

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Committee Substitute

for

Senate Bill 484

By Senators Woodrum, Oliverio, and Deeds

[Reported February 27, 2025, from the Committee on
the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding a new section,
2 designated §3-8-12a, relating to disclosures and penalties associated with the use of
3 synthetic media and artificial intelligence.

Be it enacted by the Legislature of West Virginia:

ARTICLE 8. REGULATION AND CONTROL OF ELECTIONS.

§3-8-12a. Prohibition on the use of synthetic media and artificial intelligence to influence an election.

1 (a) Terms used in this section are defined as follows:

2 (1) "Artificial intelligence" means a machine-based system that can, for a given set of
3 human-defined objectives, make predictions, recommendations, or decisions influencing real or
4 virtual environments.

5 (2) "Candidate" means an individual as defined in §3-8-1a(4) of this code.

6 (3) "Creator" means any candidate, candidate campaign committee, political party,
7 political action committee, other political committee or entity, any employee, representative, or
8 agent of the foregoing, or any other person who prepares, creates, or causes the preparation or
9 creation and the dissemination of any political advertising, material, or media produced by
10 generative artificial intelligence. The term does not include a broadcaster, cable provider, digital
11 newspaper, online service, internet service provider, streaming platform, provider, or developer of
12 any technology in the generation of media by artificial intelligence, or any employee,
13 representative, or agent thereof, solely for the distribution of a creator, sponsor, or purchaser's
14 political advertising, material, or media.

15 (4) "Depicted individual" means an individual who is falsely represented in synthetic
16 media.

17 (5) "Metadata" means structural or descriptive information about data such as content,
18 format source, rights, accuracy, provenance, periodicity, granularity, publisher or responsible
19 party, contact information, method of collection, and other descriptions.

20 (6) "Person" means an individual, corporation, partnership, committee, association, and
21 any other organization or group of individuals.

22 (7) "Sponsor" means a person at whose request or on whose behalf any political
23 advertisement, material, or media is created, prepared, placed, published, or disseminated.

24 (8) "Synthetic media" means an image, audio recording, or video recording of an
25 individual's appearance, speech, or conduct that has been intentionally manipulated with the use
26 of artificial intelligence techniques or similar digital technology in a manner to create a realistic but
27 false image, audio recording or video recording or video recording that produces:

28 (A) A depiction that a reasonable person would believe is of a real individual in
29 appearance, speech, or conduct but that did not actually occur in reality; and

30 (B) A materially different understanding or impression than a reasonable person would
31 have from the unaltered, original version of the image, audio recording, or video recording.

32 (b) Except as provided in subsection (c) of this section, a person shall not distribute, or
33 enter into an agreement with another person to distribute, synthetic media if all of the following
34 apply:

35 (1) The person knows or has reasonable cause to know the media falsely represents a
36 depicted individual;

37 (2) The distribution occurs within 90 days before an election;

38 (3) Is made without the consent of the depicted individual; and

39 (4) Is made with the intent to injure a candidate or influence the results of an election.

40 (c) The prohibition in subsection (b) of this section does not apply to synthetic media that
41 includes a clear and conspicuous disclaimer stating that the synthetic media has been
42 manipulated by technical means and depicts speech or conduct that did not occur. A disclaimer
43 required under this section is considered to be made in a clear and conspicuous manner if the
44 disclaimer meets the following requirements:

45 (1) In a visual communication that contains synthetic media, the text of the disclaimer
46 statement appears in a font size no smaller than the largest font size of other text appearing in the
47 visual communication. If the visual communication does not include any other text, the disclaimer
48 statement appears in a font size that is easily readable by the average viewer;

49 (2) In audio communication that contains synthetic media, the disclaimer statement shall
50 be read in a clearly spoken manner in the same pitch, speed, language, and volume as the
51 majority of the audio communication, at the beginning of the audio communication, at the end of
52 the audio communication, and, if the audio communication is greater than two minutes in length,
53 interspersed within the audio communication at intervals of not more than one minute each;

54 (3) The metadata of the communication includes the disclaimer statement, the identity of
55 the tool used to create the synthetic media, the identity of the person who created the synthetic
56 media, and the date and time the synthetic media was created;

57 (4) The disclaimer statement in the communication, including the disclaimer statement in
58 any metadata, is, to the extent technically feasible, permanent or unable to be easily removed by a
59 subsequent user; and

60 (5) The communication complies with any additional requirements for the disclaimer
61 statement that the Secretary of State may adopt by rule to ensure that the disclaimer statement is
62 presented in a clear and conspicuous and understandable manner.

63 (d) This section is subject to the following limitations:

64 (1) This section does not alter or negate any rights, obligations, or immunities of an
65 interactive computer service in accordance with 47 U.S.C. § 230, as amended, and shall otherwise
66 be construed in a manner consistent with federal law;

67 (2) This section does not apply to a radio or television broadcasting station, including a
68 cable or satellite television operator, programmer, or producer that broadcasts a communication
69 that includes synthetic media prohibited by subsection (b) of this section as part of a bona fide
70 newscast, news interview, news documentary, or on-the-spot coverage of a bona fide news event,

71 if the broadcast or publication clearly acknowledges through content or a disclosure, in a manner
72 that can be easily heard and understood or read by the average listener or viewer, that there are
73 questions about the authenticity of the synthetic media in the communication;

74 (3) This section does not apply to a radio or television broadcasting station, including a
75 cable or satellite television operator, programmer, producer, or streaming service, when the station
76 is paid to broadcast a communication that includes synthetic media;

77 (4) This section does not apply to an internet website, or a regularly published newspaper,
78 magazine, or other periodical of general circulation, including an internet or electronic publication
79 or streaming service, that routinely carries news and commentary of general interest and that
80 publishes a communication that includes synthetic media prohibited by subsection (b) of this
81 section, if the publication clearly states that the communication that includes the synthetic media
82 does not accurately represent a candidate for elective office;

83 (5) This section does not apply to the provider of technology used in the creation of
84 synthetic media; and

85 (6) This section shall not be construed to alter any rights, obligations, or immunities created
86 by 47 U.S.C. Chapter 5 or under the regulations of the Federal Communications Commission
87 pertaining to the broadcast or distribution of political programming or campaign advertising, or
88 under any other federal law.

89 (e) Any person violating any provision of this section is guilty of a misdemeanor and, upon
90 conviction thereof, shall be fined not more than \$1,000 per violation.

91 (f) Any person who believes that a violation of this section concerning the use of synthetic
92 media in a communication concerning a candidate for elective office has occurred may file a
93 written complaint with the state election commission in accordance with §3-8-8 of this code.

94 (g) In a civil action brought against the creator or the sponsor of content that includes
95 synthetic media by a person to enforce this section, the court may impose a civil penalty not to

96 exceed \$1,000 against a person for each violation of this section that the court finds a person has
97 committed.

98 (h) Compliance with this section does not exempt a person from civil or criminal liability for
99 violations of other applicable law.

100 (i) The Secretary of State may propose emergency and legislative rules for legislative
101 approval in accordance with §29A-3-1 et seq. of this code.