

DRAFT LBDC

A BUDGET BILL submitted by the Governor
in accordance with Article VII of the Constitution

AN ACT to amend the civil rights law, in relation to privacy rights involving digitization (Subpart A); to amend the penal law, in relation to defining the crime of unlawful dissemination or publication of a fabricated photographic, videographic, or audio record, and updating the definition of certain crimes to include digitization (Subpart B); and to amend the election law, in relation to digitization in political communications (Subpart C) (Part _);

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 PART __

2 Section 1. Short title. This act shall be known and may be cited as
3 the "artificial intelligence deceptive practices act".

4 § 2. This act enacts into law major components of legislation neces-
5 sary to implement the artificial intelligence deceptive practices act.
6 Each component is wholly contained within a Subpart identified as
7 Subparts A through C. The effective date for each particular provision
8 contained within such Subpart is set forth in the last section of such
9 Subpart. Any provision in any section contained within a Subpart,
10 including the effective date of the Subpart, which makes a reference to
11 a section "of this act", when used in connection with that particular
12 component, shall be deemed to mean and refer to the corresponding
13 section of the Subpart in which it is found. Section four of this act
14 sets forth the general effective date of this act.

15 SUBPART A

1 Section 1. Section 50 of the civil rights law is amended to read as
2 follows:

3 § 50. Right of privacy. A person, firm or corporation that uses for
4 advertising purposes, or for the purposes of trade, the name, portrait
5 [or], picture, likeness, or voice of any living person without having
6 first obtained the written consent of such person, or if a minor of [his
7 or her] such minor's parent or guardian, is guilty of a misdemeanor.

8 § 2. Section 51 of the civil rights law, as amended by chapter 674 of
9 the laws of 1995, is amended to read as follows:

10 § 51. Action for injunction and for damages. Any person whose name,
11 portrait, picture, likeness or voice is used within this state for
12 advertising purposes or for the purposes of trade without the written
13 consent first obtained as above provided may maintain an equitable
14 action in the supreme court of this state against the person, firm or
15 corporation so using [his] such person's name, portrait, like-
16 ness or voice, to prevent and restrain the use thereof; and may also sue
17 and recover damages for any injuries sustained by reason of such use and
18 if the defendant shall have knowingly used such person's name, portrait,
19 picture, likeness or voice in such manner as is forbidden or declared to
20 be unlawful by section fifty of this article, the jury, in its
21 discretion, may award exemplary damages. But nothing contained in this
22 article shall be so construed as to prevent any person, firm or corpo-
23 ration from selling or otherwise transferring any material containing
24 such name, portrait, picture, likeness or voice in whatever medium to
25 any user of such name, portrait, picture, likeness or voice, or to any
26 third party for sale or transfer directly or indirectly to such a user,
27 for use in a manner lawful under this article; nothing contained in this
28 article shall be so construed as to prevent any person, firm or corpo-

1 ration, practicing the profession of photography, from exhibiting in or
2 about [his or its] their establishment specimens of the work of such
3 establishment, unless the same is continued by such person, firm or
4 corporation after written notice objecting thereto has been given by the
5 person portrayed; and nothing contained in this article shall be so
6 construed as to prevent any person, firm or corporation from using the
7 name, portrait, picture, likeness or voice of any manufacturer or dealer
8 in connection with the goods, wares and merchandise manufactured,
9 produced or dealt in by [him] such manufacturer or dealer which [he has]
10 they have sold or disposed of with such name, portrait, picture, like-
11 ness or voice used in connection therewith; or from using the name,
12 portrait, picture, likeness or voice of any author, composer or artist
13 in connection with [his] their literary, musical or artistic productions
14 which [he has] they have sold or disposed of with such name, portrait,
15 picture, likeness or voice used in connection therewith. Nothing
16 contained in this section shall be construed to prohibit the copyright
17 owner of a sound recording from disposing of, dealing in, licensing or
18 selling that sound recording to any party, if the right to dispose of,
19 deal in, license or sell such sound recording has been conferred by
20 contract or other written document by such living person or the holder
21 of such right. Nothing contained in the foregoing sentence shall be
22 deemed to abrogate or otherwise limit any rights or remedies otherwise
23 conferred by federal law or state law.

24 § 3. The opening paragraph of subdivision 1 and subdivisions 4 and 5
25 of section 52-b of the civil rights law, as added by chapter 109 of the
26 laws of 2019, are amended and a new subdivision 11 is added to read as
27 follows:

1 Any person depicted in a still or video image, including an image
2 created or altered by digitization, regardless of whether or not the
3 original still or video image was consensually obtained, shall have a
4 cause of action against an individual who, for the purpose of harassing,
5 annoying or alarming such person, disseminated or published, or threat-
6 ened to disseminate or publish, such still or video image, where such
7 image:

8 4. Any person depicted in a still or video image, including an image
9 created or altered by digitization, that depicts an unclothed or exposed
10 intimate part of such person, or such person engaging in sexual conduct
11 as defined in subdivision ten of section 130.00 of the penal law with
12 another person, which is disseminated or published without the consent
13 of such person and where such person had a reasonable expectation that
14 the image would remain private, may maintain an action or special
15 proceeding for a court order to require any website that is subject to
16 personal jurisdiction under subdivision five of this section to perma-
17 nently remove such still or video image; any such court order granted
18 pursuant to this subdivision may direct removal only as to images that
19 are reasonably within such website's control.

20 5. a. Any website that hosts or transmits a still or video image,
21 including an image created or altered by digitization, viewable in this
22 state, taken under circumstances where the person depicted had a reason-
23 able expectation that the image would remain private, which depicts:

24 (i) an unclothed or exposed intimate part, as defined in section
25 245.15 of the penal law, of a resident of this state; or

26 (ii) a resident of this state engaging in sexual conduct as defined in
27 subdivision ten of section 130.00 of the penal law with another person;

28 and

1 b. Such still or video image is hosted or transmitted without the
2 consent of such resident of this state, shall be subject to personal
3 jurisdiction in a civil action in this state to the maximum extent
4 permitted under the United States constitution and federal law.

5 11. For purposes of this section, "digitization" means the use of
6 software, machine learning, artificial intelligence, or any other compu-
7 ter-generated or technological means, including adapting, modifying,
8 manipulating, or altering a realistic depiction.

9 § 4. Paragraph b of subdivision 1 of section 52-c of the civil rights
10 law, as added by chapter 304 of the laws of 2020, is amended to read as
11 follows:

12 b. "digitization" means to realistically depict the nude body parts of
13 another human being as the nude body parts of the depicted individual,
14 computer-generated nude body parts as the nude body parts of the
15 depicted individual or the depicted individual engaging in sexual
16 conduct, as defined in subdivision ten of section 130.00 of the penal
17 law, in which the depicted individual did not engage. "Digitization"
18 may also mean the use of software, machine learning, artificial intelli-
19 gence, or any other computer-generated or technological means, including
20 adapting, modifying, manipulating, or altering a realistic depiction.

21 § 5. The civil rights law is amended by adding a new section 50-h to
22 read as follows:

23 § 50-h. Private right of action for false light invasion of privacy.

24 1. For the purposes of this section:

25 a. "depicted individual" means an individual whose picture, portrait
26 or voice appears in digitally-altered material in a realistic manner.

27 b. "actor" means a human being or a legal entity.

28 c. "individual" means a natural individual.

1 d. "digitization" means the use of software, machine learning, artifi-
2 cial intelligence, or any other computer-generated or technological
3 means, including adapting, modifying, manipulating, or altering a real-
4 istic depiction.

5 e. "digitally-altered material" means any audio or visual media,
6 including any photograph, film, videotape, audio recording or similar
7 medium that has been created or altered in a realistic manner using
8 digitization.

9 2. a. A depicted individual shall have a cause of action against an
10 actor who discloses, disseminates, or publishes digitally-altered mate-
11 rial that contains a false statement or representation which places such
12 individual in a false light, if:

13 i. the false light in which the depicted individual was placed would
14 be highly offensive to a reasonable person; and

15 ii. (A) where the depicted individual is a private person, the actor
16 knew or in the exercise of reasonable care should have known of the
17 falsity of such digitally-altered material; or (B) where the depicted
18 individual is a public figure, the actor had knowledge of or acted with
19 reckless disregard as to the falsity of such digitally-altered material.

20 b. It shall not be a defense to an action under this section that
21 there is a disclaimer that the digitally-altered material that places
22 the depicted individual in a false light was unauthorized or that the
23 depicted individual did not participate in the creation or development
24 of the digitally-altered material.

25 3. A cause of action under this section shall be commenced the later
26 of either:

1 a. three years after the disclosure, dissemination or publication of
2 the digitally-altered material that places the depicted individual in a
3 false light;

4 b. one year from the date a person discovers, or reasonably should
5 have discovered, the disclosure, dissemination or publication of such
6 digitally-altered material that places the depicted individual in a
7 false light.

8 4. In any action commenced pursuant to this section, the finder of
9 fact, in its discretion, may award injunctive relief, punitive damages,
10 compensatory damages and reasonable court costs and attorneys' fees.

11 5. Nothing in this section shall be read to require a prior criminal
12 complaint, prosecution or conviction to establish the elements of the
13 cause of action provided for in this section.

14 6. The provisions of this section including the remedies are in addi-
15 tion to, and shall not supersede, any other rights or remedies available
16 in law or equity.

17 7. If any provision of this section or its application to any person
18 or circumstance is held invalid, the invalidity shall not affect other
19 provisions or applications of this section which can be given effect
20 without the invalid provision or application, and to this end the
21 provisions of this section are severable.

22 8. Nothing in this section shall be construed to limit, or to enlarge,
23 the protections that 47 U.S.C. § 230 confers on an interactive computer
24 service for content provided by another information content provider, as
25 such terms are defined in 47 U.S.C. § 230.

26 § 6. This act shall take effect immediately.

1 Section 1. Section 10.00 of the penal law is amended by adding a new
2 subdivision 23 to read as follows:

3 23. "Digitization" means the use of software, machine learning, arti-
4 ficial intelligence, or any other computer-generated or technological
5 means, including adapting, modifying, manipulating, or altering a real-
6 istic depiction.

7 § 2. The penal law is amended by adding a new section 15.30 to read as
8 follows:

9 § 15.30 Effect of use of digitization upon liability.

10 A person is not relieved of criminal liability for conduct because it
11 involves the use of digitization, regardless of whether the material
12 created or altered by digitization indicates through a label or some
13 other form of information published that digitization was used. Evidence
14 of use of digitization may be offered whenever it is relevant to estab-
15 lish or negative the crime charged.

16 § 3. Section 245.15 of the penal law, as added by chapter 109 of the
17 laws of 2019, subdivisions 1 and 2 as amended by chapter 513 of the laws
18 of 2023, is amended to read as follows:

19 § 245.15 Unlawful dissemination or publication of an intimate image or
20 audio record.

21 1. A person is guilty of unlawful dissemination or publication of an
22 intimate image or audio record when:

23 (a) (i) with intent to cause harm to the emotional, financial or phys-
24 ical welfare of another person, they intentionally disseminate or
25 publish a still or video image depicting such other person with one or
26 more intimate parts exposed or engaging in obscene or sexual conduct
27 [with another person], including an image created or altered by digiti-
28 zation, where such person may reasonably be identified from the still or

1 video image itself or from information displayed in connection with the
2 still or video image; and

3 [(b)] (ii) the actor knew or reasonably should have known that the
4 person depicted did not consent to such dissemination or publication,
5 including the dissemination or publication of an image taken with the
6 consent of the person depicted when such person had a reasonable expec-
7 tation that the image would remain private, regardless of whether the
8 actor was present when such image was taken[.]; or

9 (b) (i) with intent to cause harm to the emotional, financial or phys-
10 ical welfare of another person, they intentionally disseminate or
11 publish an audio record depicting such other person engaging in sexual
12 or obscene conduct, including an audio record created or altered by
13 digitization, where such person may reasonably be identified from the
14 audio record itself or from information displayed in connection with the
15 audio record; and

16 (ii) the actor knew or reasonably should have known that the person
17 depicted did not consent to such dissemination or publication, including
18 the dissemination or publication of an audio record taken with the
19 consent of the person depicted when such person had a reasonable expec-
20 tation that the audio record would remain private, regardless of whether
21 the actor was present when such audio record was taken.

22 2. For purposes of this section the following terms shall have the
23 following meanings:

24 (a) "intimate part" means the naked genitals, pubic area, anus or
25 female nipple of the person;

26 (b) "disseminate" and "publish" shall have the same meaning as defined
27 in section 250.40 of this title;

1 (c) "sexual conduct" shall have the same meaning as defined in subdi-
2 vision ten of section 130.00 of this chapter; and

3 (d) ["digitization" shall mean to alter an image in a realistic manner
4 utilizing an image or images of a person, other than the person
5 depicted, or computer generated images] "obscene" shall have the same
6 meaning as defined in section 235.00 of this part.

7 3. This section shall not apply to the following:

8 (a) the reporting of unlawful conduct;

9 (b) dissemination or publication of an intimate image or audio record
10 made during lawful and common practices of law enforcement, legal
11 proceedings or medical treatment;

12 (c) images and audio records involving voluntary exposure in a public
13 or commercial setting; or

14 (d) dissemination or publication of an intimate image or audio record
15 made for a legitimate public purpose.

16 4. Nothing in this section shall be construed to limit, or to enlarge,
17 the protections that 47 U.S.C § 230 confers on an interactive computer
18 service for content provided by another information content provider, as
19 such terms are defined in 47 U.S.C. § 230.

20 Unlawful dissemination or publication of an intimate image or audio
21 record is a class A misdemeanor.

22 § 4. Section 135.60 of the penal law, as amended by section 1 of part
23 NN of chapter 55 of the laws of 2018, the opening paragraph as amended
24 by chapter 484 of the laws of 2021, subdivision 10 as added by chapter
25 447 of the laws of 2021, is amended to read as follows:

26 § 135.60 Coercion in the third degree.

27 A person is guilty of coercion in the third degree when [he or she]
28 such person compels or induces a person to engage in conduct which the

1 latter has a legal right to abstain from engaging in, or to abstain from
2 engaging in conduct in which [he or she] such latter person has a legal
3 right to engage, or compels or induces a person to join a group, organ-
4 ization or criminal enterprise which such latter person has a right to
5 abstain from joining, or compels or induces a person to produce, dissem-
6 inate, or otherwise display an image or images or audio record or
7 records depicting nudity of such person [or], depicting such person
8 engaged in sexual conduct as defined in subdivisions two and three of
9 section 235.20 of this chapter, or depicting such other person engaged
10 in conduct that is obscene as defined in section 235.00 of this part,
11 including when such material is created or altered by digitization, by
12 means of instilling in [him or her] such other person a fear that, if
13 the demand is not complied with, the actor or another will:

- 14 1. Cause physical injury to a person; or
- 15 2. Cause damage to property; or
- 16 3. Engage in other conduct constituting a crime; or
- 17 4. Accuse some person of a crime or cause criminal charges to be
18 instituted against [him or her] such person; or
- 19 5. Expose a secret or publicize an asserted fact, whether true or
20 false, tending to subject some person to hatred, contempt or ridicule;
21 or
- 22 6. Cause a strike, boycott or other collective labor group action
23 injurious to some person's business; except that such a threat shall not
24 be deemed coercive when the act or omission compelled is for the benefit
25 of the group in whose interest the actor purports to act; or
- 26 7. Testify or provide information or withhold testimony or information
27 with respect to another's legal claim or defense; or

1 8. Use or abuse [his or her] their position as a public servant by
2 performing some act within or related to [his or her] their official
3 duties, or by failing or refusing to perform an official duty, in such
4 manner as to affect some person adversely; or

5 9. Perform any other act which would not in itself materially benefit
6 the actor but which is calculated to harm another person materially with
7 respect to [his or her] their health, safety, business, calling, career,
8 financial condition, reputation or personal relationships.

9 10. Report [his or her] the person's immigration status or suspected
10 immigration status.

11 Coercion in the third degree is a class A misdemeanor.

12 § 5. Section 190.25 of the penal law, the section heading, opening
13 paragraph and closing paragraph as amended by chapter 27 of the laws of
14 1980, subdivisions 3 and 4 as amended and subdivision 5 as added by
15 chapter 739 of the laws of 2021, is amended to read as follows:

16 § 190.25 Criminal impersonation in the second degree.

17 A person is guilty of criminal impersonation in the second degree when
18 [he] the person:

19 1. Impersonates another and does an act in such assumed character with
20 intent to obtain a benefit or to injure or defraud another; or

21 2. Pretends to be a representative of some person or organization and
22 does an act in such pretended capacity with intent to obtain a benefit
23 or to injure or defraud another; or

24 3. (a) Pretends to be a public servant, or wears or displays without
25 authority any uniform, badge, insignia or facsimile thereof by which
26 such public servant is lawfully distinguished, or falsely expresses by
27 [his] words or actions that [he] such person is a public servant or is
28 acting with approval or authority of a public agency or department; and

1 (b) so acts with intent to induce another to submit to such pretended
2 official authority, to solicit funds or to otherwise cause another to
3 act in reliance upon that pretense; or

4 4. Impersonates another by communication by internet website or elec-
5 tronic means with intent to obtain a benefit or injure or defraud anothe-
6 er, or by such communication pretends to be a public servant in order to
7 induce another to submit to such authority or act in reliance on such
8 pretense; or

9 5. Impersonates another person, without such other person's permis-
10 sion, by using the other person's electronic signature with intent to
11 obtain a benefit or injure or defraud the other person or another
12 person. For the purposes of this subdivision, electronic signature shall
13 have the same meaning as set forth in subdivision three of section three
14 hundred two of the state technology law.

15 As used in this section, "impersonate" and "pretend" shall include,
16 but not be limited to, instances involving the use of digitization.

17 Criminal impersonation in the second degree is a class A misdemeanor.

18 § 6. Section 190.26 of the penal law, as amended by chapter 2 of the
19 laws of 1998, subdivision 1 as amended by chapter 434 of the laws of
20 2008, is amended to read as follows:

21 § 190.26 Criminal impersonation in the first degree.

22 A person is guilty of criminal impersonation in the first degree when
23 [he] the person:

24 1. Pretends to be a police officer or a federal law enforcement offi-
25 cer as enumerated in section 2.15 of the criminal procedure law, or
26 wears or displays without authority, any uniform, badge or other insig-
27 nia or facsimile thereof, by which such police officer or federal law
28 enforcement officer is lawfully distinguished or expresses by [his or

1 her] words or actions that [he or she] such person is acting with the
2 approval or authority of any police department or acting as a federal
3 law enforcement officer with the approval of any agency that employs
4 federal law enforcement officers as enumerated in section 2.15 of the
5 criminal procedure law; and

6 2. So acts with intent to induce another to submit to such pretended
7 official authority or otherwise to act in reliance upon said pretense
8 and in the course of such pretense commits or attempts to commit a felo-
9 ny; or

10 3. Pretending to be a duly licensed physician or other person author-
11 ized to issue a prescription for any drug or any instrument or device
12 used in the taking or administering of drugs for which a prescription is
13 required by law, communicates to a pharmacist an oral prescription which
14 is required to be reduced to writing pursuant to section thirty-three
15 hundred thirty-two of the public health law.

16 As used in this section, "pretend" shall include, but not be limited
17 to, instances involving the use of digitization.

18 Criminal impersonation in the first degree is a class E felony.

19 § 7. The opening paragraph of section 190.78 of the penal law, as
20 added by chapter 619 of the laws of 2002, is amended to read as follows:

21 A person is guilty of identity theft in the third degree when [he or
22 she] such person knowingly and with intent to defraud assumes the iden-
23 tity of another person, including with the use of digitization, by
24 presenting [himself or herself] themselves as that other person, or by
25 acting as that other person or by using personal identifying information
26 of that other person, and thereby:

27 § 8. The opening paragraph of section 190.79 of the penal law, as
28 added by chapter 619 of the laws of 2002, is amended to read as follows:

1 A person is guilty of [identify] identity theft in the second degree
2 when [he or she] such person knowingly and with intent to defraud
3 assumes the identity of another person, including with the use of digi-
4 tization, by presenting [himself or herself] themselves as that other
5 person, or by acting as that other person or by using personal identify-
6 ing information of that other person, and thereby:

7 § 9. The opening paragraph of section 190.80 of the penal law, as
8 added by chapter 619 of the laws of 2002, is amended to read as follows:

9 A person is guilty of identity theft in the first degree when [he or
10 she] such person knowingly and with intent to defraud assumes the iden-
11 tity of another person, including with the use of digitization, by
12 presenting [himself or herself] themselves as that other person, or by
13 acting as that other person or by using personal identifying information
14 of that other person, and thereby:

15 § 10. The opening paragraph of section 190.80-a of the penal law, as
16 added by chapter 226 of the laws of 2008, is amended to read as follows:

17 A person is guilty of aggravated identity theft when [he or she] such
18 person knowingly and with intent to defraud assumes the identity of
19 another person, including with the use of digitization, by presenting
20 [himself or herself] themselves as that other person, or by acting as that
21 other person or by using personal identifying information of that other
22 person, and knows that such person is a member of the armed forces, and
23 knows that such member is presently deployed outside of the continental
24 United States and:

25 § 11. The penal law is amended by adding a new section 245.20 to read
26 as follows:

27 § 245.20 Unlawful dissemination or publication of a fabricated photo-
28 graphic, videographic, or audio record.

1 1. A person is guilty of unlawful dissemination or publication of a
2 fabricated photographic, videographic, or audio record when, with intent
3 to cause harm to the liberty or emotional, social, financial or physical
4 welfare of an identifiable person or persons, the actor intentionally
5 creates or causes to be created a fabricated record of such person or
6 persons and disseminates or publishes such record of such person or
7 persons without such person or persons' consent.

8 2. For purposes of this section:

9 (a) "Identifiable" shall mean the ability to discern an individual's
10 identity either through the fabricated record itself or from information
11 displayed in connection with the fabricated record;

12 (b) "Fabricated photographic, videographic, or audio record" or
13 "fabricated record" shall mean a still image, video or audio record
14 that:

15 (i) exhibits a high level of authenticity or convincing appearance
16 that is visually or audibly indistinguishable from reality;

17 (ii) is either manipulated or entirely artificial, including but not
18 limited to, manipulation through digitization; and

19 (iii) depicts a scenario that did not actually occur or that has been
20 altered in a significant way from how it actually occurred; and

21 (c) "Disseminate" and "publish" shall have the same meanings as
22 defined in section 250.40 of this title.

23 3. This section shall not apply to the following:

24 (a) Dissemination or publication of a fabricated record by a person
25 who did not create the fabricated record or cause the fabricated record
26 to be created, whether or not such person is aware of the authenticity
27 of the record;

1 (b) Dissemination or publication of a fabricated record that was
2 created during the lawful and common practices of law enforcement, legal
3 proceedings or medical treatment where the record is not disseminated or
4 published with the intent to misrepresent its authenticity;

5 (c) Dissemination or publication of a fabricated record that was
6 created for the purpose of political or social commentary, parody,
7 satire, or artistic expression that is not disseminated or published
8 with the intent to misrepresent its authenticity;

9 (d) Dissemination or publication of a fabricated record that was
10 created for the purpose of news reporting where the record is not
11 disseminated or published with the intent to misrepresent its authentic-
12 ity;

13 (e) Dissemination or publication of a fabricated record that was
14 created where the person reasonably believes that the dissemination or
15 publication of the record is necessary to protect themselves from seri-
16 ous bodily injury or death;

17 (f) Dissemination or publication of a fabricated record that was
18 created for the purpose of historical reenactment or preservation,
19 digital restoration or preservation of cultural heritage where the
20 record is not disseminated or published with the intent to misrepresent
21 its authenticity;

22 (g) Dissemination or publication of a fabricated record that was
23 created for the purpose of training or education, provided however that
24 such training or education shall not include the training or education
25 of a person or persons to engage in unlawful activities;

26 (h) Dissemination or publication of a fabricated record that was
27 created for the purpose of memorializing a deceased person;

1 (i) Dissemination or publication of a fabricated record that was
2 created for the purpose of lawful scientific, academic, or technological
3 research or development where the record is not disseminated or
4 published with the intent to misrepresent its authenticity; and

5 (j) Initial dissemination or publication of a fabricated record by the
6 platform or service, provided that the fabricated record was not created
7 by an individual who is directly affiliated with the platform or
8 service.

9 4. Nothing in this section shall be construed to limit, or to enlarge,
10 the protections that 47 U.S.C. § 230 confers on an interactive computer
11 service for content provided by another information content provider, as
12 such terms are defined in 47 U.S.C. § 230.

13 Unlawful dissemination or publication of a fabricated photographic,
14 videographic, or audio record is a class A misdemeanor.

15 § 12. Section 263.10 of the penal law, as amended by chapter 1 of the
16 laws of 2000, is amended to read as follows:

17 § 263.10 Promoting an obscene sexual performance by a child.

18 A person is guilty of promoting an obscene sexual performance by a
19 child when, knowing the character and content thereof, [he] such person
20 produces, directs or promotes any obscene performance which includes
21 sexual conduct by a child less than seventeen years of age, including a
22 performance created or altered by digitization.

23 Promoting an obscene sexual performance by a child is a class D felo-
24 ny.

25 § 13. Section 263.11 of the penal law, as amended by chapter 456 of
26 the laws of 2012, is amended to read as follows:

27 § 263.11 Possessing an obscene sexual performance by a child.

1 A person is guilty of possessing an obscene sexual performance by a
2 child when, knowing the character and content thereof, [he] such person
3 knowingly has in [his] such person's possession or control, or knowingly
4 accesses with intent to view, any obscene performance which includes
5 sexual conduct by a child less than sixteen years of age, including a
6 performance created or altered by digitization.

7 Possessing an obscene sexual performance by a child is a class E felo-
8 ny.

9 § 14. Section 263.15 of the penal law, as amended by chapter 1 of the
10 laws of 2000, is amended to read as follows:

11 § 263.15 Promoting a sexual performance by a child.

12 A person is guilty of promoting a sexual performance by a child when,
13 knowing the character and content thereof, [he] such person produces,
14 directs or promotes any performance which includes sexual conduct by a
15 child less than seventeen years of age, including a performance created
16 or altered by digitization.

17 Promoting a sexual performance by a child is a class D felony.

18 § 15. Section 263.16 of the penal law, as amended by chapter 456 of
19 the laws of 2012, is amended to read as follows:

20 § 263.16 Possessing a sexual performance by a child.

21 A person is guilty of possessing a sexual performance by a child when,
22 knowing the character and content thereof, [he] such person knowingly
23 has in [his] such person's possession or control, or knowingly accesses
24 with intent to view, any performance which includes sexual conduct by a
25 child less than sixteen years of age, including a performance created or
26 altered by digitization.

27 Possessing a sexual performance by a child is a class E felony.

1 § 16. This act shall take effect on the ninetieth day after it shall
2 have become a law.

3 SUBPART C

4 Section 1. Section 14-106 of the election law is amended by adding a
5 new subdivision 5 to read as follows:

6 5. (a) For purposes of this subdivision:

7 (i) "Digitization" means use of software, machine learning, artificial
8 intelligence, or any other computer-generated or technological means,
9 including adapting, modifying, manipulating, or altering a realistic
10 depiction.

11 (ii) "Deceptive media" means any video recording, motion picture,
12 film, audio recording, electronic image, photograph, text, or any tech-
13 nological representation of speech or conduct fully or partially created
14 or modified through digitization that:

15 (1) exhibits a high level of authenticity or convincing appearance
16 that is visually or audibly indistinguishable from reality; and

17 (2) depicts a scenario that did not actually occur or that has been
18 altered in a significant way from how they actually occurred.

19 (b) (i) A person, firm, association, corporation, campaign, committee,
20 or organization that with the intent to unduly influence the outcome of
21 an election or deceive a voter, knowingly distributes or publishes with-
22 in sixty days of an election any political communication that was
23 produced by or includes digitized deceptive media shall be required to
24 disclose the use of such digitization.

25 (ii) (1) For visual media the disclosure shall be printed or typed in
26 an appropriate legible font size consistent with other text appearing in

1 the visual media and in the same language used on the communication to
2 read as follows: "this political communication was created with the
3 assistance of digitization".

4 (2) For communication that is auditory, such as radio or automated
5 telephone calls, clearly speaking the statement at the beginning of the
6 audio in the same language used in the communication satisfies the
7 requirements of clause one of this subparagraph.

8 (iii) This paragraph shall not apply to the following:

9 (1) deceptive media that constitutes satire or parody;

10 (2) deceptive media created for the purposes of news reporting; or

11 (3) initial dissemination by a platform or service including, but not
12 limited to, a website, regularly published newspaper, or magazine.

13 (c)(i) A registered voter may seek injunctive or other equitable
14 relief prohibiting the distribution, publication, or broadcasting of any
15 deceptive media in violation of this subdivision. An action under this
16 paragraph shall be initiated by filing an application for order to show
17 cause in the supreme court where the voter resides.

18 (ii) A candidate whose voice or likeness appears in deceptive media in
19 violation of this subdivision may seek injunctive relief or other equi-
20 table relief prohibiting the distribution, publication or broadcasting
21 of any deceptive media in violation of this subdivision. An action under
22 this paragraph shall be initiated by filing an application for an order
23 to show cause in the supreme court where the deceptive media at issue
24 could deceive and influence electors in an upcoming election.

25 (iii) This paragraph shall not be construed to limit or preclude a
26 plaintiff from pursuing or recovering any other available remedy.

27 § 2. This act shall take effect on the ninetieth day after it shall
28 have become a law.

1 § 3. Severability clause. If any clause, sentence, paragraph, subdivi-
2 sion, section, subpart or part of this act shall be adjudged by any
3 court of competent jurisdiction to be invalid, such judgment shall not
4 affect, impair, or invalidate the remainder thereof, but shall be
5 confined in its operation to the clause, sentence, paragraph, subdivi-
6 sion, section, subpart or part thereof directly involved in the contro-
7 versy in which such judgment shall have been rendered. It is hereby
8 declared to be the intent of the legislature that this act would have
9 been enacted even if such invalid provisions had not been included here-
10 in.

11 § 4. This act shall take effect immediately provided, however, that
12 the applicable effective date of Subparts A through C of this act shall
13 be as specifically set forth in the last section of such Subparts.