

House Bill 986 (COMMITTEE SUBSTITUTE)

By: Representatives Thomas of the 21<sup>st</sup>, Jones of the 25<sup>th</sup>, Jasperse of the 11<sup>th</sup>, Camp of the 135<sup>th</sup>, Gunter of the 8<sup>th</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 21 of the Official Code of Georgia Annotated, relating to elections, so as to  
2 establish the criminal offenses of fraudulent election interference and solicitation of such; to  
3 provide for definitions; to provide for exceptions; to provide for the Attorney General to have  
4 concurrent jurisdiction over such crimes; to provide for punishment; to provide for injunctive  
5 relief; to provide for the State Election Board to publish results of investigations into such  
6 offenses; to provide for certain disclaimers on campaign advertisements that use AI  
7 generated media; to provide for the form of such disclaimers; to provide for definitions; to  
8 provide for legislative findings and intent; to provide for related matters; to provide for an  
9 effective date; to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**PART I**

**SECTION 1-1.**

13 The General Assembly finds:

14 (1) The significant and rapid increase in use and advancements of artificial intelligence  
15 and other sophisticated technologies poses a unique danger to the State of Georgia's free  
16 and fair system of elections;

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17 (2) Artificial intelligence and other technologies now allow individuals, both in good faith  
18 and bad faith, to create AI generated media that falsely depicts conduct that appears to be  
19 real;

20 (3) The state and its citizens have the utmost rights to both free and fair elections and  
21 freedom of speech; and

22 (4) This Act is narrowly tailored for the purpose of protection against the use of deceptive  
23 media in bad faith to influence elections by reducing certain candidates' chances of being  
24 elected or by suppressing voter turnout through mass confusion.

## 25 PART II

### 26 SECTION 2-1.

27 Title 21 of the Official Code of Georgia Annotated, relating to elections, is amended in  
28 Chapter 2, relating to elections and primaries generally, by adding a new Code section to  
29 read as follows:

30 "21-2-605.

31 (a) As used in this Code section, the term:

32 (1) 'Election' shall have the same meaning as provided in Code Section 21-5-3.

33 (2) 'Materially deceptive media' means a video recording, video file, audio recording, or  
34 audio file, still image, or still image file that:

35 (A) Appears to depict a real individual's speech or conduct that did not occur in reality;

36 and

37 (B) Would appear to a reasonable observer to be authentic.

38 (3) 'Person' means any employee, staff member, or other similarly affiliated individual  
39 of a political party, political body, candidate, campaign committee, political action  
40 committee, or any other political committee. Such term shall not include a broadcaster,  
41 cable provider, online service, streaming platform, or any employees or agents thereof,

42 who otherwise would not fall under this definition of person except for their sale of  
43 advertising to a person as defined in this paragraph.

44 (b) A person commits the offense of fraudulent election interference if he or she, with  
45 knowledge of its falsity, publishes, broadcasts, streams, or uploads materially deceptive  
46 media within 90 days of an election with the intent to deceive one or more electors for the  
47 purpose of:

48 (1) Significantly influencing a candidate's chance of being elected in such election;

49 (2) Creating confusion about the administration of such election; or

50 (3) Otherwise influencing the result of such referendum.

51 (c) A person commits the offense of solicitation of fraudulent election interference when  
52 he or she, with the intent that a violation proscribed by subsection (b) of this Code section  
53 be committed, commands, encourages, or requests any individual to commit a violation  
54 proscribed by subsection (b) of this Code section.

55 (d) Nothing in this Code section shall apply to activities protected by the First Amendment  
56 to the United States Constitution, including, but not limited to, satire, parody, works of  
57 artistic expression, or works of journalism by bona fide news organizations.

58 (e) A person who commits an offense under this Code section shall be guilty of a felony  
59 and, upon conviction thereof, shall be punished by imprisonment for not less than two  
60 years nor more than five years and by a fine not to exceed \$50,000.00.

61 (f) For prosecutions under this Code section, venue shall be proper in any county in this  
62 state where:

63 (1) Any act was committed in furtherance of the unlawful conduct;

64 (2) The candidate affected by the alleged violation resides; or

65 (3) The defendant resided at the time of the alleged violation.

66 (g) The Attorney General shall have concurrent jurisdiction to conduct the criminal  
67 prosecution of a violation of this Code section. A criminal prosecution for a violation of

68 this Code section shall only be initiated upon the Attorney General receiving a  
 69 recommendation to prosecute from the State Election Board.

70 (h) In addition to any other remedy provided by law, a cause of action for injunctive relief  
 71 may be maintained against any person who is in violation of this Code section, by:

72 (1) An individual depicted in the materially deceptive media;

73 (2) The Attorney General;

74 (3) A candidate for office who has been injured or is likely to be injured by the  
 75 distribution of the materially deceptive media; or

76 (4) Any organization that represents the interests of voters likely to be deceived by the  
 77 distribution of the materially deceptive media."

78 **SECTION 2-2.**

79 Said chapter is further amended in Code Section 21-2-31, relating to duties of the State  
 80 Election Board, by revising paragraph (5) as follows:

81 "(5) To investigate, or authorize the Secretary of State to investigate, when necessary or  
 82 advisable the administration of primary and election laws and frauds and irregularities in  
 83 primaries and elections and to report violations of the primary and election laws either  
 84 to the Attorney General or the appropriate district attorney who shall be responsible for  
 85 further investigation and prosecution. Except as provided in Code Section 21-2-605,  
 86 nothing ~~Nothing~~ in this paragraph shall be so construed as to require any complaining  
 87 party to request an investigation by the board before such party might proceed to seek any  
 88 other remedy available to that party under this chapter or any other provision of law;"

89 **SECTION 2-3.**

90 Said chapter is further amended in Code Section 21-2-33.1, relating to enforcement of  
 91 chapter, suspension of election superintendents, and support and assistance from the  
 92 Secretary of State, by adding a new subsection to read as follows:

93 "(a.1) In any investigation stemming from an alleged violation of Code Section 21-2-605,  
94 the State Election Board shall release to the public the findings of any completed  
95 investigation."

96 **SECTION 2-4.**

97 Title 21 of the Official Code of Georgia Annotated, relating to elections, is further amended  
98 in Chapter 5, relating to government transparency and campaign finance, by adding a new  
99 article to read as follows:

100 "ARTICLE 5

101 21-5-90.

102 As used in this article, the term:

103 (1) 'AI generated media' means a video recording, video file, audio recording, audio file,  
104 still image, or still image file that:

105 (A) Is created through the use of an artificial intelligence system;

106 (B) Depicts a real individual's speech or conduct that did not occur in reality; and

107 (C) Appears to a reasonable observer to be authentic.

108 (2) 'Artificial intelligence system' means an engineered or machine based system that  
109 emulates the capability of a person to receive audio, visual, text, or any other form of  
110 information and use the information received to emulate a human cognitive process,  
111 including, but not limited to, learning, generalizing, reasoning, planning, predicting,  
112 acting, or communicating; provided, however, that artificial intelligence systems may  
113 vary in the forms of information they can receive and in the human cognitive processes  
114 they can emulate.

115 (3) 'Campaign advertisement' means any campaign material, commercial, advertisement,  
116 or other media designed to bring about the nomination or election of an individual to any

117 elected office; designed to bring about the recall of a public officer holding elective office  
118 or to oppose the recall of a public officer holding elective office; or designed to bring  
119 about the approval or rejection by the voters of any proposed constitutional amendment,  
120 a state-wide referendum, or a proposed question which is to appear on the ballot in this  
121 state or in a county or a municipal election in this state.

122 21-5-91.

123 (a) Notwithstanding the prohibitions contained in Code Section 21-2-605, any person may  
124 use AI generated content in any campaign advertisement, so long as the campaign  
125 advertisement discloses, in accordance with the provisions of Code Section 21-5-92:

126 (1) The name of the candidate or candidates or campaign committee or committees that  
127 created, sponsored, and paid for the campaign advertisement;

128 (2) The name of each person who is being impersonated;

129 (3) That events depicted may not have actually occurred; and

130 (4) That artificial intelligence was used to make part or all of the content of the campaign  
131 advertisement.

132 (b) Minor editing of a piece of existing audio or visual media shall not require disclosure  
133 under this Code section when such minor editing would not substantially change an  
134 observer's understanding of such media.

135 21-5-92.

136 The disclosure provided for in Code Section 21-5-91 shall meet the following  
137 requirements:

138 (1) For each campaign advertisement that involves the use, in whole or in part, of visual  
139 media, such disclosure:

140 (A) Shall be in writing and completed in each written language used in the remainder  
141 of the advertisement; and

- 142 (B) Shall be clearly readable, which shall mean that the text of the disclosure shall:  
143 (i) Appear in letters equal to or greater than 30 percent of the vertical picture height;  
144 (ii) Be visible for a period of at least 30 percent of the media, in the case of moving  
145 images and video; and  
146 (iii) Appear with a reasonable degree of color contrast between the background and  
147 the text of the statement. A statement satisfies the color contrast requirement of this  
148 division if it is printed in black text on a white background or if the degree of color  
149 contrast between the background and the text of the statement is no less than the color  
150 contrast between the background and the largest type size used in the communication;  
151 and  
152 (2) For each campaign advertisement that involves the use of audible media but does not  
153 involve the use of any visual media, such disclosure shall be announced, articulated,  
154 spoken, or otherwise rendered completely using the same audible volume, the same rate  
155 of speaking as measured in words per minute, and each spoken language as used in the  
156 remainder of the advertisement.

157 21-5-93.

158 (a) Each violation of this article shall be punishable by a fine pursuant to the provisions  
159 of Code Section 21-5-6, except that the amount of such fine shall not be less than  
160 \$10,000.00.

161 (b) Any violation of this article involving the use of AI generated media in a solicitation  
162 for fundraising shall be punishable by disgorgement of any funds raised within ten days of  
163 such solicitation.

164 (c) Except as described in subsection (a) of this Code section, nothing in this Code section  
165 shall be construed so as to limit the powers or remedies available to the commission.

166 (d) Notwithstanding any other provision of law to the contrary, the commission shall be  
167 authorized to investigate any complaint concerning a violation of this article within 90 days  
168 of an election.

169 21-5-94.

170 The commission shall be authorized to promulgate such rules and regulations as may be  
171 necessary for the execution of its functions under this article."

172 **PART III**

173 **SECTION 3-1.**

174 This Act shall become effective upon its approval by the Governor or upon its becoming law  
175 without such approval.

176 **SECTION 3-2.**

177 All laws and parts of laws in conflict with this Act are repealed.