 computed at the rate of \$1,000 for each violation of P.L. , c.
7 (C.) (pending before the Legislature as this bill);

8 (2) punitive damages upon proof of willful or reckless disregard
9 of the law;

10 (3) reasonable attorney's fees and other litigation costs
11 reasonably incurred; and

12 (4) other such preliminary and equitable relief as the court
13 determines appropriate.

14 A conviction for a violation of P.L. , c. (C.) (pending
15 before the Legislature as this bill) shall not be a prerequisite for a
16 civil action brought pursuant to this subsection. The civil action
17 authorized by this subsection shall be in addition to, and not in lieu
18 of, any other civil action, injunctive relief, or other remedy
19 available at law, including, but not limited to, a civil action for
20 common law defamation, libel, slander, invasion of privacy, false
21 light, misappropriation of identity, intrusion of privacy, or public
22 disclosure of private facts.

23 g. (1) P.L. , c. C.) (pending before the Legislature as
24 this bill) shall not apply to content that constitutes criticism,
25 comment, satire, parody, news reporting, teaching, scholarship, or
26 research that a reasonable viewer or listener would not believe to
27 authentically depict speech or conduct.

28 (2) P.L. , c. (C.) (pending before the Legislature as this
29 bill) shall not apply to an interactive computer service provider,
30 cloud services provider, or commercial developer or provider of
31 artificial intelligence technology, where such developer or provider
32 is not deemed to be a publisher, speaker, or information content
33 provider pursuant to 47 U.S.C. s.230, and shall not be construed to
34 alter or negate any rights, obligations, or immunities of an
35 interactive computer service provider or cloud services provider
36 pursuant to 47 U.S.C. s.230.

37 (3) P.L. , c. (C.) (pending before the Legislature as this
38 bill) shall not apply to any broadcasting station, cable service, radio
39 station, telecommunications carrier, or television station, as those
40 terms are defined pursuant to 47 U.S.C. s.153, or to any billboard,
41 Internet website, mobile application, video streaming service,
42 newspaper, magazine, publication, printed matter, or other
43 advertising channel or medium through which an advertisement
44 containing deceptive audio or visual media appears, where the
45 advertising channel or medium's role in disclosing the
46 advertisement is limited to the selling of advertising time or space,
47 or where an advertising channel or medium is prohibited by federal
48 law from censoring the advertisement regardless of its content.

1 (4) This section shall not apply to any broadcasting station,
2 including a cable or satellite television company, programmer, or
3 producer, an Internet website, video streaming service, or a
4 regularly published newspaper, magazine, or other periodical of
5 general circulation, including an Internet or electronic publication,
6 that routinely carries news and commentary of general interest, and
7 that broadcasts or publishes any deceptive audio or visual media
8 prohibited by this section solely for the purpose of disseminating
9 newsworthy facts; provided that if the deceptive nature of the work
10 is known or verified, the broadcast or publication shall clearly
11 contain a disclaimer which is either shown or read aloud that
12 identifies the work as a work of deceptive audio or visual media.

13 (5) It shall not be a violation of this section to disclose any
14 deceptive audio or visual media to law enforcement officers in
15 connection with a criminal investigation or prosecution of a
16 violation of this section; pursuant to a subpoena or court order
17 requiring the disclosure of a work of deceptive audio or visual
18 media; or in furtherance of an investigation concerning fraud,
19 cybersecurity, identity theft, harassment, or a violation of a
20 commercial computer network's contractual terms of service.

21

22 2. This act shall take effect immediately.

23

24

25

STATEMENT

26

27 This floor substitute establishes criminal and civil penalties for the
28 production or dissemination of deceptive audio or visual media,
29 commonly known as "deepfakes." The floor substitute clarifies certain
30 free speech exceptions applicable to interactive computer service
31 providers, cloud services providers, commercial developers or
32 providers of artificial intelligence technology, advertisers, the news
33 media, and other media companies.

34

Prohibitions

36 The floor substitute establishes a crime of the third degree if a
37 natural person, without license or privilege to do so, generates or
38 creates, or causes to be generated or created, deceptive audio or visual
39 media with the intent that it be used as part of a plan or course of
40 conduct to commit any crime, including but not limited to:

41 (1) a crime or offense under chapters 14 (sexual offenses), 16
42 (bias crimes), 20 (theft), 21 (forgery and fraud), 28 (perjury), or 29
43 (obstruction of justice) of Title 2C of the New Jersey Statutes;

44 (2) advertising commercial sex abuse of a minor;

45 (3) endangering the welfare of children and child pornography;

46 (4) threats or improper influence in official and political matters;

47 (5) false public alarms;

48 (6) harassment;

- 1 (7) cyber-harassment; or
- 2 (8) hazing.

3 The trier of fact may infer that a work of deceptive audio or visual
4 media was generated or created without license or privilege to do so if
5 the work was generated or created using a commercially or publicly
6 available generative artificial intelligence system in violation of the
7 terms of service, terms of use, or end user license agreement of the
8 system.

9 The floor substitute also establishes a crime of the third degree if a
10 natural person, without license or privilege to do so, solicits, uses, or
11 discloses a work of deceptive audio or visual media as part of a plan or
12 course of conduct to commit any crime.

13 The floor substitute also establishes a crime of the third degree if a
14 natural person, without license or privilege to do so, discloses a work
15 of deceptive audio or visual media that the person knows or should
16 reasonably know was created in violation of the provisions of the floor
17 substitute.

18

19 Criminal Penalties

20 A crime of the third degree is punishable by a three to five year
21 term of imprisonment, a fine of up to \$15,000, or both. The floor
22 substitute instead imposes a fine of up to \$30,000 instead of \$15,000.
23 A conviction for a violation of the floor substitute does not merge with
24 a conviction for the underlying crime in which the deepfake is used.

25

26 Civil Remedies

27 Under the floor substitute, a person would be liable to the victim,
28 as defined under the floor substitute, for a violation of the floor
29 substitute, who may bring a civil action in the Superior Court. The
30 floor substitute further provides that a conviction is not a prerequisite
31 for a civil action. The civil action authorized by this floor substitute is
32 to be in addition to, and not in lieu of any other civil action, injunctive
33 relief, or other remedy available at law.

34

35 Exceptions

36 The floor substitute contains certain free speech exceptions if a
37 deepfake is disclosed in connection with criticism, comment, satire,
38 parody, news reporting, teaching, scholarship, or research that a
39 reasonable viewer or listener would not believe to authentically depict
40 speech or conduct. Additionally, the floor substitute does not apply to
41 interactive computer service providers, cloud services providers, or
42 commercial developer or provider of artificial intelligence technology
43 pursuant to 47 U.S.C. s.230.

44 The floor substitute does not apply to television, cable, or radio
45 stations, or other carriers of advertising, such as websites, billboards,
46 newspapers, magazines, mobile apps, or streaming video platforms
47 through which an advertisement containing deceptive audio or visual
48 media appears, where the advertising channel or medium's role in

1 disclosing the advertisement is limited to the selling of advertising
2 time or space, or where an advertising channel or medium is prohibited
3 by federal law from censoring the advertisement regardless of its
4 content.

5 The floor substitute does not apply to broadcasters, websites,
6 newspapers, or magazines that routinely carry news and commentary
7 of general interest that broadcast or publish a deepfake, provided that it
8 is done solely for the purpose of disseminating newsworthy facts and
9 contains a disclaimer identifying the deepfake. Finally, the floor
10 substitute does not apply to disclosures in connection with a law
11 enforcement investigation or pursuant to court order, or in furtherance
12 of an investigation concerning fraud, cybersecurity, identity theft,
13 harassment, or a violation of a commercial computer network's
14 contractual terms of service.

SENATE LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

SENATE, No. 2544

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 7, 2024

The Senate Law and Public Safety Committee reports favorably and with committee amendments Senate Bill No. 2544.

As amended and reported by the committee, this bill establishes criminal penalties for the production or dissemination of deceptive audio or visual media, commonly known as “deepfakes.”

As amended, the bill defines deceptive audio or visual media as “any video recording, motion picture film, sound recording, electronic image, photograph, any technological representation of speech or conduct substantially derivative thereof, or any forgery or facsimile of a document or writing, that appears to a reasonable person to realistically depict any speech, conduct, or writing of a person who did not in fact engage in the speech, conduct, or writing and the production of which was substantially dependent upon technical means, rather than the ability of another person to physically or verbally impersonate the person.

The bill establishes a crime of the third degree if a person, without license or privilege to do so, generates or creates, or causes to be generated or created, deceptive audio or visual media that is used as part of a plan or course of conduct to commit any crime or offense including, but not limited to, certain crimes or offenses listed in the bill.

The bill also establishes a crime of the third degree if a person, without license or privilege to do so, discloses a work of deceptive audio or visual media that the person knows or should reasonably know was created in violation of the provisions of this bill. As amended, the bill establishes an affirmative defense if the disclosed work is clearly identified as a work of deceptive audio or visual media, but such affirmative defense shall not apply where the disclosed work depicts nudity or pornography. A crime of the third degree is ordinarily punishable by a term of three to five years imprisonment, a fine of up to \$15,000, or both. However, the bill provides that a court may impose a fine of up to \$30,000.

Under the bill, a person would be liable to the individual depicted in the deceptive audio or visual media, who may bring a civil action in the Superior Court. The bill further provides that a conviction is not to be a prerequisite for a civil action. The civil action authorized by this

bill is to be in addition to, and not in lieu, of any other civil action, injunctive relief, or other remedy available at law. The bill further provides that a final judgment rendered in favor of the State in any criminal proceeding prevents the person from denying the same conduct in any civil action brought under the bill.

The bill provides that it should not be construed to alter or negate any rights, obligations, or immunities of an interactive computer service provider under federal law. The bill also provides that criminal and civil penalties imposed pursuant to the bill only apply to the news media or a news agency if the news media or agency broadcasts or publishes a work of deceptive audio or visual media that the news media or agency knows was created in violation of the bill, and fails to clearly identify the work as deceptive audio or visual media.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

(1) change the definition of “deceptive audio or visual media”;

(2) establish an affirmative defense to prosecution for unlawful disclosure of deceptive audio or visual media if the disclosed work is clearly identified as a work of deceptive audio or visual media, but the affirmative defense shall not apply where the disclosed work depicts nudity or pornography;

(3) provide that a person commits a crime of the third degree if, without license or privilege to do so, the person generates or creates, or causes to be generated or created, a work of deceptive audio or visual media used as part of a plan or course of conduct to commit any crime or offense including, but not limited to, certain crimes and offenses listed in the bill. As introduced, the bill provides that a person commits a crime of the third degree if without license or privilege to do so, the person generates or creates, or causes to be generated or created, a work of deceptive audio or visual media for an unlawful purpose and provides that a trier of fact may infer the deceptive audio or visual media was generated or created for an unlawful purpose if the work is subsequently used as part of a plan or course of conduct to commit certain offenses listed in the bill as introduced; and

(4) provide that a conviction arising under this bill is not merge to with another conviction arising under this bill or with any of the underlying offenses outlined in this bill.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR SENATE, No. 2544

STATE OF NEW JERSEY

DATED: JUNE 24, 2024

The Senate Budget and Appropriations Committee reports favorably a Senate Committee Substitute for Senate Bill No. 2544.

This Senate Committee Substitute establishes criminal and civil penalties for the production or dissemination of deceptive audio or visual media, commonly known as “deepfakes.” The committee substitute clarifies certain free speech exceptions applicable to interactive computer service providers, cloud services providers, commercial developers or providers of artificial intelligence technology, advertisers, the news media, and other media companies.

Prohibitions

The committee substitute establishes a crime of the third degree if a natural person, without license or privilege to do so, generates or creates, or causes to be generated or created, deceptive audio or visual media with the intent that it be used as part of a plan or course of conduct to commit any crime, including but not limited to:

- (1) a crime or offense under chapters 14 (sexual offenses), 16 (bias crimes), 20 (theft), 21 (forgery and fraud), 28 (perjury), or 29 (obstruction of justice) of Title 2C of the New Jersey Statutes;
- (2) advertising commercial sex abuse of a minor;
- (3) endangering the welfare of children and child pornography;
- (4) threats or improper influence in official and political matters;
- (5) false public alarms;
- (6) harassment;
- (7) cyber-harassment; or
- (8) hazing.

The trier of fact may infer that a work of deceptive audio or visual media was generated or created without license or privilege to do so if the work was generated or created using a commercially or publicly available generative artificial intelligence system in violation of the terms of service, terms of use, or end user license agreement of the system.

The committee substitute also establishes a crime of the third degree if a natural person, without license or privilege to do so, solicits, uses, or discloses a work of deceptive audio or visual media as part of a plan or course of conduct to commit any crime.

The committee substitute also establishes a crime of the third degree if a natural person, without license or privilege to do so, discloses a work of deceptive audio or visual media that the person knows or should reasonably know was created in violation of this bill.

Criminal Penalties

A crime of the third degree is punishable by a three to five year term of imprisonment, a fine of up to \$15,000, or both. In addition, the bill imposes an additional fine of up to \$30,000. A conviction for a violation of this bill does not merge with a conviction for the underlying crime in which the deepfake is used.

Civil Remedies

Under the committee substitute, a person would be liable to the victim of a violation of the committee substitute, who may bring a civil action in the Superior Court. Victims are not limited to persons depicted in the deepfake, but includes any person who suffers personal, physical, or psychological injury or incurs loss of or injury to personal or real property as a result of the violation. The bill further provides that a conviction is not a prerequisite for a civil action. The civil action authorized by this bill is to be in addition to, and not in lieu of any other civil action, injunctive relief, or other remedy available at law.

Exceptions

The committee substitute contains certain free speech exceptions if a deepfake that is clearly identified as a work of deceptive audio or visual media or, if the deceptive nature of the work is unknown or unverified, clearly identified as a possible work of deceptive audio or visual media, is disclosed in connection with criticism, comment, satire, parody, news reporting, teaching, scholarship, or research. Additionally, the bill does not apply to interactive computer service providers, cloud services providers, or commercial developers or providers of artificial intelligence technology pursuant to 47 U.S.C. s.230. The committee substitute does not apply to television, cable, or radio stations, or other carriers of advertising, such as websites, billboards, newspapers, magazines, mobile apps, or streaming video platforms, through which an advertisement containing deceptive audio or visual media appears. The committee substitute does not apply to broadcasters, websites, newspapers, or magazines that routinely carry news and commentary of general interest that broadcast or publish a deepfake, provided that it is done for the purpose of disseminating newsworthy facts and contains a disclaimer concerning the inaccurate nature of the deepfake. If the deceptive nature of the work is unknown or unverified, the broadcast or publication is required to clearly contain a disclaimer which is either shown or read aloud that identifies the work as a possible work of deceptive audio or visual media.

Finally, the committee substitute does not apply to disclosures in connection with a law enforcement investigation or pursuant to court order, or in furtherance of an investigation concerning fraud, cybersecurity, identity theft, harassment, or a violation of a commercial computer network's contractual terms of service.

FISCAL IMPACT:

The Office of Legislative Services (OLS) estimates that this bill may result in indeterminate annual State cost and revenue increases.

The bill's establishment of criminal penalties may result in the Department of Law and Public Safety prosecuting additional cases; the Judiciary adjudicating additional cases; and the Office of the Public Defender representing additional indigent criminal offenders. The OLS cannot quantify the exact fiscal impact since the number of cases and convictions resulting from the bill's provisions cannot be known.

The State may realize an indeterminate increase in annual revenues from the collection of regular and enhanced fines and court fees. However, the State's ability to collect these penalties and fees has historically been limited.

LEGISLATIVE FISCAL ESTIMATE
SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 2544
STATE OF NEW JERSEY
221st LEGISLATURE

DATED: JUNE 28, 2024

SUMMARY

- Synopsis:** Establishes criminal penalties for production or dissemination of deceptive audio or visual media, commonly known as "deepfakes."
- Type of Impact:** Annual State expenditure and revenue increases.
- Agencies Affected:** The Judiciary; Department of Law and Public Safety; Office of the Public Defender.

Office of Legislative Services Estimate

Fiscal Impact	<u>Annual</u>
State Cost Increase	Indeterminate
State Revenue Increase	Indeterminate

- The Office of Legislative Services (OLS) estimates that this bill may result in indeterminate annual State cost and revenue increases.
- The bill's establishment of criminal penalties may result in the Department of Law and Public Safety prosecuting additional cases; the Judiciary adjudicating additional cases; and the Office of the Public Defender representing additional indigent defendants. The OLS cannot quantify the exact fiscal impact since the number of cases and convictions resulting from the bill's provisions cannot be known.
- The State may realize an indeterminate increase in annual revenues from the collection of regular and enhanced fines and court fees. However, the State's ability to collect these penalties and fees has historically been limited.

BILL DESCRIPTION

This bill establishes criminal penalties for the production or dissemination of deceptive audio or visual media, commonly known as "deepfakes."

The bill defines deceptive audio or visual media and establishes a crime of the third degree if a person, without license or privilege to do so, generates or creates, or causes to be generated or created, deceptive audio or visual media that is used as part of a plan or course of conduct to commit any crime or offense including, but not limited to, certain crimes or offenses listed in the bill.

The bill also establishes a crime of the third degree if a person, without license or privilege to do so, discloses a work of deceptive audio or visual media that the person knows or should reasonably know was created in violation of the provisions of this bill. A crime of the third degree is ordinarily punishable by a term of three to five years imprisonment, a fine of up to \$15,000, or both. However, the bill provides that a court may impose a fine of up to \$30,000.

The civil action authorized by this bill is to be in addition to, and not in lieu, of any other civil action, injunctive relief, or other remedy available at law.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that this bill may result in indeterminate annual State cost and revenue increases.

The bill's establishment of criminal penalties may result in the Department of Law and Public Safety prosecuting additional cases; the Judiciary adjudicating additional cases; and the Office of the Public Defender representing additional indigent defendants. The OLS cannot quantify the exact fiscal impact since the number of cases and convictions resulting from the bill's provisions cannot be known. Generally, a presumption of non-incarceration applies for first time offenders of crimes of the third degree, and therefore no costs are anticipated for the Department of Corrections or the State Parole Board.

The bill establishes crimes of the third degree for certain deceptive audio or visual media crimes. A crime of the third degree is ordinarily punishable by a term of three to five years imprisonment, a fine of up to \$15,000, or both. However, the bill provides that a court may impose a fine of up to \$30,000. The State may realize an indeterminate increase in annual revenues from the collection of regular and enhanced fines and court fees; however, the State's ability to collect these penalties and fees has historically been limited.

Section: Judiciary

*Analyst: Anuja Pande Joshi
Senior Fiscal Analyst*

*Approved: Thomas Koenig
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

LEGISLATIVE FISCAL ESTIMATE
SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 2544
STATE OF NEW JERSEY
221st LEGISLATURE

DATED: FEBRUARY 3, 2025

SUMMARY

- Synopsis:** Establishes criminal penalties for production or dissemination of deceptive audio or visual media, commonly known as "deepfakes."
- Type of Impact:** Annual State expenditure and revenue increases; annual local expenditure increases.
- Agencies Affected:** The Judiciary; Department of Law and Public Safety; Office of the Public Defender; Department of Corrections; State Parole Board; Counties.

Office of Legislative Services Estimate

Fiscal Impact	<u>Annual</u>
State Cost Increase	Indeterminate
State Revenue Increase	Indeterminate
Local Cost Increase	Indeterminate

- The Office of Legislative Services (OLS) estimates that this bill may result in an indeterminate annual increase in State and local costs. The OLS lacks sufficient information to quantify the exact fiscal impact, as it is not possible to estimate the number of crimes likely to be committed under the provisions of this bill.
- The OLS finds that the following State and local agencies may incur caseload and expenditure increases: a) county prosecutors would have to prosecute additional cases; b) the Judiciary would have to adjudicate additional complaints and monitor additional probationers; c) the Office of the Public Defender would have to represent additional low income criminal defendants; d) the Department of Corrections may have to house and care for more individuals; and e) the State Parole Board may have to supervise the return to society of additional offenders.

- The State may realize an indeterminate increase in annual revenues from the collection of regular and enhanced fines and court fees. However, the State's ability to collect these penalties and fees has historically been limited.

BILL DESCRIPTION

This bill establishes a crime of the third degree if a natural person, without license or privilege to do so, generates or creates, or causes to be generated or created, deceptive audio or visual media with the intent that it be used as part of a plan or course of conduct to commit any crime as enumerated in the bill.

The trier of fact may infer that a work of deceptive audio or visual media was generated or created without license or privilege to do so if the work was generated or created using a commercially or publicly available generative artificial intelligence system in violation of the terms of service, terms of use, or end user license agreement of the system.

The bill also establishes a crime of the third degree if a natural person, without license or privilege to do so, solicits, uses, or discloses a work of deceptive audio or visual media as part of a plan or course of conduct to commit any crime.

Furthermore, the bill establishes a crime of the third degree if a natural person, without license or privilege to do so, discloses a work of deceptive audio or visual media that the person knows or should reasonably know was created in violation of the provisions of the bill.

A crime of the third degree is punishable by a three to five year term of imprisonment, a fine of up to \$15,000, or both. The bill instead imposes a fine of up to \$30,000 instead of \$15,000. A conviction for a violation of the bill does not merge with a conviction for the underlying crime in which the deepfake is used.

Under the bill, a person would be liable to the victim, for a violation of the bill's provisions, and the latter may bring a civil action in the Superior Court.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that this bill may result in indeterminate annual State and local cost increases. The OLS cannot quantify the exact fiscal impact since the number of cases and convictions resulting from the bill's provisions cannot be known.

The bill's establishment of criminal penalties may result in: a) county prosecutors prosecuting additional cases; b) the Judiciary adjudicating additional complaints and monitoring additional probationers; c) the Office of the Public Defender representing additional low-income criminal defendants; d) the Department of Corrections housing additional individuals; and e) the State Parole Board supervising the return to society of additional offenders. The OLS notes that a presumption of non-incarceration generally applies to first time offenders of crimes of the third degree. However, to the extent the bill results in additional incarcerations, the Department of Corrections would incur costs. Based on information provided by the Department of Corrections,

the FY 2023 average annual cost for housing, ensuring security, and providing services to an incarcerated individual was \$75,574, with an average daily cost of \$207.

A crime of the third degree is ordinarily punishable by a term of three to five years imprisonment, a fine of up to \$15,000, or both. However, the bill provides that a court may impose a fine of up to \$30,000. The State may realize an indeterminate increase in annual revenues from the collection of regular and enhanced fines and court fees; however, the State's ability to collect these penalties and fees has historically been limited.

Section: Judiciary

*Analyst: Anuja Pande Joshi
Senior Fiscal Analyst*

*Approved: Thomas Koenig
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY BILL NO. **3540**
(Second Reprint)

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Assembly Committee Substitute for Assembly Bill No. 3540 (Second Reprint) with my recommendations for reconsideration.

This bill creates a new criminal offense if an individual generates or discloses "deceptive audio or visual media." "Deceptive audio or visual media" is defined as any video recording, motion picture film, sound recording, electronic image, photograph, any technological representation of speech or conduct substantially derivative thereof, or any forgery or facsimile of a document or writing, that appears to a reasonable person to realistically depict any speech, conduct, or writing of a person who did not in fact engage in the speech, conduct, or writing, and the production of which was substantially dependent upon technical means, rather than the ability of another person to physically or verbally impersonate the person. This deceptive media is more commonly referred to or known as "deepfakes."

The bill establishes a crime if a person, without license or privilege to do so, discloses a work of deceptive audio or visual media that the person knows or should reasonably know was created in violation of the provisions of this bill without clearly identifying it as a work of deceptive audio or visual media. The bill further provides that a person could be civilly liable to the individual depicted in the deceptive audio or visual media, who may bring a civil action. The bill also provides that criminal and civil penalties imposed pursuant to the bill only apply to the news media or a news agency if the news media or agency broadcasts or publishes a work of deceptive audio or visual media that the

news media or agency knows was created in violation of the bill, and fails to clearly identify the work as deceptive audio or visual media.

I applaud the proponents of this bill who rightly recognize and seek to mitigate the potential for lasting harms to individuals and for misleading the public at large due to the ease and prevalence of computer technologies that allow for the creation of deceptive media, or "deepfakes." Our criminal code establishes a framework of laws of general application that address a wide range of conduct, but sometimes needs to be more focused to better address particular and nuanced types of undesirable behavior. This is one such area, as those who exploit nascent "deepfake" technology may not be subject to sufficient criminal or civil penalties or deterrence, leaving the public vulnerable and not appropriately safeguarded from the use of "deepfake" audio or visual media for nefarious purposes.

That said, there are ways that this bill can be strengthened to reduce potential First Amendment concerns, such as including an explanation of the intended purpose of the legislation and its underlying rationale for achieving its goal of minimizing the inappropriate or deceptive use of this type of sophisticated technology. As has been mentioned in discussions about this bill, in order for it to be implemented effectively and as intended, we must ensure the language of the bill is sufficiently precise to combat fraudulent, deceptive, or exploitative uses of "deepfakes" without running afoul of constitutional precept, especially as similar legislation enacted in other states has already been challenged under First Amendment arguments.

Therefore, I herewith return Assembly Committee Substitute for Assembly Bill No. 3540 (Second Reprint) and recommend that it be amended as follows:

Page 2, Title, Line 1:

After "establishing" insert
"civil and"

Page 2, Section 1, Line 8:

After "1." insert "The
Legislature finds and declares
that:

a. Technological advances in artificial intelligence have resulted in widespread accessibility to sophisticated "deepfake" technology, which can be used to manipulate audio and visual content to create deceptive audio and visual media depictions that often cannot be distinguished from reality.

b. Digitally altered media generated with this technology can produce false and deceptive, but completely realistic and convincing, media depicting events that never happened, interactions that never took place, conduct that never occurred, and statements that were never made.

c. While there are numerous valid and appropriate uses for this sophisticated technology, such as criticism, comment, satire, parody, news reporting, teaching, scholarship, or research, it may also be used inappropriately, to deceive, humiliate, or violate the privacy of individuals who are portrayed in deceptive audio and visual media without their consent.

d. It is manifest that lawbreakers will use all available tools to subvert the law, and "deepfake" technology, which may be readily accessed through the Internet or computer software programs, can be a powerful tool to accomplish illicit ends. Utilizing "deepfake" technology, bad actors may engage in a broad range of criminal or unlawful conduct such as creating audio and visual media depictions of sexual abuse and sexual exploitation involving children or non-consenting adults, creating false, misleading, and misattributed political advertising and campaign materials, and targeting individuals and corporate entities for harassment, damaging

reputations and ruining lives. Punishment for committing a crime using "deepfake" technology should be cumulative, as the impact of the underlying criminal conduct is amplified through the insidious use of "deepfake" technology as the means to break the law.

e. With the readily available amplifiers of the Internet and social media, digital media can be both ubiquitous and enduring, and the harm to a person falsely depicted in a "deepfake" image or visual or audio recording can result in widespread and pervasive emotional distress, reputational damage, and indelible harm to that person's personal and professional relationships.

f. There is a compelling State interest in fostering the appropriate use of "deepfake" technology and deterring the inappropriate application of this technology to commit illicit conduct, in a way that safeguards the health, safety, and welfare of the public without unduly infringing on the First Amendment rights of content creators. Similarly, the State has a compelling interest in protecting the privacy and reputational interests of residents who might otherwise be falsely depicted through "deepfake" technology, and in providing them a meaningful mechanism through which to obtain appropriate redress.

g. While civil liability and enforcement may to some extent prevent the misuse of this technology in furtherance of criminal activity, the relative ease with which this technology may be accessed and deployed, measured against the magnitude of the indelible and long-lasting harms its use can inflict upon victims and their families, warrants more severe consequences to more effectively punish and deter the inappropriate use of "deepfake" technology.

h. Accordingly, the Legislature finds that it is necessary and proper to establish robust specific criminal penalties to punish

and deter the use of "deepfake" technology to generate or create works of deceptive audio or visual media for the purpose of attempting or furthering the commission of a crime or offense, or to solicit, disclose, or use a work of deceptive audio or visual media for that purpose, and by providing the aggrieved victims of such conduct a civil recourse by which they may seek appropriate recompense.

2."

- Page 2, Section 1, Line 22: After "make" insert "externally"
- Page 3, Section 1, Lines 2-3: Delete "with the intent that it be used as a part of a plan or course of conduct to commit" and insert "for the purpose of attempting or furthering the commission of"
- Page 3, Section 1, Line 3: After "offense," insert "or with the knowledge that the work is to be used by another for such purpose,"
- Page 3, Section 1, Lines 18-23: Delete in their entirety
- Page 3, Section 1, Lines 26-27: Delete "as part of a plan or course of conduct to commit" and insert "for the purpose of attempting or furthering the commission of"
- Page 3, Section 1, Line 27: After "offense," insert "or with knowledge that the work is to be used by another for such purpose,"
- Page 3, Section 1, Line 31: Delete "third" and insert "fourth"
- Page 3, Section 1, Line 32: After "person" insert "knowingly or recklessly"
- Page 3, Section 1, Lines 33-34: Delete "that the person knows or reasonably should know was"
- Page 4, Section 1, Line 7: After "shall" insert "also"
- Page 4, Section 1, Line 10: After "each" insert "knowing or reckless"
- Page 4, Section 1, Line 12: Delete "or reckless"
- Page 4, Section 1, Line 34: Delete "constitutes" and insert "a reasonable viewer or listener would understand to constitute"
- Page 4, Section 1, Line 35: Delete "or research" and insert "research, or to any content"

Page 5, Section 1, Line 9:

Before "telecommunications"
insert "or"

Page 5, Section 1, Line 9:

Delete "or television
station,"

Page 5, Section 1, Line 10:

After "any" insert "television
station,"

Page 5, Section 1, Line 45:

After "media;" insert "to a
school administrator,
attorney, family member, or
other advocate for purposes of
reporting conduct that may
constitute a violation of this
section;"

Page 6, Section 2, Line 4:

Delete "2." and insert "3."

[seal]

Respectfully,

/s/ Philip D. Murphy

Governor

Attest:

/s/ Kate E. McDonnell

Chief Counsel to the Governor

Governor Murphy Takes Action on Legislation

03/17/2025

TRENTON – Today, Governor Murphy signed the following bills into law:

S-2423/ACS for A-3678 (Pou, McKnight/Reynolds-Jackson, Wimberly, Moen) - Renames Juvenile Justice Commission as Youth Justice Commission

S-3466/A-4627 (McKeon, Greenstein/Collazos-Gill, DiMaio) - Extends expiration date of special appraisal process for Green Acres and farmland preservation program; provides aid for watershed lands

AJR-159/SJR-109 (Sumter, Verrelli, Wimberly/McKnight, Mukherji) - Designates November 14 of each year as Ruby Bridges Walk to School Day

Governor Murphy conditionally vetoed the following bills:

ACS for A-3540/SS for S-2544 (Conaway, Greenwald, Park/Moriarty, Corrado) –CONDITIONAL - Establishes criminal penalties for production or dissemination of deceptive audio or visual media, commonly known as “deepfakes”

[Copy of Statement](#)

A-3881/S-2513 (Quijano, Park/Stack, McKnight) – CONDITIONAL - Prohibits dissemination of certain criminal history background information

[Copy of Statement](#)

Governor Murphy issued an absolute veto on the following bill:

A-3667/S-1138 (Freiman, Park/McKeon) - ABSOLUTE - Permits dental service corporations to be subsidiaries of nonprofit parent companies

[Copy of Statement](#)

Governor Murphy Signs Bipartisan Legislation Establishing Civil and Criminal Penalties for Deceptive AI Deepfakes

04/02/2025

NEWARK – Governor Phil Murphy today signed A3540/S2544, establishing civil and criminal penalties for the production and dissemination of deceptive audio or visual media, commonly known as "deepfakes." The Governor was joined by Lieutenant Governor Tahesha Way, Attorney General Matt Platkin, and Westfield High School junior and advocate Francesca Mani.

"I am proud to sign today's legislation and take a stand against deceptive and dangerous deepfakes," **said Governor Murphy**. "While artificial intelligence has proven to be a powerful tool, it must be used responsibly. My Administration is laser-focused on combatting misinformation and ensuring media integrity. We stand with the victims of deepfake imagery and will continue to prioritize the safety and well-being of all New Jerseyans."

"While AI technologies present significant opportunity, as a parent, I share the Governor's concern for the ways bad actors can use AI to endanger and harm our children. And as Secretary of State I also share concerns for interference with our elections," **said Lt. Governor Tahesha Way, who serves as Chief Elections Official in her capacity of Secretary of State**. "Deepfakes are a powerful tool for deception, capable of undermining public trust. And, election interference is not just an attack on a process—it is an attack on the very foundation of our democracy. This legislation sends a clear message: New Jersey is ready for AI – both for all the good it can do, as well as the dangers it presents. And further, we will not tolerate attempts to manipulate our democratic processes. By establishing civil and criminal penalties for the creation and distribution of deceptive media, we are equipping our state with the tools to hold bad actors accountable."

"Artificial intelligence can be used maliciously or irresponsibly to damage lives and reputations by producing or disseminating deceptive audio or visual media, commonly known as 'deepfakes,'" **said Attorney General Matthew J. Platkin**. "This new law is aimed at those who would misuse this powerful technology to defraud or hurt others, and provides carefully tailored criminal and civil safeguards and remedies to protect the public when deepfakes are used improperly. We are grateful to the Legislature and Governor Murphy for enacting these new protections."

Deepfakes are unauthorized photos and videos that have been nefariously manipulated into misleading imagery, including pornographic content. Bad actors have abused artificial intelligence tools to manufacture another person's appearance and distribute fake, illicit material. Victims depicted in deepfake content are often left to navigate these violations of their privacy and trust, experience backlash from peers and loved ones, and combat falsehoods without the ability to criminally prosecute the offender and pursue justice.

Today's legislation was inspired partly by the advocacy of Francesca Mani, a student at Westfield High School who has called for change after being targeted and victimized by peers that created and shared AI-generated, explicit images. Governor Murphy spoke with Francesca and her mother in September 2024 to express his admiration and support as they continued their journey to justice.

"I'm proud to have advocated for AI legislation since 2023 and honored to join Governor Phil Murphy as he signs this into law," **said AI deepfake victim turned advocate Francesca Mani, TIME100 Most Influential Person in AI.** "This victory belongs to every woman and teenager told nothing could be done, that it was impossible, and to just move on. It's proof that with the right support, we can create change together."

Under the provisions of this law, individuals making or distributing deceptive audio or visual media for the furtherance of additional criminal activity are committing a crime of the third degree and may be subject to imprisonment and a fine of up to \$30,000.

"The rapid proliferation of AI-generated deepfakes highlights the need for strong legislation to protect victims and prevent misuse," **said Congressman Tom Kean, Jr.** "I commend Governor Murphy and the New Jersey Legislature for taking decisive action to establish criminal penalties for those who create or distribute harmful deepfakes. In Congress, I remain committed to advancing federal protections for children, women, and all victims of this emerging technology."

The primary sponsors of A3540/S2544 are Congressman and former Assemblyman Herb Conaway, Majority Leader Louis Greenwald, Assemblywoman Ellen Park, and Senators Paul Moriarty and Kristin Corrado.

"When used maliciously, deepfake technology can dismantle lives, distort reality, and exploit the most vulnerable among us," **said Congressman Conaway.** "I'm proud to have sponsored this legislation when I was still in the Assembly, as it will help us keep pace with advancing technology. This is about drawing a clear line between innovation and harm. It's time we take a firm stand to protect individuals from digital deception, ensuring that AI serves to empower our communities."

"Deepfakes have the potential to cause irreparable harm when used for criminal purposes" **said Majority Leader Lou Greenwald.** "This legislation takes a proactive approach to technological advancements and will safeguard New Jersey residents. By establishing additional penalties for the use of this technology to commit crimes, we can deter the use of deepfakes and provide judicial remedies for victims."

"Deepfakes have evolved beyond just altered images – they now encompass all forms of audio and visual media and unfortunately, they are increasingly being used to threaten and invade individuals' lives and personhoods," **said Assemblywoman Ellen Park.** "This legislation is essential in our efforts to stay ahead of the malicious use of deepfake technology, ensuring that this deceptive content doesn't cause issues that are beyond our control."

"With Governor Murphy's signing of this bill into law, we are sending a strong message that we will not tolerate counterfeit technology designed to deceive and mislead people," **said Senator Paul Moriarty.** "Our democracy depends on trust, and this law helps us build that trust by keeping those who might disrupt it on their toes. The people of New Jersey must be protected from lies and manipulation, and this law is crucial to that protection."

"The public sharing of unlawfully generated 'deepfakes' can be just as devastating for a victim as having a real form of media disseminated without their consent. This is especially true in cases where artificial intelligence has been used to create pornography," **said Senator Kristin Corrado.** "We have an ethical responsibility to uphold transparency in the digital age. With the Governor's signature, we're taking a crucial step forward to protect individuals from the damaging effects of deceptive AI generated media by holding bad actors accountable."

"Whether the targets are school children or adults, deepfakes can lead to deep problems on par with being a victim of

fraud or identify theft,” said **AFT New Jersey President Jennifer S. Higgins**. “With this legislation, New Jerseyans will know that bad actors who produce deepfake audio or visuals will face serious consequences.”

“The New Jersey Coalition Against Sexual Assault (NJCASA) strongly supports New Jersey Bill S2544 as a critical step in addressing a rapidly growing and dangerous form of image-based sexual violence that not only invades privacy, but also inflicts profound psychological harm and amplifies a culture of sexual violence,” said **Co-Director of NJCASA Denise Rodriguez, PhD**. “We are grateful to Governor Murphy, the sponsors of the bill, and all those who supported it in taking steps toward a safer and more just New Jersey where the harmful consequences of image-based sexual violence are addressed with the urgency and seriousness they deserve.”

“The public at large gets their news online, and they believe what they see, especially if it is in a visual or audio format,” said **New Jersey Institute of Technology Professor Vincent Oria, PhD, Chair of the Department of Computer Science**. “I am happy that New Jersey is criminalizing the production and dissemination of deceptive media.”

Posted on: April 2, 2025

Corrado Bill Establishing Penalties for Unlawful Deepfakes Signed into Law

Today, Governor Phil Murphy signed legislation sponsored by Senator Kristin Corrado (R-40) that establishes penalties for individuals who create or disseminate deepfakes for an unlawful purpose.



"The public sharing of unlawfully generated 'deepfakes' can be just as devastating for a victim as having a real form of media disseminated without their consent. This is especially true in cases where artificial intelligence has been used to create pornography," said Sen. Corrado. "We have an ethical responsibility to uphold transparency in the digital age. With the Governor's signature, we're taking a crucial step forward to protect individuals from the damaging effects of deceptive AI generated media by holding bad actors accountable."

This legislation would establish criminal penalties of the third degree for individuals who produce deepfake audio or visual media for an unlawful purpose or share deepfakes that were created for an unlawful purpose. If convicted, the creator or distributor of deepfake media could face imprisonment for a term of three to five years, a fine of up to \$15,000, or both. The bill provides that a court may impose a larger fine up to \$30,000.

Additionally, the creator or distributor of unlawful deepfake media would also be civilly liable to the person depicted in the audio or visual media under the bill.

You can read the full text of the S-2544/A-3540 online.

Posted on: April 3, 2025

Greenwald & Park Statements on Signing of Bill A3540

(TRENTON) - Majority Leader [Lou Greenwald's](#) bill establishing criminal penalties for the production or dissemination of deceptive audio or visual media, commonly known as "deepfakes," was signed into law today. Assemblywoman [Ellen Park](#) also sponsored Bill A3540.



The bill sponsors offered the following statements after the legislation was signed into law:

“Deepfakes have the potential to cause irreparable harm when used for criminal purposes,” **said Majority Leader Greenwald (D-Camden, Burlington)**. “This legislation takes a proactive approach to technological advancements and will safeguard New Jersey residents. By establishing additional penalties for the use of this technology to commit crimes, we can deter the use of deepfakes and provide judicial remedies for victims.”

“Deepfakes have evolved beyond just altered images – they now encompass all forms of audio and visual media and unfortunately, they are increasingly being used to threaten and invade individuals' lives and personhoods,” **said Assemblywoman Park (D-Bergen)**. “This legislation is essential in our efforts to stay ahead of the malicious use of deepfake technology, ensuring that this deceptive content doesn't cause issues that are beyond our control.”

Posted on: April 28, 2025

ICYMI: Greenwald Bill Establishing Penalties for Criminal Use of “Deepfakes” Signed Into Law

Greenwald and Park legislation targets harmful use of “deceptive audio or visual media” in criminal acts

(TRENTON) — Majority Leader **Lou Greenwald’s** bill establishing criminal and civil penalties for the misuse of “deepfakes,” digitally altered audio and visual content used to create highly realistic but false depictions, was recently signed into law. Bill **A3540**, which was also sponsored by Assemblywoman **Ellen Park**, addresses the improper use of this widely accessible technology, which can cause both personal and professional harm.



“Deepfakes have the potential to cause irreparable harm when used for criminal purposes,” **said Majority Leader Greenwald (D-Camden, Burlington)**. “This legislation takes a proactive approach to technological advancements and will safeguard New Jersey residents. By establishing additional penalties for the use of this technology to commit crimes, we can deter the use of deepfakes and provide judicial remedies for victims.”

Public concern about deepfakes intensified in New Jersey in November 2023, when students at Westfield High School used generative artificial intelligence (AI) to create pornographic images of female classmates and circulated them without consent.

Under the new law, it is a crime to create or share, deceptive audio or digital media with the intent to commit or further a criminal offense, such as harassment, defamation, or fraud. If convicted, offenders could face prison time and/or fines. The law also allows individuals who are victims of unlawful deepfakes to bring civil lawsuits for damages and other relief against the creators or distributors.

“Deepfakes have evolved beyond just altered images – they now encompass all forms of audio and visual media and unfortunately, they are increasingly being used to threaten and invade individuals’ lives and personhoods,” **said Assemblywoman Park (D-Bergen)**. “This legislation is essential in our efforts to stay ahead of the malicious use of deepfake technology, ensuring that this deceptive content doesn’t cause issues that are beyond our control.”

The law does not criminalize the creation or use of deepfakes in general, nor does it restrict uses protected under the law such as satire, parody, or news reporting. Instead, it provides law

enforcement and the courts with critical tools to address the malicious use of this technology. By taking a proactive approach to the threats posed by deepfakes, New Jersey is setting a strong precedent for responsible innovation while prioritizing the safety, privacy, and dignity of its residents.