



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB2786

Introduced 1/17/2024, by Sen. Mary Edly-Allen

SYNOPSIS AS INTRODUCED:

New Act

Creates the Digital Forgeries Act. Provides that an individual depicted in a digital forgery has a cause of action against any person who, without the consent of the depicted individual, knowingly distributes a digital forgery, creates a digital forgery with intent to distribute, or solicits the creation of a digital forgery with the intent to distribute: (i) in order to harass, extort, threaten, or cause physical, emotional, reputational, or economic harm to an individual falsely depicted; (ii) with reckless disregard for whether such a creation, distribution, reproduction, or manipulation will cause physical, emotional, reputational, or economic harm to an individual falsely depicted; or (iii) in order to incite violence or interfere with an official proceeding. Provides that the Act does not apply to a digital forgery that is clearly and conspicuously identified to make clear to a reasonable person that the audiovisual material was created through the use of artificial intelligence, or is not an authentic record of an act, a statement, or the conduct, absence, or presence of an individual, such as parody or satire, unless the material appears to be a sexual image as defined in the Civil Remedies for Nonconsensual Dissemination of Private Sexual Images Act. Provides that a depicted individual's consent to the creation of a digital forgery shall not alone establish consent to the distribution of that digital forgery, nor shall consent to previous disclosure of a digital forgery alone establish that the depicted individual consented to subsequent disclosures. Allows a prevailing plaintiff to be awarded damages, costs, and additional relief. Allows the court to grant injunctive relief maintaining the confidentiality of a plaintiff using a pseudonym.

LRB103 36313 LNS 66411 b

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Digital Forgeries Act.

6 Section 5. Definitions. As used in this Act:

7 "Artificial intelligence" means a machine-based system
8 that can make predictions, recommendations, or decisions
9 influencing real or virtual environments for a given set of
10 human-defined objectives

11 "Digital forgery" means any audio or visual material that
12 has been created, materially manipulated, altered, or
13 annotated, through the use of artificial intelligence, to
14 appear to be a realistic record of an act, speech, conduct,
15 absence, or appearance of an individual.

16 "Official proceeding" includes any federal, State, local,
17 tribal, administrative adjudication, election, or rulemaking
18 proceeding.

19 Section 10. Civil action.

20 (a) An individual depicted in a digital forgery has a
21 cause of action against any person who, without the consent of
22 the depicted individual, knowingly distributes a digital

1 forgery, creates a digital forgery with intent to distribute,
2 or solicits the creation of a digital forgery with the intent
3 to distribute:

4 (1) in order to harass, extort, threaten, or cause
5 physical, emotional, reputational, or economic harm to an
6 individual falsely depicted;

7 (2) with reckless disregard for whether such a
8 creation, distribution, reproduction, or manipulation will
9 cause physical, emotional, reputational, or economic harm
10 to an individual falsely depicted; or

11 (3) in order to incite violence or interfere with an
12 official proceeding.

13 (b) This Section does not apply to a digital forgery that
14 is clearly and conspicuously identified to make clear to a
15 reasonable person that the audiovisual material was created
16 through the use of artificial intelligence, or is not an
17 authentic record of an act, a statement, or the conduct,
18 absence, or presence of an individual, such as parody or
19 satire, unless the material appears to be a sexual image as
20 defined in subsection (14) of Section 5 of the Civil Remedies
21 for Nonconsensual Dissemination of Private Sexual Images Act.

22 (c) A depicted individual's consent to the creation of a
23 digital forgery shall not alone establish consent to the
24 distribution of that digital forgery, nor shall consent to
25 previous disclosure of a digital forgery alone establish that
26 the depicted individual consented to subsequent disclosures.

1 Section 15. Remedies.

2 (a) Under this Act, a prevailing plaintiff may be awarded:

3 (1) The greater of:

4 (A) economic and noneconomic damages proximately
5 caused by the creation or distribution of the digital
6 forgery, including damages for emotional distress
7 regardless of whether they are accompanied by other
8 damages; or

9 (B) statutory damages not to exceed \$10,000
10 against each defendant found liable under this Act for
11 all disclosures and threatened disclosures by the
12 defendant of which the plaintiff knew or reasonably
13 should have known when filing the action or that
14 became known during the pendency of the action.

15 (2) An amount equal to any monetary gain made by the
16 defendant from the creation, distribution, or solicitation
17 of creation of the digital forgery.

18 (3) Punitive damages.

19 (4) The costs of the action, including reasonable
20 attorney's fees and other reasonable litigation costs.

21 (5) Additional relief, including equitable relief,
22 such as a temporary restraining order, a preliminary
23 injunction, or a permanent injunction ordering the
24 defendant to cease the display or disclosure of the
25 digital forgery.

1 (b) This Act does not affect a right or remedy available
2 under any other law of this State.

3 Section 20. Preservation of anonymity. In ordering relief
4 under this Act, the court may grant injunctive relief
5 maintaining the confidentiality of a plaintiff using a
6 pseudonym.

7 Section 25. Severability. The provisions of this Act are
8 severable under Section 1.31 of the Statute on Statutes.