

CHAPTER 40

AN ACT establishing civil and criminal penalties for the production and dissemination of deceptive audio or visual media and supplementing Title 2C of the New Jersey Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

C.2C:21-17.7 Findings, declarations.

1. The Legislature finds and declares that:

a. Technological advances in artificial intelligence have resulted in widespread accessibility to sophisticated “deepfake” technology, which can be used to manipulate audio and visual content to create deceptive audio and visual media depictions that often cannot be distinguished from reality.

b. Digitally altered media generated with this technology can produce false and deceptive, but completely realistic and convincing, media depicting events that never happened, interactions that never took place, conduct that never occurred, and statements that were never made.

c. While there are numerous valid and appropriate uses for this sophisticated technology, such as criticism, comment, satire, parody, news reporting, teaching, scholarship, or research, it may also be used inappropriately to deceive, humiliate, or violate the privacy of individuals who are portrayed in deceptive audio and visual media without their consent.

d. It is manifest that lawbreakers will use all available tools to subvert the law, and “deepfake” technology, which may be readily accessed through the Internet or computer software programs, can be a powerful tool to accomplish illicit ends. Utilizing “deepfake” technology, bad actors may engage in a broad range of criminal or unlawful conduct such as creating audio and visual media depictions of sexual abuse and sexual exploitation involving children or non-consenting adults, creating false, misleading, and misattributed political advertising and campaign materials, and targeting individuals and corporate entities for harassment, damaging reputations and ruining lives. Punishment for committing a crime using “deepfake” technology should be cumulative, as the impact of the underlying criminal conduct is amplified through the insidious use of “deepfake” technology as the means to break the law.

e. With the readily available amplifiers of the Internet and social media, digital media can be both ubiquitous and enduring, and the harm to a person falsely depicted in a “deepfake” image or visual or audio recording can result in widespread and pervasive emotional distress, reputational damage, and indelible harm to that person’s personal and professional relationships.

f. There is a compelling State interest in fostering the appropriate use of “deepfake” technology and deterring the inappropriate application of this technology to commit illicit conduct in a way that safeguards the health, safety, and welfare of the public without unduly infringing on the First Amendment rights of content creators. Similarly, the State has a compelling interest in protecting the privacy and reputational interests of residents who might otherwise be falsely depicted through “deepfake” technology and in providing them a meaningful mechanism through which to obtain appropriate redress.

g. While civil liability and enforcement may to some extent prevent the misuse of this technology in furtherance of criminal activity, the relative ease with which this technology may be accessed and deployed, measured against the magnitude of the indelible and long-lasting harms its use can inflict upon victims and their families, warrants more severe consequences to more effectively punish and deter the inappropriate use of “deepfake” technology.

h. Accordingly, the Legislature finds that it is necessary and proper to establish robust specific criminal penalties to punish and deter the use of “deepfake” technology to generate or create works of deceptive audio or visual media for the purpose of attempting or furthering the commission of a crime or offense, or to solicit, disclose, or use a work of deceptive audio or

visual media for that purpose, and by providing the aggrieved victims of such conduct a civil recourse by which they may seek appropriate recompense.

C.2C:21-17.8 Definitions, "deepfake", deceptive audio, visual media, crimes, penalties.

2. a. As used in P.L.2025, c.40 (C.2C:21-17.7 et seq.):

“Deceptive audio or visual media” means any video recording, motion picture film, sound recording, electronic image, photograph, any technological representation of speech or conduct substantially derivative thereof, or any forgery or facsimile of a document or writing that appears to a reasonable person to realistically depict any speech, conduct, or writing of a person who did not in fact engage in the speech, conduct, or writing, and the production of which was substantially dependent upon technical means, rather than the ability of another person to physically or verbally impersonate the person.

“Disclose” means to sell, give, provide, lend, trade, mail, deliver, transfer, publish, distribute, circulate, disseminate, present, exhibit, advertise, offer, share, or make externally available via the Internet or by any other means, whether or not for pecuniary gain.

“Interactive computer service provider” shall have the same meaning as set forth in 47 U.S.C. s.230.

“Solicit” means to offer to create or generate, or to advertise the ability to create or generate, a work of deceptive audio or visual media, whether or not for hire, commission, monetary remuneration, or pecuniary gain. “Solicit” shall also mean to request the creation or generation of a work of deceptive audio or visual media, whether or not for monetary remuneration or compensation.

“Victim” means a person who suffers personal, physical, or psychological injury or death or incurs loss of or injury to personal or real property as a result of the conduct of another that would constitute a violation of subsections b. or c. of this section. “Victim” also includes the spouse, parent, legal guardian, grandparent, child, sibling, domestic partner, or civil union partner of the decedent in the case of a person’s death.

“Video streaming service” means a service that transmits video content over the Internet that is played continuously without download.

b. A natural person commits a crime of the third degree if, without license or privilege to do so, the person generates or creates, or causes to be generated or created, a work of deceptive audio or visual media for the purpose of attempting or furthering the commission of any crime or offense, or with the knowledge that the work is to be used by another for such purpose, including, but not limited to:

(1) a crime or offense under chapters 14, 16, 20, 21, 28, or 29 of Title 2C of the New Jersey Statutes;

(2) advertising commercial sex abuse of a minor, pursuant to subsection b. of section 12 of P.L.2013, c.51 (C.2C:13-10);

(3) endangering the welfare of children, pursuant to N.J.S.2C:24-4;

(4) threats or improper influence in official and political matters, pursuant to N.J.S.2C:27-3;

(5) false public alarms, pursuant to N.J.S.2C:33-3;

(6) harassment, pursuant to N.J.S.2C:33-4;

(7) cyber-harassment, pursuant to section 1 of P.L.2013, c.272 (C.2C:33-4.1); or

(8) hazing, pursuant to section 1 of P.L.1980, c.169 (C.2C:40-3).

c. (1) A natural person commits a crime of the third degree if, without license or privilege to do so, the person solicits, discloses, or uses a work of deceptive audio or visual media for the purpose of attempting or furthering the commission of any crime or offense, or with the

knowledge that the work is to be used by another for such purpose, including, but not limited to, any crime or offense listed in subsection b. of this section.

(2) Except as otherwise provided in subsection g. of this section, a natural person commits a crime of the fourth degree if, without license or privilege to do so, the person knowingly or recklessly discloses a work of deceptive audio or visual media created in violation of subsection b. of this section.

d. In addition to any term of imprisonment imposed pursuant to N.J.S.2C:43-6 and notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, a fine of up to \$30,000 may be imposed for a violation of this section.

e. Notwithstanding the provisions of N.J.S.2C:1-8 or any other provisions of law:

(1) a conviction arising under subsection b. of this section shall not merge with a conviction under subsection c. of this section, nor shall a conviction under subsection c. of this section merge with a conviction under subsection b. of this section; and

(2) a conviction arising under subsection b. or paragraph (1) of subsection c. of this section shall not merge with a conviction of any underlying offense, nor shall any conviction for such underlying offense merge with a conviction under subsection b. of this section. The court shall impose consecutive sentences upon a conviction under subsection b. or paragraph (1) of subsection c. of this section and a conviction of any underlying offense.

f. A natural person who violates the provisions of P.L.2025, c.40 (C.2C:21-17.7 et seq.) shall also be liable to the victim of the violation, and the victim may bring a civil action in the Superior Court. The court may award:

(1) actual damages, but not less than liquidated damages computed at the rate of \$1,000 for each knowing or reckless violation of P.L.2025, c.40 (C.2C:21-17.7 et seq.);

(2) punitive damages upon proof of willful disregard of the law;

(3) reasonable attorney's fees and other litigation costs reasonably incurred; and

(4) other such preliminary and equitable relief as the court determines appropriate.

A conviction for a violation of P.L.2025, c.40 (C.2C:21-17.7 et seq.) shall not be a prerequisite for a civil action brought pursuant to this subsection. The civil action authorized by this subsection shall be in addition to, and not in lieu of, any other civil action, injunctive relief, or other remedy available at law, including, but not limited to, a civil action for common law defamation, libel, slander, invasion of privacy, false light, misappropriation of identity, intrusion of privacy, or public disclosure of private facts.

g. (1) P.L.2025, c.40 (C.2C:21-17.7 et seq.) shall not apply to content that a reasonable viewer or listener would understand to constitute criticism, comment, satire, parody, news reporting, teaching, scholarship, research, or to any content that a reasonable viewer or listener would not believe to authentically depict speech or conduct.

(2) P.L.2025, c.40 (C.2C:21-17.7 et seq.) shall not apply to an interactive computer service provider, cloud services provider, or commercial developer or provider of artificial intelligence technology, where such developer or provider is not deemed to be a publisher, speaker, or information content provider pursuant to 47 U.S.C. s.230, and shall not be construed to alter or negate any rights, obligations, or immunities of an interactive computer service provider or cloud services provider pursuant to 47 U.S.C. s.230.

(3) P.L.2025, c.40 (C.2C:21-17.7 et seq.) shall not apply to any broadcasting station, cable service, radio station, or telecommunications carrier, as those terms are defined pursuant to 47 U.S.C. s.153, or to any television station, billboard, Internet website, mobile application, video streaming service, newspaper, magazine, publication, printed matter, or other advertising channel or medium through which an advertisement containing deceptive audio or visual media appears, where the advertising channel or medium's role in disclosing the advertisement is

limited to the selling of advertising time or space, or where an advertising channel or medium is prohibited by federal law from censoring the advertisement regardless of its content.

(4) This section shall not apply to any broadcasting station, including a cable or satellite television company, programmer, or producer, an Internet website, video streaming service, or a regularly published newspaper, magazine, or other periodical of general circulation, including an Internet or electronic publication, that routinely carries news and commentary of general interest and that broadcasts or publishes any deceptive audio or visual media prohibited by this section solely for the purpose of disseminating newsworthy facts, provided that if the deceptive nature of the work is known or verified, the broadcast or publication shall clearly contain a disclaimer which is either shown or read aloud that identifies the work as a work of deceptive audio or visual media.

(5) It shall not be a violation of this section to disclose any deceptive audio or visual media to law enforcement officers in connection with a criminal investigation or prosecution of a violation of this section; pursuant to a subpoena or court order requiring the disclosure of a work of deceptive audio or visual media; to a school administrator, attorney, family member, or other advocate for purposes of reporting conduct that may constitute a violation of this section; or in furtherance of an investigation concerning fraud, cybersecurity, identity theft, harassment, or a violation of a commercial computer network's contractual terms of service.

3. This act shall take effect immediately.

Approved April 2, 2025.