



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB1392

Introduced 2/6/2023, 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: (1) in order to harass, extort, threaten, or cause physical, emotional, reputational, or economic harm to an individual falsely depicted; (2) 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 (3) in order to incite violence or interfere with an official proceeding. 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 29754 LNS 56160 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 "Digital forgery" means any audio or visual material that
8 has been created, materially manipulated, altered, or
9 annotated to appear to be a realistic record of an act, speech,
10 conduct, absence, or appearance of an individual.

11 "Official proceeding" includes any federal, State, local,
12 tribal, administrative adjudication, election, or rulemaking
13 proceeding.

14 Section 10. Civil action.

15 (a) An individual depicted in a digital forgery has a
16 cause of action against any person who, without the consent of
17 the depicted individual, knowingly distributes a digital
18 forgery, creates a digital forgery with intent to distribute,
19 or solicits the creation of a digital forgery with the intent
20 to distribute:

21 (1) in order to harass, extort, threaten, or cause
22 physical, emotional, reputational, or economic harm to an

1 individual falsely depicted;

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

6 (3) in order to incite violence or interfere with an
7 official proceeding.

8 (b) This Section does not apply to digitally manipulated
9 audiovisual material that is clearly and conspicuously labeled
10 to make clear to a reasonable observer that it is not an
11 authentic record of an act, speech, conduct, absence, or
12 appearance of an individual, unless the material appears to be
13 a sexual image as defined in subsection (14) of Section 5 of
14 the Civil Remedies for Nonconsensual Dissemination of Private
15 Sexual Images Act.

16 (c) A depicted individual's consent to the creation of a
17 digital forgery shall not alone establish consent to the
18 distribution of that digital forgery, nor shall consent to
19 previous disclosure of a digital forgery alone establish that
20 the depicted individual consented to subsequent disclosures.

21 Section 15. Remedies.

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

23 (1) The greater of:

24 (A) economic and noneconomic damages proximately
25 caused by the creation or distribution of the digital

1 forgery, including damages for emotional distress
2 regardless of whether they are accompanied by other
3 damages; or

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

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

13 (3) Punitive damages.

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

16 (5) Additional relief, including equitable relief,
17 such as a temporary restraining order, a preliminary
18 injunction, or a permanent injunction ordering the
19 defendant to cease the display or disclosure of the
20 digital forgery.

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

23 Section 20. Preservation of Anonymity. In ordering relief
24 under this Act, the court may grant injunctive relief
25 maintaining the confidentiality of a plaintiff using a

1 pseudonym.

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