

House _____ Amendment NO. _____

Offered By

1 AMEND House Committee Substitute for House Bill Nos. 1887, 2361, 1913, 2862 & 2321,
2 Pages 1-2, Section 537.043, Lines 14-20, by deleting all of said lines and inserting in lieu thereof
3 the following:

4
5 "(2) "Deepfake", a subset of synthetically generated depictions in which artificial
6 intelligence or machine learning is used to create a realistic but false representation of an
7 identifiable individual's image, voice, or actions;

8 (3) "Depicted individual", an individual who, as a result of digitization or by means of
9 digital manipulation, appears in whole or in part in a digital depiction and who is identifiable by
10 virtue of the individual's face, likeness, or other distinguishing characteristic, such as a unique
11 birthmark or other recognizable feature, or from information displayed in connection with the
12 digital depiction;

13 (4) "Digital depiction", a realistic visual depiction of an individual that has been created
14 or altered using digital manipulation;

15 (5) "Identifiable individual", a person who can be recognized directly or indirectly from
16 a depiction, including through:

17 (a) Facial features or likeness;

18 (b) Voice, whether real or simulated;

19 (c) Name, image, or other biometric identifier;

20 (d) Contextual clues, including, but not limited to, location, clothing, relationships, or
21 other distinguishing characteristics; or

22 (e) Any combination of the foregoing that would cause a reasonable person to identify
23 the individual."; and

24
25 Further amend said bill and section, Page 2, by renumbering all subsequent subdivisions
26 accordingly; and

27
28 Further amend said bill, page, and section, Line 43, by deleting said line and inserting in lieu
29 thereof the following:

30
31 "(e) Lascivious exhibition of the genitals or pubic area of any individual;

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1 (10) "Synthetically generated depiction", any visual, audio, or audiovisual representation
2 that is created in whole or in substantial part by artificial intelligence, machine learning, or other
3 automated computational techniques, and that depicts an identifiable individual who did not
4 actually perform or participate in the depicted conduct, including, but not limited to, deepfake
5 content."; and
6

7 Further amend said bill, page, and section, Lines 44-45, by deleting all of said lines and inserting
8 in lieu thereof the following:
9

10 "2. Except as provided in subsection 8 or 11 of this section, a depicted individual or
11 identifiable individual who is under eighteen years of age and is the subject of a deepfake, digital
12 depiction, or synthetically generated depiction or a depicted"; and
13

14 Further amend said bill and section, Page 3, Lines 59-75, by deleting all of said lines and
15 inserting in lieu thereof the following:
16

17 (1) A depicted or identifiable individual's consent to the creation of the deepfake, digital
18 depiction, or synthetically generated depiction shall not establish that the depicted individual
19 consented to the disclosure of the digital depiction;

20 (2) Consent of disclosure of an intimate digital depiction or synthetically generated
21 depiction shall be deemed validly given only if:

22 (a) It is set forth in an agreement written in plain language, signed knowingly and
23 voluntarily by the depicted individual; and

24 (b) The written agreement includes a general description of the intimate digital depiction
25 or synthetically generated depiction and, if applicable, the audiovisual work into which the
26 intimate digital depiction or synthetically generated depiction will be incorporated.

27 5. In a civil action brought pursuant to this section, a depicted or identifiable individual
28 may recover any of the following:

29 (1) An amount equal to the monetary gain made by the defendant from the creation,
30 development, or disclosure of the deepfake, digital depiction, or synthetically generated
31 depiction;

32 (2) Either of the following:

33 (a) The actual damages sustained by the depicted or identifiable individual as a result of
34 the deepfake, digital depiction, or synthetically generated depiction, including damages for
35 emotional distress; or"; and
36

37 Further amend said bill, page, and section, Line 85, by inserting after the word "depicted" the
38 words "or identifiable"; and
39

40 Further amend said bill and section, Page 4, Lines 92-97, by deleting all of said lines and
41 inserting in lieu thereof the following:

1
2 or public concern solely because the depicted or identifiable individual is a public figure;
3 or

4 (3) The disclosure reasonably intended to assist the depicted or identifiable individual.

5 9. A court may authorize an in camera proceeding under this section.

6 10. It shall not be a defense to an action under this section that there is a disclaimer
7 stating that the deepfake, digital depiction, or synthetically generated depiction was unauthorized
8 or that the depicted or identifiable individual did not participate in the creation or development
9 of the digital depiction."; and

10
11 Further amend said bill and page, Section 573.570, Lines 2-8, by deleting said lines and inserting
12 in lieu thereof the following:

13
14 "(1) "Deepfake", a subset of synthetically generated depictions in which artificial
15 intelligence or machine learning is used to create a realistic but false representation of an
16 identifiable individual's image, voice, or actions;

17 (2) "Depicted individual", an individual who, as a result of digitization or by means of
18 digital manipulation, appears in whole or in part in a digital depiction and who is identifiable by
19 virtue of the individual's face, likeness, or other distinguishing characteristic, such as a unique
20 birthmark or other recognizable feature, or from information displayed in connection with the
21 digital depiction;

22 (3) "Digital depiction", a realistic visual depiction of an individual that has been created
23 or altered using digital manipulation;

24 (4) "Identifiable individual", a person who can be recognized directly or indirectly from
25 a depiction, including through:

26 (a) Facial features or likeness;

27 (b) Voice, whether real or simulated;

28 (c) Name, image, or other biometric identifier;

29 (d) Contextual clues, including, but not limited to, location, clothing, relationships, or
30 other distinguishing characteristics; or

31 (e) Any combination of the foregoing that would cause a reasonable person to identify
32 the individual."; and

33
34 Further amend said bill, page, and section by renumbering all subsequent subdivisions
35 accordingly; and

36
37 Further amend said bill and section, Page 5, Lines 31-43, by deleting said line and inserting in
38 lieu thereof the following:

1
2 "(e) Lascivious exhibition of the genitals or pubic area of any individual;

3 (10) "Synthetically generated depiction", any visual, audio, or audiovisual representation
4 that is created in whole or in substantial part by artificial intelligence, machine learning, or other
5 automated computational techniques, and that depicts an identifiable individual who did not
6 actually perform or participate in the depicted conduct, including, but not limited to, deepfake
7 content.

8 2. A person commits the offense of disclosure of a deepfake, digital depiction, or
9 synthetically generated depiction if the person discloses, or threatens to disclose:

10 (1) A deepfake, digital depiction, or synthetically generated depiction of a depicted or
11 identifiable individual; or

12 (2) An intimate digital depiction:

13 (a) With the intent to harass, annoy, threaten, alarm, or cause substantial harm to the
14 finances or reputation of the depicted or identifiable individual; or

15 (b) With the actual knowledge that or reckless disregard for whether such disclosure or
16 threatened disclosure will cause physical, emotional, reputational, or economic harm to the
17 depicted or identifiable individual.

18 3. (1) A violation of subsection 2 of this section shall be a class E felony unless the
19 digital depiction is of a depicted or identifiable individual who is under eighteen years of age in
20 which case it shall be a class D felony."; and

21
22 Further amend said bill, page, and section, Lines 53-56, by deleting all of said lines and inserting
23 in lieu thereof the following:

24
25 "4. It shall not be a defense to the offense of disclosure of a deepfake, digital depiction,
26 or synthetically generated depiction as provided by this section that there is a disclaimer stating
27 that the deepfake, digital depiction, or synthetically generated depiction was unauthorized or that
28 the depicted or identifiable individual did not participate in the creation or development of the
29 deepfake, digital depiction, or synthetically generated depiction."; and

30
31 Further amend said bill by amending the title, enacting clause, and intersectional references
32 accordingly.