

AMENDED IN ASSEMBLY APRIL 24, 2024

AMENDED IN ASSEMBLY APRIL 1, 2024

AMENDED IN ASSEMBLY MARCH 21, 2024

CALIFORNIA LEGISLATURE—2023–24 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2655**

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**Introduced by Assembly Members Berman and Pellerin  
(Principal coauthor: Assembly Member Cervantes)  
(Coauthor: Assembly Member Bennett)**

February 14, 2024

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An act to amend Section 35 of the Code of Civil Procedure, and to add Chapter 7 (commencing with Section 20510) to Division 20 of the Elections Code, relating to elections.

LEGISLATIVE COUNSEL'S DIGEST

AB 2655, as amended, Berman. Defending Democracy from Deepfake Deception Act of 2024.

Existing law establishes requirements for the conduct of election campaigns, including requirements regarding the endorsement of candidates, political corporations, campaign funds, fair campaign practices, and libel and slander. Existing law, until January 1, 2027, prohibits any person, committee, or other entity from distributing, with actual malice, materially deceptive audio or visual media of a candidate for elective office with the intent to injure the candidate's reputation or to deceive a voter into voting for or against the candidate, within 60 days of the election. Existing law requires specified actions pertaining to elections to be given precedence when they are filed in court, including actions involving the registration of voters, the certification of candidates and measures, and election contests, and, until January

1, 2027, actions involving the foregoing prohibition against materially deceptive media.

This bill would establish the Defending Democracy from Deepfake Deception Act of 2024 for the purpose of preventing the online dissemination of manipulated media and disinformation meant to deceive voters and to prevent them from voting. The bill would require a large online platform, as defined, to block the posting or sending of materially deceptive and digitally modified or created content related to elections, during specified periods before and after an election. The bill would require a large online platform to label certain additional content inauthentic, fake, or false during specified periods before and after an election.

The bill would require a large online platform to develop procedures for California residents to report content that has not been blocked or labeled in compliance with the act. The bill would also authorize California residents, the Attorney General, and a district attorney or city attorney to seek injunctive relief against a large online platform for noncompliance with the act, as specified, and would assign precedence to such actions when they are filed in court.

The bill would exempt from its provisions a regularly published online newspaper, magazine, or other periodical of general circulation that routinely carries news and commentary of general interest, if the publication complies with specified disclosure requirements. The bill would also exempt content that is satire or parody.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 35 of the Code of Civil Procedure, as  
2 amended by Section 1 of Chapter 343 of the Statutes of 2023, is  
3 amended to read:  
4 35. (a) Proceedings in cases involving the registration or denial  
5 of registration of voters, the certification or denial of certification  
6 of candidates, the certification or denial of certification of ballot  
7 measures, election contests, actions under Section 20010 of the  
8 Elections Code, actions under Chapter 7 (commencing with Section  
9 20510) of Division 20 of the Elections Code, and actions under  
10 Chapter 2 (commencing with Section 21100) of Division 21 of the

1 Elections Code shall be placed on the calendar in the order of their  
2 date of filing and shall be given precedence.

3 (b) This section shall remain in effect only until January 1, 2027,  
4 and as of that date is repealed, unless a later enacted statute, that  
5 is enacted before January 1, 2027, deletes or extends that date.

6 SEC. 2. Section 35 of the Code of Civil Procedure, as amended  
7 by Section 2 of Chapter 343 of the Statutes of 2023, is amended  
8 to read:

9 35. (a) Proceedings in cases involving the registration or denial  
10 of registration of voters, the certification or denial of certification  
11 of candidates, the certification or denial of certification of ballot  
12 measures, election contests, actions under Chapter 7 (commencing  
13 with Section 20510) of Division 20 of the Elections Code, and  
14 actions under Chapter 2 (commencing with Section 21100) of  
15 Division 21 of the Elections Code shall be placed on the calendar  
16 in the order of their date of filing and shall be given precedence.

17 (b) This section shall become operative January 1, 2027.

18 SEC. 3. Chapter 7 (commencing with Section 20510) is added  
19 to Division 20 of the Elections Code, to read:

20

21 CHAPTER 7. DEFENDING DEMOCRACY FROM DEEPFAKE  
22 DECEPTION ACT OF 2024  
23

24 20510. This chapter shall be known and may be cited as the  
25 Defending Democracy from Deepfake Deception Act of 2024.

26 20511. The Legislature finds and declares all of the following:

27 (a) California is entering its first-ever generative artificial  
28 intelligence (AI) election, in which disinformation powered by  
29 generative AI will pollute our information ecosystems like never  
30 before. Voters will not know what images, audio, or video they  
31 can trust.

32 (b) In a few clicks, using current technology, bad actors now  
33 have the power to create a false image of a candidate accepting a  
34 bribe or a fake video of an elections official “caught on tape”  
35 saying that voting machines are not secure, or to generate the  
36 Governor’s voice telling millions of Californians their voting site  
37 has changed.

38 (c) In the lead-up to the 2024 presidential elections, candidates  
39 and parties are already creating and distributing deepfake images  
40 and audio and video content. These fake images or files can spread

1 to millions of Californians in seconds and skew election results or  
 2 undermine trust in the ballot counting process.

3 (d) The labeling information required by this bill is narrowly  
 4 tailored to provide consumers with factual information about the  
 5 inauthenticity of particular images, audio, video, or text content  
 6 in order to prevent consumer deception.

7 (e) In order to ensure California elections are free and fair,  
 8 California must, for a limited time before and after elections,  
 9 prevent the use of deepfakes and disinformation meant to prevent  
 10 voters from voting and to deceive voters based on fraudulent  
 11 content.

12 20512. For purposes of this chapter, the following terms have  
 13 the following meanings:

14 (a) *“Artificial intelligence” means an engineered or*  
 15 *machine-based system that varies in its level of autonomy and that*  
 16 *can, for explicit or implicit objectives, infer from the input it*  
 17 *receives how to generate outputs that can influence physical or*  
 18 *virtual environments.*

19 ~~(a)~~

20 (b) (1) “Elections official” means any of the following persons,  
 21 but only in their capacity as a person charged with holding or  
 22 conducting an election, conducting a canvass, assisting with the  
 23 holding or conducting of an election or a canvas, or performing  
 24 another duty related to administering the provisions of this code:

25 (A) An elections official as defined in Section 320.

26 (B) The Secretary of State and their staff.

27 (C) A temporary worker, poll worker, or member of a precinct  
 28 board.

29 (D) Any other person charged with holding or conducting an  
 30 election, conducting a canvass, assisting with the holding or  
 31 conducting of an election or a canvas, or performing another duty  
 32 related to administering the provisions of this code.

33 (2) The requirements of this chapter relating to content  
 34 portraying an elections official apply only if the large online  
 35 platform knows or should know that the person is an elections  
 36 official.

37 ~~(b)~~

38 (c) “Election processes” means any government process related  
 39 to an election, including, but not limited to, elections, candidates,

1 vote counting, redistricting, and proceedings or processes of the  
2 electoral college.

3 (e)

4 (d) (1) “Materially deceptive and digitally modified or created  
5 content” means an image or an audio or video recording or other  
6 digital content, including a chatbot, that has been intentionally  
7 manipulated such that all of the following conditions are met:

8 (A) (i) The digital content is the product of digital manipulation,  
9 *including, but not limited to, artificial intelligence, or machine*  
10 *learning, including deep learning techniques, that merges,*  
11 *combines, replaces, or superimposes content onto an image or an*  
12 *audio or video recording, creating an image or an audio or video*  
13 *recording that appears authentic, or that otherwise generates an*  
14 *inauthentic image or an audio or video recording that appears*  
15 *authentic, and but that contains a false portrayal of any of the*  
16 *following: a candidate for elective office, elected official, elections*  
17 *official, voting machine, ballot, voting site, other property or*  
18 *equipment related to an election, or elections process.*

19 (ii) For purposes of this subdivision, “false portrayal” means  
20 the content would cause a reasonable person to have a  
21 fundamentally different understanding or impression of the content  
22 than the person would have if they were hearing or seeing ~~the~~  
23 ~~unaltered, original~~ *an authentic* version of the content.

24 (B) The person or entity who attempted to post or send, or who  
25 did post or send, the content did so knowing the portrayal was  
26 false, or did so with reckless disregard for whether the portrayal  
27 was false. If the content is intentionally manipulated and contains  
28 a false portrayal as specified in subparagraph (A), there shall be a  
29 rebuttable presumption that the person or entity knew the portrayal  
30 was false or that they acted with reckless disregard for whether  
31 the portrayal was false.

32 (2) “Materially deceptive and digitally modified or created  
33 content” does not include any image or audio or video recording  
34 that contains only minor modifications that do not lead to  
35 significant changes to the perceived contents or meaning of the  
36 content. Minor changes include changes to the brightness or  
37 contrast of images, removal of background noise in audio, and  
38 other minor changes that do not impact the content of the image  
39 or audio or video recording.

40 (d)

1 (e) “Large online platform” means a public-facing internet  
2 website, web application, or digital application, including a social  
3 network, video sharing platform, advertising network, or search  
4 engine that had at least 1,000,000 California users during the  
5 preceding 12 months.

6 20513. (a) Any large online platform, using state-of-the-art,  
7 best available tools to detect digitally modified or created content,  
8 shall develop and implement procedures for blocking and  
9 preventing, and shall, if the large online platform knows or should  
10 know that the digitally modified or created content meets the  
11 requirements of this section, block and prevent, the posting or  
12 sending of any materially deceptive and digitally modified or  
13 created content, during the applicable time period or periods set  
14 forth in subdivision (c), of any of the following:

15 (1) A candidate for election portrayed as doing or saying  
16 something that the candidate did not do or say.

17 (2) An elections official portrayed as doing or saying something  
18 in connection with the performance of their elections-related duties  
19 that the elections official did not do or say.

20 (3) An elected official portrayed as doing or saying something  
21 that influences the election that the elected official did not do or  
22 say.

23 (4) A voting machine, ballot, voting site, or other property or  
24 equipment related to an election that is portrayed in a materially  
25 false way.

26 (b) (1) Notwithstanding paragraph (1) of subdivision (a), a large  
27 online platform shall not prevent a candidate for an election, during  
28 the time period set forth in subdivision (c), from portraying  
29 himself as doing or saying something that the candidate did not  
30 do or say, but only if the digital content includes a disclosure  
31 stating the following: “This \_\_\_\_\_ has been manipulated.” The  
32 blank in this disclosure shall be filled in with whichever of the  
33 following terms most accurately describes the media:

34 (A) Image.

35 (B) Audio.

36 (C) Video.

37 (2) (A) For visual media, the text of the disclosure shall appear  
38 in a size that is easily readable by the average viewer and no  
39 smaller than the largest font size of other text appearing in the  
40 visual media. If the visual media does not include any other text,

1 the disclosure shall appear in a size that is easily readable by the  
2 average viewer. For visual media that is video, the disclosure shall  
3 appear for the duration of the video.

4 (B) If the media consists of audio only, the disclosure shall be  
5 read in a clearly spoken manner and in a pitch that can be easily  
6 heard by the average listener, at the beginning of the audio, at the  
7 end of the audio, and, if the audio is greater than two minutes in  
8 length, interspersed within the audio at intervals of not greater than  
9 two minutes each.

10 (c) (1) Except as provided in paragraph (2), any large online  
11 platform shall block and prevent the content described in  
12 subdivision (a), and any candidate shall include the disclosure  
13 required by subdivision (b), during a period beginning 120 days  
14 before the election and through the day of the election.

15 (2) If the content described in subdivision (a) depicts or pertains  
16 to elections officials, or depicts or pertains to a voting machine,  
17 ballot, voting site, or other property or equipment related to an  
18 election, a large online platform shall block and prevent the content  
19 during a period beginning 120 days before the election and ending  
20 on the 60th day after the election.

21 20514. (a) With respect to any materially deceptive and  
22 digitally modified or created content that pertains to election  
23 processes and that is not subject to Section 20513, a large online  
24 platform, using state-of-the-art, best available tools to detect  
25 digitally modified or created content, shall develop and implement  
26 procedures for labeling such content as inauthentic, fake, or false,  
27 and shall, if the large online platform knows or should know that  
28 the digitally modified or created content meets the requirements  
29 of this section, label such content in this manner, during the  
30 applicable time period or periods set forth in subdivision (c).

31 (b) The label required by subdivision (a) shall permit users to  
32 click or tap on it and to inspect all available provenance data about  
33 the digitally modified or created content in an easy-to-understand  
34 format.

35 (c) The labeling requirement set forth in subdivision (a) applies  
36 during any of the following time periods, to the extent applicable:

37 (1) The period beginning one year before the election and  
38 through the day of the election that is specified in or implicated  
39 by the content.

1 (2) The period beginning one year before the election process  
2 and through the final day of the election process that is specified  
3 in or implicated by the content.

4 (3) If the content depicts or pertains to elections officials, the  
5 period beginning one year before the election or election process  
6 that is specified in or implicated by the content and ending on the  
7 60th day after that election or the 60th day after the final day of  
8 that election process, as applicable.

9 20515. (a) A large online platform shall provide an easily  
10 accessible way for California residents to report to that platform  
11 content subject to Section 20513 or 20514 that was not blocked  
12 or labeled as required. The online platform shall respond to the  
13 person who made the report, within 36 hours of the report,  
14 describing any action taken or not taken by the online platform  
15 with respect to the content.

16 (b) Any California resident who has made a report to a large  
17 online platform under subdivision (a) and who either has not  
18 received a response within 36 hours or disagrees with the response,  
19 may seek injunctive or other equitable relief against the online  
20 platform to compel compliance with this chapter. The court shall  
21 award a prevailing plaintiff reasonable attorney's fees and costs.  
22 An action under this subdivision shall be entitled to precedence in  
23 accordance with Section 35 of the Code of Civil Procedure.

24 20516. The Attorney General or any district attorney or city  
25 attorney may seek injunctive or other equitable relief against any  
26 large online platform to compel compliance with this chapter. The  
27 court shall award a prevailing plaintiff reasonable attorney's fees  
28 and costs. An action under this section shall be entitled to  
29 precedence in accordance with Section 35 of the Code of Civil  
30 Procedure.

31 20517. This chapter applies to materially deceptive and digitally  
32 modified or created content, regardless of the language used in the  
33 content. If the language used is not English, the disclosure required  
34 by subdivision (b) of Section 20513 and the label required by  
35 Section 20514 must appear in the language used as well as in  
36 English.

37 20518. A large online platform that blocks or labels any  
38 materially deceptive and digitally modified or created content shall  
39 maintain a copy of the digital content for a period of not less than  
40 five years from the election or election process specified or



1 implicated in the content and shall make such digital content  
2 available to the Secretary of State, the Fair Political Practices  
3 Commission, and researchers, if requested.

4 20519. (a) This chapter does not preclude a large online  
5 platform from blocking or labeling any materially deceptive and  
6 digitally modified or created content outside of the time periods  
7 specified in Sections 20513 and 20514.

8 (b) This chapter does not preclude any online platform not  
9 subject to this chapter from blocking or labeling any materially  
10 deceptive and digitally modified or created content.

11 20520. This chapter does not apply to either of the following:

12 (a) A regularly published online newspaper, magazine, or other  
13 periodical of general circulation that routinely carries news and  
14 commentary of general interest, and that publishes any materially  
15 deceptive and digitally altered or digitally created image, audio,  
16 or video recording that an online platform is required to block or  
17 label based on this chapter, if the publication contains a clear  
18 disclosure that the materially deceptive and digitally altered or  
19 digitally created image or audio or video recording does not  
20 accurately represent any actual event, occurrence, appearance,  
21 speech, or expressive conduct.

22 (b) Materially deceptive and digitally altered or digitally created  
23 content that constitutes satire or parody.

24 20521. The provisions of this chapter are severable. If any  
25 provision of this chapter or its application is held invalid, that  
26 invalidity shall not affect other provisions or applications that can  
27 be given effect without the invalid provision or application.