

The Senate Committee on Judiciary offered the following substitute to HB 986:

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:

11 **PART I**
12 **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;

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, internet service provider, streaming platform, or any

42 employees or agents thereof, who otherwise would not fall under this definition of person
43 except for their sale of 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;

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

66 (4) The materially deceptive media is received.

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

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

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

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

74 (2) The Attorney General; or

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

77 **SECTION 2-2.**

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

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

88 **SECTION 2-3.**

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

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

95 **SECTION 2-4.**

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

99 "ARTICLE 5

100 21-5-90.

101 As used in this article, the term:

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

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

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

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

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

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

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

121 21-5-91.

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

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

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

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

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

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

134 21-5-92.

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

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

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

- 141 (B) Shall be clearly readable, which shall mean that the text of the disclosure shall:
142 (i) Be equal to or greater than 30 percent of the vertical picture height;
143 (ii) Be visible for a period of at least 30 percent of the media, in the case of moving
144 images and video; and
145 (iii) Appear with a reasonable degree of color contrast between the background and
146 the text of the statement. A statement satisfies the color contrast requirement of this
147 division if it is printed in black text on a white background or if the degree of color
148 contrast between the background and the text of the statement is no less than the color
149 contrast between the background and the largest type size used in the communication;
150 and
151 (2) For each campaign advertisement that involves the use of audible media but does not
152 involve the use of any visual media, such disclosure shall be announced, articulated,
153 spoken, or otherwise rendered completely using the same audible volume, the same rate
154 of speaking as measured in words per minute, and each spoken language as used in the
155 remainder of the advertisement.
- 156 21-5-93.
157 (a) Each violation of this article shall be punishable by a fine pursuant to the provisions
158 of Code Section 21-5-6, except that the amount of such fine shall not be less than
159 \$10,000.00.
160 (b) Any violation of this article involving the use of AI generated media in a solicitation
161 for fundraising shall be punishable by disgorgement of any funds raised within ten days of
162 such solicitation.
163 (c) Except as described in subsection (a) of this Code section, nothing in this Code section
164 shall be construed so as to limit the powers or remedies available to the commission.

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

168 21-5-94.

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

171 **PART III**

172 **SECTION 3-1.**

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

175 **SECTION 3-2.**

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