



February 21, 2024

ENGROSSED HOUSE BILL No. 1133

DIGEST OF HB 1133 (Updated February 19, 2024 11:56 am - DI 149)

Citations Affected: IC 3-9.

Synopsis: Use of digitally altered media in elections. Defines "fabricated media" as audio or a visual recording of an individual's speech, appearance, or conduct that has been altered without the individual's consent such that: (A) the media conveys a materially inaccurate depiction of the individual's speech, appearance, or conduct as recorded in the unaltered recording; and (B) a reasonable person would be unable to recognize that the recording has been altered; or (2) in which an artificially generated audio or visual imitation of an individual that: (A) has been created without the individual's consent; and (B) is sufficiently lifelike that a reasonable person would be unable to distinguish the speech or appearance of the imitation from the speech or appearance of the individual; is used to convey a fictional depiction of the individual's speech, appearance, or conduct. Defines candidate. Requires certain campaign communications that contain fabricated media depicting a candidate to include a disclaimer. Allows a candidate depicted in fabricated media that does not include a disclaimer to bring a civil action against certain persons.

Effective: Upon passage.

Olthoff, Abbott, Miller K, Wesco

(SENATE SPONSORS — DEERY, DERNULC)

January 8, 2024, read first time and referred to Committee on Elections and Apportionment.

January 18, 2024, reported — Do Pass.

January 23, 2024, read second time, amended, ordered engrossed.

January 24, 2024, engrossed.

January 25, 2024, read third time, passed. Yeas 98, nays 0.

SENATE ACTION

February 5, 2024, read first time and referred to Committee on Elections.

February 20, 2024, amended, reported favorably — Do Pass.

EH 1133—LS 6740/DI 119



February 21, 2024

Second Regular Session of the 123rd General Assembly (2024)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2023 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1133

A BILL FOR AN ACT to amend the Indiana Code concerning elections.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 3-9-8 IS ADDED TO THE INDIANA CODE AS
2 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON
3 PASSAGE]:

4 **Chapter 8. Use of Digitally Altered Media in Elections**

5 **Sec. 1. (a) As used in this chapter, "campaign communication"**
6 **means a communication, regardless of the format of the**
7 **communication or the medium through which the communication**
8 **is disseminated, that:**

- 9 (1) **advocates for the election or defeat of a clearly identified**
10 **candidate; or**
11 (2) **solicits a contribution.**

12 (b) **For purposes of this section, a candidate is clearly identified**
13 **if any of the following apply:**

- 14 (1) **The communication includes one (1) or more of the**
15 **following:**
16 (A) **The name of the candidate.**
17 (B) **A video, photograph, or drawing of the candidate.**

EH 1133—LS 6740/DI 119



- 1 (C) Fabricated media depicting the candidate.
 2 (2) The identity of the candidate is apparent by unambiguous
 3 reference.
 4 Sec. 2. (a) For purposes of this chapter, subject to subsection (b),
 5 "candidate" has the meaning set forth in IC 3-5-2-6.
 6 (b) For purposes of this chapter, "candidate" includes an
 7 individual who holds an elected office, including:
 8 (1) a federal or state office, including a federal or state
 9 legislative office;
 10 (2) a school board office; or
 11 (3) a local office.
 12 Sec. 3. As used in this chapter, "fabricated media" means any
 13 of the following:
 14 (1) Media that includes an audio or visual recording of an
 15 individual's speech, appearance, or conduct that has been
 16 altered without the individual's consent such that:
 17 (A) the media conveys a materially inaccurate depiction of
 18 the individual's speech, appearance, or conduct as
 19 recorded in the unaltered recording; and
 20 (B) a reasonable person would be unable to recognize that
 21 the recording has been altered.
 22 (2) Media in which an artificially generated audio or visual
 23 imitation of an individual that:
 24 (A) has been created without the individual's consent; and
 25 (B) is sufficiently lifelike that a reasonable person would be
 26 unable to distinguish the speech or appearance of the
 27 imitation from the speech or appearance of the individual;
 28 is used to convey a fictional depiction of the individual's
 29 speech, appearance, or conduct.
 30 (3) Media depicting the speech, appearance, or conduct of an
 31 artificially generated person, the appearance or speech of
 32 which is not a recognizable imitation of an identifiable
 33 individual.
 34 Sec. 4. As used in this chapter, "media" means:
 35 (1) recorded audio;
 36 (2) a recorded image; or
 37 (3) recorded video.
 38 Sec. 5. If a campaign communication includes fabricated media
 39 depicting a candidate, the person that paid for the campaign
 40 communication must include a disclaimer, separate from the
 41 disclaimer required under IC 3-9-3-2.5(d), that meets the following
 42 requirements:



- 1 (1) The disclaimer must state: "Elements of this media have
- 2 been digitally altered or artificially generated."
- 3 (2) If the campaign communication is a printed
- 4 communication, the disclaimer must be printed in a manner
- 5 that complies with IC 3-9-3-2.5(e).
- 6 (3) If the campaign communication is an audio
- 7 communication, the disclaimer must be read:
- 8 (A) in each language used in the campaign communication;
- 9 (B) at a speed and pitch at which the disclaimer is
- 10 reasonably understandable; and
- 11 (C) at a volume that is not lower than the loudest audio
- 12 included in the campaign communication;
- 13 at the beginning of the campaign communication, at the end
- 14 of the campaign communication, and, if the campaign
- 15 communication is more than two (2) minutes in length, at
- 16 intervals of two (2) minutes for the duration of the campaign
- 17 communication.
- 18 (4) If the campaign communication is a video communication,
- 19 the disclaimer must be:
- 20 (A) printed in a manner that complies with IC 3-9-3-2.5(e);
- 21 and
- 22 (B) displayed continuously for the duration of the
- 23 campaign communication.
- 24 Sec. 6. (a) A candidate depicted in fabricated media that is
- 25 included in a campaign communication that does not include a
- 26 disclaimer required by section 5 of this chapter may bring a civil
- 27 action against:
- 28 (1) the person that paid for the campaign communication;
- 29 (2) the person that sponsored the campaign communication;
- 30 and
- 31 (3) a person that disseminates the campaign communication,
- 32 if:
- 33 (A) the campaign communication included the disclaimer
- 34 when provided to the person; and
- 35 (B) the person knowingly, intentionally, or recklessly
- 36 altered or removed the disclaimer before disseminating the
- 37 campaign communication.
- 38 (b) A plaintiff who prevails in an action brought under
- 39 subsection (a) is entitled to recover:
- 40 (1) the plaintiff's actual damages;
- 41 (2) injunctive relief; and
- 42 (3) the amount of any court costs and reasonable attorney's



1 **fees incurred by the plaintiff in connection with the action.**
2 **(c) The plaintiff in an action under this section has the burden**
3 **of proving by clear and convincing evidence that the plaintiff was**
4 **depicted in fabricated media in the campaign communication that**
5 **is the subject of the action.**
6 **(d) A court shall expedite the hearing of an action brought**
7 **under this section.**
8 **SECTION 2. An emergency is declared for this act.**



COMMITTEE REPORT

Mr. Speaker: Your Committee on Elections and Apportionment, to which was referred House Bill 1133, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

(Reference is to HB 1133 as introduced.)

WESCO

Committee Vote: Yeas 13, Nays 0

 HOUSE MOTION

Mr. Speaker: I move that House Bill 1133 be amended to read as follows:

Page 5, line 5, after "(j)" insert "**For purposes of this subsection, "candidate" includes an individual who holds a state office, legislative office, school board office, or local office.**".

Page 5, line 6, after "candidate," insert "**the person that paid for**".

Page 5, line 33, after "(a)" insert "**For purposes of this section, "candidate" includes an individual who holds a state office, legislative office, school board office, or local office.**

(b)".

Page 5, line 42, after "person" insert "**knowingly, intentionally, or recklessly**".

Page 6, line 2, delete "(b)" and insert "**(c)**".

Page 6, line 3, delete "(a)" and insert "**(b)**".

Page 6, line 8, delete "(c)" and insert "**(d)**".

Page 6, line 12, delete "(d)" and insert "**(e)**".

(Reference is to HB 1133 as printed January 18, 2024.)

OLTHOFF



COMMITTEE REPORT

Madam President: The Senate Committee on Elections, to which was referred House Bill No. 1133, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, delete lines 1 through 4, begin a new paragraph and insert:

"SECTION 1. IC 3-9-8 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 8. Use of Digitally Altered Media in Elections

Sec. 1. (a) As used in this chapter, "campaign communication" means a communication, regardless of the format of the communication or the medium through which the communication is disseminated, that:

- (1) advocates for the election or defeat of a clearly identified candidate; or**
- (2) solicits a contribution.**

(b) For purposes of this section, a candidate is clearly identified if any of the following apply:

- (1) The communication includes one (1) or more of the following:**
 - (A) The name of the candidate.**
 - (B) A video, photograph, or drawing of the candidate.**
 - (C) Fabricated media depicting the candidate.**
- (2) The identity of the candidate is apparent by unambiguous reference.**

Sec. 2. (a) For purposes of this chapter, subject to subsection (b), "candidate" has the meaning set forth in IC 3-5-2-6.

(b) For purposes of this chapter, "candidate" includes an individual who holds an elected office, including:

- (1) a federal or state office, including a federal or state legislative office;**
- (2) a school board office; or**
- (3) a local office.**

Sec. 3. As used in this chapter, "fabricated media" means any of the following:"

Page 2, delete lines 4 through 5, begin a new line block indented and insert:

"(3) Media depicting the speech, appearance, or conduct of an artificially generated person, the appearance or speech of which is not a recognizable imitation of an identifiable individual."



Page 2, line 6, delete "UPON PASSAGE]:".

Page 2, line 6, beginning with "Sec." begin a new paragraph.

Page 2, line 6, delete "0.5." and insert "4.".

Page 2, delete lines 11 through 42.

Delete pages 3 through 4.

Page 5, delete lines 1 through 11, begin a new paragraph and insert:

"Sec. 5. If a campaign communication includes fabricated media depicting a candidate, the person that paid for the campaign communication must include a disclaimer, separate from the disclaimer required under IC 3-9-3-2.5(d), that meets the following requirements:".

Page 5, line 12, delete ""Media depicting the candidate" and insert ""Elements of this media have been digitally altered or artificially generated."."

Page 5, delete line 13.

Page 5, line 14, before "communication" insert "**campaign**".

Page 5, line 16, delete "subsection (e)." and insert "**IC 3-9-3-2.5(e)**".

Page 5, line 17, before "communication is" insert "**campaign**".

Page 5, line 19, before "communication;" insert "**campaign**".

Page 5, line 23, before "communication;" insert "**campaign**".

Page 5, line 24, before "communication," insert "**campaign**".

Page 5, line 25, before "communication, and," insert "**campaign**".

Page 5, line 25, before "communication is" insert "**campaign**".

Page 5, line 27, before "communication." insert "**campaign**".

Page 5, line 28, before "communication is" insert "**campaign**".

Page 5, line 30, delete "subsection (e);" and insert "**IC 3-9-3-2.5(e);**".

Page 5, line 33, before "communication." insert "**campaign**".

Page 5, delete lines 34 through 38.

Page 5, line 39, delete "(b)" and insert "**Sec. 6. (a)**".

Page 5, line 40, before "communication" insert "**campaign**".

Page 5, line 41, delete "2.5(j)" and insert "**5**".

Page 5, line 42, before "communication;" insert "**campaign**".

Page 6, line 1, before "communication;" insert "**campaign**".

Page 6, line 2, before "communication," insert "**campaign**".

Page 6, line 3, before "communication" insert "**campaign**".

Page 6, line 7, before "communication." insert "**campaign**".

Page 6, line 8, delete "(c)" and insert "**(b)**".

Page 6, line 9, delete "(b)" and insert "**(a)**".

Page 6, line 14, delete "(d)" and insert "**(c)**".

Page 6, line 16, before "communication" insert "**campaign**".



Page 6, line 18, delete "(e)" and insert "(d)".
Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1133 as reprinted January 24, 2024.)

GASKILL, Chairperson

Committee Vote: Yeas 7, Nays 1.

