

ASSEMBLY SCIENCE, INNOVATION AND TECHNOLOGY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4985

with committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 25, 2021

The Assembly Science, Innovation and Technology Committee reports favorably and with committee amendments Assembly No. 4985.

As amended and reported, this bill prohibits a person, within 60 days of any election at which a candidate for elective public office will appear on the ballot, from distributing with actual malice, deceptive audio or visual media content of the candidate with the intent to injure the candidate's reputation or to deceive a voter into voting for or against the candidate, unless the content includes a disclosure stating that the content has been manipulated.

The bill authorizes a candidate for elective public office whose voice or likeness appears in audio or visual media content distributed in violation of the bill to seek injunctive or other equitable relief prohibiting the distribution of the deceptive audio or visual media content. The bill also authorizes a candidate whose voice or likeness appears in the deceptive audio or visual media to bring an action for general or special damages against the person or other entity that distributed the content, and authorizes the court to award a prevailing party reasonable attorney's fees and costs.

The bill provides exemptions for all of the following:

- 1) a radio or television broadcasting station, including a cable or satellite television operator, programmer, or producer, when it is paid to broadcast deceptive audio or visual media content;
- 2) deceptive audio or visual media content that constitutes satire or parody;
- 3) a radio or television broadcasting station, including a cable or satellite television operator, programmer, or producer, that broadcasts deceptive audio or visual media content as part of a bona fide newscast, news interview, news documentary, or on-the-spot coverage of bona fide news events, if the broadcast clearly acknowledges through content or a disclosure that there are questions about the authenticity of the deceptive audio or visual media content; and
- 4) an Internet website, 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 publishes the deceptive audio or visual media content, if the publication clearly states that the deceptive audio or visual media content does not accurately represent the speech or conduct of the candidate.

COMMITTEE AMENDMENTS:

The committee amended the bill to change the definition of “materially deceptive audio or visual media” to “deceptive audio or visual media” to maintain consistency between this bill and Assembly Bill No. 3006 of 2020-2021 and correct a capitalization error. The committee also amended the bill to remove the expiration date of January 1, 2020 and instead to have the Attorney General, in consultation with the New Jersey Election Law Enforcement Commission, issue a report to the Governor and Legislature on the effectiveness of the bill one year after the date of enactment. Lastly, the committee amended the bill to change the term “interactive service provider” to “information content provider.”