

By: Johnson

S.B. No. 1044

A BILL TO BE ENTITLED

AN ACT

relating to criminal offenses for the creation or distribution of certain misleading images and videos; creating a criminal offense.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The heading to Section 255.004, Election Code, is amended to read as follows:

Sec. 255.004. FALSE IMAGES, VIDEOS, AND SOURCES [~~TRUE SOURCE~~] OF COMMUNICATION.

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

(c) An offense under Subsection (a), (b), or (d) [~~this section~~] is a Class A misdemeanor. An offense under Subsection (d-1) is a Class B misdemeanor.

(d) 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 [~~the deep fake video~~] 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 [~~within 30 days of an~~] election.

(d-1) 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) 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) In this section: [7]

(1) "Altered image" means an image that has been manipulated to change the physical appearance of an individual or depict an individual performing an action that did not occur. The term does not include:

(A) a cartoon, caricature, or any other image that a reasonable viewer would understand to be a satirical representation of the individual; or

(B) an image altered only to change the saturation, brightness, contrast, color, or any other superficial quality of the image.

(2) "Deep ["~~deep~~"] fake video" means a video[~~, created with the intent to deceive,~~] that appears to depict a real person performing an action that did not occur in reality.

SECTION 3. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is

1 governed by the law in effect on the date the offense was committed,
2 and the former law is continued in effect for that purpose. For
3 purposes of this section, an offense was committed before the
4 effective date of this Act if any element of the offense occurred
5 before that date.

6 SECTION 4. This Act takes effect September 1, 2023.