

BILL ANALYSIS

Senate Research Center
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S.B. 1044
By: Johnson
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

For elections in Texas to operate smoothly and fairly, it is imperative that voters are not misled or deceived by partisan political advertising. Therefore, the Election Code makes it illegal for someone to create or distribute a "deep fake video" with the intent to injure a candidate in an election or influence the outcome of an election. A deep fake video is defined as a video that appears to depict a real person performing an action that did not actually occur.

However, with technology rapidly evolving, deep fake videos are not the only types of deception that voters need to be wary of in political advertising. Altered images can also be created and distributed with the intent to injure a candidate by altering the candidate's appearance or depicting the candidate performing an action that did not actually occur. In lieu of these technological advancements, S.B. 1044 seeks to update the Election Code by creating a misdemeanor offense for anyone who creates or distributes an altered image of a candidate.

Key Provisions:

- Creates a Class B misdemeanor offense for a person who, with the intent to deceive and influence the result of an election, creates an altered image or distributes the altered image during the 90 days before an election.
- Defines "altered image" as an image that has been manipulated to change the physical appearance of an individual or depict the individual performing an action that did not occur.

As proposed, S.B. 1044 amends current law relating to criminal offenses for the creation or distribution of certain misleading images and videos and creates a criminal offense.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends the heading to Section 255.004, Election Code, to read as follows:

Sec. 255.004. FALSE IMAGES, VIDEOS, AND SOURCES OF COMMUNICATION.

SECTION 2. Amends Section 255.004, Election Code, by amending Subsections (c), (d), and (e) and adding Subsections (d-1) and (d-2), as follows:

(c) Provides that an offense under certain subsections, rather than under this section, is a Class A misdemeanor. Provides that an offense under Subsection (d-1) is a Class B misdemeanor.

(d) Provides that a person commits an offense if the person, with the intent to deceive and with the intent to injure a candidate or influence the result of an election:

(1) creates or causes to be created a deep fake video; and

(2) publishes, distributes, or causes to be published or distributed the deep fake video during the period beginning 90 days before the date of the election and ending on the date of the election, rather than causes the deep fake video to be published or distributed within 30 days of an election.

(d-1) Provides that a person commits an offense if the person, with the intent to deceive and influence the result of an election:

(1) creates or causes to be created an altered image; or

(2) publishes, distributes, or causes to be published or distributed an altered image during the period beginning 90 days before the date of the election and ending on the date of the election.

(d-2) Provides that it is an affirmative defense to prosecution for an offense under Subsection (d-1) if the person includes a clear label on the image stating that the image is altered.

(e) Defines "altered image," redefines "deep fake video," and makes nonsubstantive changes.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2023.