SENATE No. 2730

The Commonwealth of Massachusetts

PRESENTED BY:

Barry R. Finegold

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to deceptive and fraudulent deepfakes in election communications.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
Barry R. Finegold	Second Essex and Middlesex	
Frank A. Moran	17th Essex	4/12/2024

SENATE No. 2730

By Mr. Finegold, a petition (accompanied by bill, Senate, No. 2730) (subject to Joint Rule 12) of Barry R. Finegold and Frank A. Moran for legislation relative to deceptive and fraudulent deepfakes in election communications. Election Laws.

The Commonwealth of Alassachusetts

In the One Hundred and Ninety-Third General Court (2023-2024)

An Act relative to deceptive and fraudulent deepfakes in election communications.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

- SECTION 1. Chapter 56 of the General Laws, as appearing in the 2022 Official Edition,
- 2 is hereby amended by inserting after section 39 the following new section:-
- 3 Section 39A. Synthetic Media in Election Communications
- 4 (a) As used in this section, the following words shall have the following meanings unless
- 5 the context clearly requires otherwise:
- 6 "Candidate" and "political committee" shall have the same meanings as such terms are
- 7 defined in section 1 of chapter 55 of the General Laws.
- 8 "Deceptive or fraudulent deepfake", synthetic media that depicts a candidate or political
- 9 party with the intent to injure the reputation of the candidate or party or otherwise deceive a
- voter and that: (i) appears to a reasonable person to depict a real individual saying or doing
- something that that individual did not say or do; or (ii) provides a reasonable person a

- fundamentally different understanding or impression of the appearance, action or speech than a reasonable person would have from an unaltered, original version of the image, audio recording or video recording.
 - "Person", an individual, corporation, political committee, association, operation, firm, partnership, trust or other form of business or personal association.
- "Political party" shall have the meaning as defined in section 1 of chapter 50 of the

 General Laws.

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- "Synthetic media", an image, audio recording or video recording of an individual's appearance, speech or conduct that has been created or intentionally manipulated with the use of generative adversarial network techniques or other digital technology in a manner to create a realistic but false image, audio or video.
- (b)(1) A person shall not distribute a synthetic media message that the person knows or reasonably should have known is a deceptive or fraudulent deepfake depicting a candidate or political party within 90 days of an election in which said candidate or political party will appear on the state or local ballot; provided, however, that this section shall not apply if the following statement is made in the form provided herein by the distributing person: "This _____ (image, video, or audio) has been manipulated or generated by artificial intelligence."
- (2) The following requirements shall apply to the conveyance of such statement based on the medium of the message:
- 31 (i) If said synthetic media message includes an image or video recording, said statement 32 shall appear as text in a clearly readable manner with a reasonable degree of color contrast

- between the background and the statement; provided, however, that said text shall be no smaller than the largest font size of any other text appearing in said image or video recording, if any; and provided further, that any such statement shall appear for the full duration of the video if the synthetic media message consists of a video recording.
- (ii) If said synthetic media message consists only of an audio recording, said statement shall be read in a clearly-spoken manner with a reasonable pitch at the beginning of the audio, at the end of the audio and, if the audio is greater than 2 minutes in length, interspersed within the audio at intervals of not greater than 2 minutes each.
- (c) A candidate whose appearance, action or speech is depicted through the use of a deceptive or fraudulent deepfake in violation of this section may institute a civil action for: (i) special or general damages not to exceed \$10,000 per incident; (ii) injunctive or declaratory relief; or (iii) any other relief the court deems proper; provided, however, that such civil action shall not limit or preclude a plaintiff from securing or recovering any other available remedy; and provided further, that the court may award reasonable attorney's fees and costs to the prevailing party.
 - (d) This section shall not apply to:

(i) a radio or television broadcasting station, including a cable or satellite television operator, programmer or producer that broadcasts a deceptive or fraudulent deepfake in violation of this section as part of a bona fide newscast, news interview, news documentary or live coverage of bona fide news events, provided that the broadcast clearly acknowledges through verbal or text disclosure which is reasonably understandable to the average viewer or listener that the authenticity of the synthetic media is in question;

- (ii) a radio or television broadcasting station, including a cable or satellite television operator, programmer or producer that has been paid to broadcast such deceptive or fraudulent deepfake, provided that such radio or television broadcasting station has made a good faith effort to establish that the depiction is not a deceptive or fraudulent deepfake;
- (iii) an internet website, or a regularly published newspaper, magazine or other periodical of general circulation, including an internet or electronic publication, which routinely carries news and commentary of general interest and that publishes a deceptive or fraudulent deepfake in violation of this section, provided that the publication clearly states, in a manner at least as prominent as the synthetic media itself, that said synthetic media does not accurately represent the speech or conduct of the candidate; or
 - (iv) synthetic media that constitutes satire or parody.
- SECTION 2. This Act shall take effect upon its passage.