

118TH CONGRESS
1ST SESSION

H. R. 5586

To protect national security against the threats posed by deepfake technology and to provide legal recourse to victims of harmful deepfakes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 20, 2023

Ms. CLARKE of New York (for herself and Mr. IVEY) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Energy and Commerce, and Homeland Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To protect national security against the threats posed by deepfake technology and to provide legal recourse to victims of harmful deepfakes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Defending Each and
5 Every Person from False Appearances by Keeping Exploi-
6 tation Subject to Accountability Act of 2023” or the
7 “DEEPPAKES Accountability Act”.

1 **SEC. 2. TRANSPARENCY REQUIREMENTS.**

2 (a) IN GENERAL.—Chapter 47 of title 18, United
3 States Code, is amended by adding at the end the fol-
4 lowing:

5 **“§ 1041. Advanced technological false personation**
6 **record**

7 “(a) IN GENERAL.—Except as provided in subsection
8 (j), any person who, using any means or facility of inter-
9 state or foreign commerce, produces an advanced techno-
10 logical false personation record with the intent to dis-
11 tribute such record over the internet or knowledge that
12 such record shall be so distributed, shall ensure such
13 record, complies with—

14 “(1) the requirement under subsection (b); and

15 “(2)(A) in the case of an audiovisual record,
16 the disclosure requirements under subsection (c);

17 “(B) in the case of a visual record, the disclo-
18 sure requirements under subsection (d); or

19 “(C) in the case of an audio record, the disclo-
20 sure requirements under subsection (e).

21 “(b) CONTENT PROVENANCE.—Any advanced tech-
22 nological false personation record which contains a moving
23 visual element shall contain technologies, such as content
24 provenance technologies, that clearly identify such record
25 as containing altered audio or visual elements, or as hav-

1 ing been entirely created through generative artificial in-
2 telligence or similar technologies.

3 “(c) AUDIOVISUAL DISCLOSURE.—Any advanced
4 technological false personation records containing both an
5 audio and a visual element shall include—

6 “(1) not less than 1 clearly articulated verbal
7 statement that identifies the record as containing al-
8 tered audio and visual elements, and a concise de-
9 scription of the extent of such alteration;

10 “(2) an unobscured written statement in clearly
11 readable text appearing at the bottom of the image
12 throughout the duration of the visual element that
13 identifies the record as containing altered audio and
14 visual elements, and a concise description of the ex-
15 tent of such alteration; and

16 “(3) a link, icon, or similar tool to signal that
17 the content has been altered by, or is product of,
18 generative artificial intelligence or similar tech-
19 nology.

20 “(d) VISUAL DISCLOSURE.—Any advanced techno-
21 logical false personation records exclusively containing a
22 visual element shall include an unobscured written state-
23 ment in clearly readable text appearing at the bottom of
24 the image throughout the duration of the visual element

1 that identifies the record as containing altered visual ele-
2 ments, and either—

3 “(1) a concise description of the extent of such
4 alteration; or

5 “(2) a clearly visible link, icon, or similar tool
6 to signal that the content has been altered by, or is
7 the product of, generative artificial intelligence or
8 similar technology.

9 “(e) AUDIO DISCLOSURE.—Any advanced techno-
10 logical false personation records exclusively containing an
11 audio element shall include, at the beginning of such
12 record, a clearly articulated verbal statement that identi-
13 fies the record as containing altered audio elements and
14 a concise description of the extent of such alteration, and
15 in the event such record exceeds two minutes in length,
16 not less than 1 additional clearly articulated verbal state-
17 ment and additional concise description at some interval
18 during each two-minute period thereafter.

19 “(f) PENALTY.—

20 “(1) CRIMINAL PENALTY.—

21 “(A) FAILURE TO DISCLOSE.—Whoever
22 knowingly fails to comply with the requirements
23 under subsection (a)—

24 “(i) with the intent to humiliate or
25 otherwise harass the person falsely exhib-

1 ited, provided the advanced technological
2 false personation record contains sexual
3 content of a visual nature and appears to
4 feature such person engaging in such sex-
5 ual acts or in a state of nudity;

6 “(ii) with the intent to cause violence
7 or physical harm, incite armed or diplo-
8 matic conflict, or interfere in an official
9 proceeding, including an election, provided
10 the advanced technological false
11 personation record did in fact pose a cred-
12 ible threat of instigating or advancing
13 such;

14 “(iii) in the course of criminal conduct
15 related to fraud, including securities fraud
16 and wire fraud, false personation, or iden-
17 tity theft; or

18 “(iv) by a foreign power, or an agent
19 thereof, with the intent of influencing a do-
20 mestic public policy debate, interfering in a
21 Federal, State, local, or territorial election,
22 or engaging in other acts which such power
23 may not lawfully undertake;

24 shall be fined under this title, imprisoned for
25 not more than 5 years, or both.

1 “(B) ALTERING DISCLOSURES.—Whoever
2 knowingly alters an advanced technological false
3 personation record to remove or meaningfully
4 obscure the disclosures required under sub-
5 section (a) with the intent to distribute such al-
6 tered record and—

7 “(i) with the intent to humiliate or
8 otherwise harass the person falsely exhib-
9 ited, provided the advanced technological
10 false personation record contains sexual
11 content of a visual nature and appears to
12 feature such person engaging in such sex-
13 ual acts or in a state of nudity;

14 “(ii) with the intent to cause violence
15 or physical harm, incite armed or diplo-
16 matic conflict, or interfere in an official
17 proceeding, including an election, provided
18 the advanced technological false
19 personation record did in fact pose a cred-
20 ible threat of instigating or advancing
21 such;

22 “(iii) in the course of criminal conduct
23 related to fraud, including securities fraud
24 and wire fraud, false personation, or iden-
25 tity theft; or

1 “(iv) by a foreign power, or an agent
2 thereof, with the intent of influencing a do-
3 mestic public policy debate, interfering in a
4 Federal, State, local, or territorial election,
5 or engaging in other acts which such power
6 may not lawfully undertake;

7 shall be fined under this title, imprisoned for
8 not more than 5 years, or both.

9 “(2) CIVIL PENALTY.—

10 “(A) FAILURE TO DISCLOSE.—Any person
11 who violates subsection (a) shall be subject to
12 a civil penalty of up to \$150,000 per record or
13 alteration, as well as appropriate injunctive re-
14 lief.

15 “(B) ALTERING DISCLOSURES.—Any per-
16 son who alters an advanced technological false
17 personation record to remove or meaningfully
18 obscure the disclosures required under sub-
19 section (a) with the intent to distribute such al-
20 tered record shall be subject to a civil penalty
21 of up to \$150,000 per record or alteration, as
22 well as appropriate injunctive relief.

23 “(g) PRIVATE RIGHT OF ACTION.—

24 “(1) IN GENERAL.—Any person who has been
25 exhibited as engaging in falsified material activity in

1 an advanced technological false personation record
2 may bring a civil action before the appropriate Fed-
3 eral district court for damages under paragraph (2)
4 and injunctive relief under paragraph (3) against a
5 person who violates subsection (a) or alters an ad-
6 vanced technological false personation record to re-
7 move or meaningfully obscure the disclosures re-
8 quired under subsection (a).

9 “(2) DAMAGES.—Damages shall consist of the
10 greater of—

11 “(A) actual damages suffered by the living
12 person or the affiliated corporation or entity,
13 and any additional substantially derivative prof-
14 its of the person who violated subsection (a) or
15 altered an advanced technological false
16 personation record to remove or meaningfully
17 obscure the disclosures required under sub-
18 section (a);

19 “(B) \$50,000 per record, if the living per-
20 son or affiliated corporation or entity experi-
21 enced a perceptible individual harm or faced a
22 tangible risk of experiencing such harm;

23 “(C) \$100,000 per record, if the living per-
24 son or affiliated corporation or entity experi-
25 enced a perceptible individual harm or faced a

1 tangible risk of experiencing such harm and the
2 record purported to depict extreme or out-
3 rageous conduct by the living person; or

4 “(D) \$150,000 per record, if the advanced
5 technological false personation record contains
6 explicit sexual content of a visual nature in-
7 tended to humiliate or otherwise harass the per-
8 son falsely depicted as engaging in such sexual
9 acts or in a state of nudity.

10 “(3) INJUNCTIVE RELIEF.—Injunctive relief
11 under this subsection shall include a requirement to
12 comply with subsection (a).

13 “(h) PRIVACY PROTECTIONS.—

14 “(1) FEDERAL ACTIONS.—In enforcing this sec-
15 tion, the Attorney General shall, to the extent prac-
16 ticable, consult with living persons exhibited as en-
17 gaging in falsified material activity in advanced tech-
18 nological false personation records regarding meas-
19 ures the Attorney General can reasonably undertake
20 to protect the privacy of such persons and minimize
21 additional public viewings of such records.

22 “(2) PRIVATE ACTIONS.—A court in which a
23 private action is brought under subsection (g) shall
24 permit the plaintiff, upon petition, to file the claim
25 under seal if the plaintiff can demonstrate a reason-

1 able likelihood that the creation of public records re-
2 garding the advanced technological false personation
3 record would result in embarrassing or otherwise
4 harmful publicization of the falsified material activ-
5 ity in an advanced technological false personation
6 record.

7 “(i) RULES OF CONSTRUCTION.—

8 “(1) Nothing in this section shall be interpreted
9 as authorizing the production of an advanced tech-
10 nological false personation record which includes dis-
11 closures if such record is otherwise prohibited by law
12 or regulation.

13 “(2) The word ‘advanced’ within the term ‘ad-
14 vanced technological false personation record’ shall
15 not be interpreted as narrowing the definition of
16 such term.

17 “(3) Nothing in this section shall be interpreted
18 as a defense against, or as preempting or limiting,
19 any Federal, State, local, or territorial laws, regula-
20 tions, or policies that prohibit, impose more strin-
21 gent standards in relation to, or provide additional
22 or alternative remedies or damages in relation to,
23 the production or distribution of advanced techno-
24 logical false personation records, deepfakes, or re-
25 lated content, including criminal and civil laws relat-

1 ing to copyright, tortious conduct, and false
2 personation.

3 “(j) EXCEPTIONS.—

4 “(1) DISCLOSURE.—The requirements under
5 subsections (c), (d), and (e) shall not apply with re-
6 spect to any advanced technological false personation
7 record—

8 “(A) containing alternative disclosures re-
9 garding the falsity of the exhibited material ac-
10 tivities which a reasonable person would deem
11 to be more prominent than those required
12 under subsection (c), (d), or (e), as the case
13 may be;

14 “(B) during the process of producing such
15 record, provided the ultimately distributed
16 record is in compliance with such requirements;

17 “(C) which primarily contains images or
18 sound recordings of actual persons, such as per-
19 forming artists, and have not been substantially
20 digitally modified;

21 “(D) created in connection with editing a
22 motion picture, television, music, or similar pro-
23 duction or creating a derivative production
24 thereof, the original content of which was cre-
25 ated prior to the enactment of this section, in

1 which the person appearing provided consent to
2 their original appearance;

3 “(E) appearing in a context such that a
4 reasonable person would not mistake the fal-
5 sified material activity for actual material activ-
6 ity of the exhibited living person, such as par-
7 ody shows or publications, historical reenact-
8 ments, or fictionalized radio, television, or mo-
9 tion picture programming; or

10 “(F) produced by an officer or employee of
11 the United States, or under the authority there-
12 of, in furtherance of public safety or national
13 security.

14 “(2) DIGITAL CONTENT PROVENANCE.—The
15 digital content provenance requirement under sub-
16 section (b) shall not apply with respect to any class
17 of advanced technological false personation records
18 which the Attorney General determines by regulation
19 should be excluded from such requirement.

20 “(k) ADVISORY OPINIONS, WAIVER, AND STAND-
21 ARDS.—

22 “(1) ADVISORY OPINIONS.—The Attorney Gen-
23 eral shall—

24 “(A) establish a process by which any pro-
25 ducer of audio, visual, or audiovisual content

1 may seek an advisory opinion from the Attorney
2 General regarding whether their proposed pro-
3 duction is required to comply with the require-
4 ments under this section;

5 “(B) respond to a request described in
6 subparagraph (A) not later than 30 days after
7 the date of submission; and

8 “(C) not pursue enforcement action under
9 this section against any producer who relied in
10 good faith on such an advisory opinion.

11 “(2) WAIVER.—The Attorney General is au-
12 thorized to grant, and shall establish and publish
13 procedures to govern the issuance of, waivers from
14 any requirements under this section to additional
15 categories of advanced technological false
16 personation records upon petition of any producer
17 thereof if such producer can demonstrate that com-
18 pliance with this section would impede their ability
19 to engage in lawful activities protected by the First
20 Amendment of the Constitution.

21 “(3) DIGITAL CONTENT PROVENANCE STAND-
22 ARDS.—Not later than 1 year after the date of en-
23 actment of this section, the Attorney General shall
24 issue rules governing the technical specifications of
25 the digital content provenance required under sub-

1 section (b) which shall include, if such is determined
2 appropriate, a requirement for such digital content
3 provenance to contain embedded or linked metadata.

4 “(l) VENUE.—Any action under this section may be
5 brought, in addition to in any district otherwise described
6 in section 1391 of title 28, in the district where or the
7 person falsely depicted in the advanced technological false
8 personation record resides.

9 “(m) EXTRATERRITORIALITY.—There is
10 extraterritorial Federal jurisdiction over an offense under
11 this section if the defendant or the depicted person is a
12 citizen or permanent resident of the United States.

13 “(n) DEFINITIONS.—

14 “(1) ADVANCED TECHNOLOGICAL FALSE
15 PERSONATION RECORD.—The term ‘advanced tech-
16 nological false personation record’ means any
17 deepfake, which—

18 “(A) a reasonable person, having consid-
19 ered the visual or audio qualities of the record
20 and the nature of the distribution channel in
21 which the record appears, would believe accu-
22 rately exhibits—

23 “(i) any material activity of a living
24 person which such living person did not in
25 fact undertake; or

1 “(ii) any material activity of a de-
2 ceased person which such deceased person
3 did not in fact undertake, and the exhi-
4 bition of which is substantially likely to ei-
5 ther further a criminal act or result in im-
6 proper interference in an official pro-
7 ceeding, a public policy debate, or an elec-
8 tion; and

9 “(B) was produced without the consent of
10 such living person, or in the case of a deceased
11 person, such person or the heirs thereof.

12 “(2) MATERIAL ACTIVITY.—The term ‘material
13 activity’ means any speech, conduct, or depiction
14 which causes, or a reasonable person would recog-
15 nize has a tendency to cause perceptible individual
16 or societal harm, including misrepresentation,
17 reputational damage, embarrassment, harassment,
18 financial losses, the incitement of violence, the alter-
19 ation of a public policy debate or election, or the fur-
20 therance of any unlawful act.

21 “(3) DEEPFAKE.—The term ‘deepfake’ means
22 any video recording, motion-picture film, sound re-
23 cording, electronic image, or photograph, or any
24 technological representation of speech or conduct
25 substantially derivative thereof—

1 “(A) which appears to authentically depict
2 any speech or conduct of a person who did not
3 in fact engage in such speech or conduct; and

4 “(B) the production of which was substan-
5 tially dependent upon technical means, rather
6 than the ability of another person to physically
7 or verbally impersonate such person.

8 “(o) REPORTS.—The Attorney General, in coordina-
9 tion with other relevant Federal agencies, shall submit a
10 report to Congress 5 years after the date of enactment
11 of this section, and 5 years thereafter, describing trends
12 related to prosecutions and civil penalties pursued under
13 this section.

14 **“§ 1042. Deepfakes victim assistance**

15 “(a) COORDINATOR FOR VIOLATIONS DIRECTED BY
16 FOREIGN NATION-STATES.—The Attorney General shall
17 designate a coordinator in each United States Attorney’s
18 Office to receive reports from the public regarding poten-
19 tial violations of section 1041 relating to deepfake depic-
20 tions produced or distributed by any foreign nation-state,
21 or any agent acting on its behalf, and coordinate prosecu-
22 tions for any such violation.

23 “(b) COORDINATOR FOR FALSE INTIMATE DEPIC-
24 TIONS.—The Attorney General shall designate a coordi-
25 nator in each United States Attorney’s Office to receive

1 reports from the public regarding potential violations of
2 section 1041 relating to deepfake depictions of an intimate
3 and sexual nature, and coordinate prosecutions for any
4 such violation.

5 “(c) PLAN AND GUIDANCE.—On the effective date of
6 this section, the Attorney General shall publish a report
7 containing—

8 “(1) a plan to effectuate and enforce section
9 1041;

10 “(2) a description of the efforts of the Russian
11 Federation and the People’s Republic of China, and
12 such other states or groups as the Attorney General
13 determines appropriate, to use deepfake technology
14 to impact elections or public policy debates in the
15 United States or other democracies;

16 “(3) a description of the impact of intimate and
17 sexual deepfakes on women and marginalized com-
18 munities; and

19 “(4) in order to increase the likelihood of such
20 prosecutions, official guidance to Federal prosecu-
21 tors regarding any potential legal concerns that may
22 impede such prosecutions absent clarification.”.

23 (b) CLERICAL AMENDMENT.—The table of sections
24 for chapter 47 of title 18, United States Code, is amended
25 by adding at the end the following:

“1041. Advanced technological false personation record.
“1042. Deepfakes victim assistance.”.

1 **SEC. 3. TRANSPARENCY FACILITATION.**

2 (a) IN GENERAL.—Any person who, in or affecting
3 interstate or foreign commerce, for commercial purposes,
4 develops a product that such person reasonably believes,
5 in the context of the intended distribution of the product,
6 will be used to produce deepfakes, as such term is defined
7 in section 1041 of title 18, United States Code, as added
8 by this Act, shall—

9 (1) ensure such product has the technical capa-
10 bility to insert digital content provenance and dislo-
11 cures of the nature described in such section into
12 such deepfakes; and

13 (2) include terms of use or other analogous dis-
14 closures with such product, which require the user of
15 such product to affirmatively acknowledge their gen-
16 eral awareness of their legal obligations under sec-
17 tion 1041 of title 18, United States Code.

18 (b) ENFORCEMENT BY FEDERAL TRADE COMMIS-
19 SION.—

20 (1) UNFAIR OR DECEPTIVE ACTS OR PRAC-
21 TICES.—A violation of this section or a regulation
22 promulgated under this section shall be treated as a
23 violation of a regulation under section 18(a)(1)(B)
24 of the Federal Trade Commission Act (15 U.S.C.

1 57a(a)(1)(B)) regarding unfair or deceptive acts or
2 practices.

3 (2) POWERS OF COMMISSION.—The Federal
4 Trade Commission shall enforce this section and the
5 regulations promulgated under this section in the
6 same manner, by the same means, and with the
7 same jurisdiction, powers, and duties as though all
8 applicable terms and provisions of the Federal Trade
9 Commission Act (15 U.S.C. 41 et seq.) were incor-
10 porated into and made a part of this section. Any
11 person who violates this section or a regulation pro-
12 mulgated under this section shall be subject to the
13 penalties and entitled to the privileges and immuni-
14 ties provided in the Federal Trade Commission Act.

15 (3) RULEMAKING.—The Federal Trade Com-
16 mission may promulgate regulations, in accordance
17 with section 553 of title 5, United States Code, to
18 implement this section.

19 **SEC. 4. IN REM LITIGATION AGAINST FOREIGN AND UN-**
20 **KNOWN DEFENDANTS.**

21 (a) IN GENERAL.—A living person, or an affiliated
22 corporate or other entity substantially connected to such
23 living person, exhibited as engaging in falsified material
24 activity in an advanced technological false personation
25 record (as such term is defined in section 1041 of title

1 18, United States Code), and subject to the exceptions
2 under section 1041(j) of such title, may file an in rem
3 civil action against an advanced technological false
4 personation record, in the judicial district in which such
5 living person or related entity resides, if—

6 (1) the producer of such advanced technological
7 false personation record is in violation of any provi-
8 sion in section 1041 of title 18, United States Code,
9 for which a private remedy is provided; and

10 (2) the court finds that such living person or
11 related entity—

12 (A) is not able to obtain in personam juris-
13 diction over a person who would have been a
14 defendant in a civil action in section 1041 of
15 title 18, United States Code, as added by sec-
16 tion 2 of this Act; or

17 (B) through reasonable due diligence was
18 not able to find a person who would have been
19 a defendant in a civil action under paragraph
20 (1) by—

21 (i) if practicable, sending a notice of
22 the alleged violation and intent to proceed
23 under this paragraph to the producer of
24 the record;

1 (ii) publishing notice of the action as
2 the court may direct promptly after filing
3 the action; and

4 (iii) complying with such other due
5 diligence measures the Attorney General
6 promulgates through regulation.

7 (b) SERVICE OF PROCESS.—The actions under sub-
8 section (a)(2)(B)(ii) shall constitute service of process.

9 (c) JURISDICTION.—In an in rem action under this
10 section, an advanced false personation record shall be
11 deemed to have its situs in the judicial district in which
12 the person falsely depicted as engaging in material activity
13 resides.

14 (d) REMEDIES.—The remedies in an in rem action
15 under this section shall be limited to—

16 (1) a court order declaring there to be a sub-
17 stantial likelihood that the material activity depicted
18 in such advanced technological false personation
19 record is false and lacking the digital content prove-
20 nance and disclosures required under section 1041
21 of title 18, United States Code, as added by section
22 2 of this Act; and

23 (2) as appropriate at the discretion of the
24 court, the forfeiture by the producer of such ad-
25 vanced technological false personation record of

1 profits directly derived from the production and dis-
2 tribution of such record.

3 (e) ESTOPPEL AND ADDITIONAL REMEDIES.—A
4 court order under subsection (d) may not be used for pur-
5 poses of estoppel in subsequent litigation should the living
6 person or related entity bringing suit file additional ac-
7 tions under other provisions of law. The in rem action es-
8 tablished under this Act shall be in addition to any other
9 civil action or remedy otherwise applicable and any other
10 jurisdiction that otherwise exists, whether in rem or in
11 personam.

12 **SEC. 5. FRAUD AND RELATED ACTIVITY IN CONNECTION**
13 **WITH AUDIOVISUAL AND BIOMETRIC IDEN-**
14 **TITY AUTHENTICATION.**

15 (a) OFFENSE.—Section 1028 of title 18, United
16 States Code, is amended—

17 (1) in subsection (a)—

18 (A) in paragraph (1), by striking “or a
19 false identification document” and inserting “a
20 false identification document, or a false audio-
21 visual identification record”;

22 (B) in paragraph (4), by striking “or a
23 false identification document,” and inserting “a
24 false identification document, or a false audio-
25 visual identification record,”; and

1 (C) in paragraph (5), by striking “a false
2 identification document” and inserting “a false
3 identification document, false audiovisual iden-
4 tification record”;

5 (2) in subsection (b)(1)(A), by striking “or false
6 identification document” and inserting “a false iden-
7 tification document, or a false audiovisual identifica-
8 tion record”;

9 (3) in subsection (c)(3)(A), by inserting after
10 “a document” the following: “or a false audiovisual
11 identification record”; and

12 (4) in subsection (d)—

13 (A) in paragraph (1), insert after “let-
14 ters,” the following: “biometric indicators”;

15 (B) in paragraph (7), insert after “other
16 unique physical representation” the following:
17 “including facial dimensions or characteristics,
18 or visual imagery or content which appears to
19 authentically depict any speech or conduct of a
20 person who did not in fact engage in such
21 speech or conduct”;

22 (C) in paragraph (11), strike “and” at the
23 end;

24 (D) in paragraph (12)(B), strike the pe-
25 riod at the end and insert “; and”; and

1 (E) by adding at the end the following:

2 “(13) The term ‘false audiovisual identification
3 record’ means any advanced technological false
4 personation record (as such term is defined in sec-
5 tion 1041)—

6 “(A) used or attempted to be used by a
7 person for the purpose of assuming the identity
8 of the person depicted in the advanced techno-
9 logical false personation record without such
10 other person’s consent; and

11 “(B)(i) the use or attempted use of which
12 is intended to further any unlawful activity that
13 constitutes a violation of Federal law, or that
14 constitutes a felony under any applicable State,
15 territorial, or local law;

16 “(ii) depicts obscenity or sexually ex-
17 plicit conduct, considering the extent to
18 which the record appeals to the prurient
19 interest, is patently offensive, and lacks se-
20 rious literary, artistic, political, or sci-
21 entific value;

22 “(iii) depicts fighting words, which by
23 their very utterance, inflict injury or tend
24 to incite an immediate breach of the peace;

1 “(iv) constitutes a call to imminent
2 lawless action, and is likely, whether on its
3 own or collectively in connection with re-
4 lated records, to incite or produce such ac-
5 tion; or

6 “(v) depicts or constitutes other ac-
7 tivities or speech that the Attorney General
8 determines by regulation pose a credible
9 threat to the national interests of the
10 United States, which, as of the date of
11 such regulation, have been determined by a
12 Federal court to constitute an unprotected
13 class of speech under the first amend-
14 ment.”.

15 (b) **RULE OF CONSTRUCTION.**—The amendments
16 made by subsection (a) may not be interpreted as impos-
17 ing any limitations on the applicability of section 1028 of
18 title 18, United States Code, to any item which was cov-
19 ered by such section prior to the date of enactment of this
20 Act.

21 **SEC. 6. FALSE PERSONATION.**

22 (a) **IN GENERAL.**—Chapter 43 of title 18 of the
23 United States Code is amended by adding at the end a
24 new section as follows:

1 **“§ 918. Deepfake false personation generally**

2 “Section 911 through 917 of this chapter shall be in-
3 terpreted to include producers, or persons who substan-
4 tially and knowingly contribute to the production and un-
5 lawful use of, advanced technological false personation
6 records (as such term is defined in section 1041), subject
7 to the exceptions under section 4041(j).”.

8 (b) CLERICAL AMENDMENT.—The table of sections
9 for chapter 43 of title 18, United States Code, is amended
10 by adding at the end the following:

“918. Deepfake false personation generally.”.

11 **SEC. 7. DETECTION OF DEEPPAKES.**

12 (a) ESTABLISHMENT OF TASK FORCE.—The Sec-
13 retary of Homeland Security, in coordination with the
14 heads of other relevant Federal entities, shall establish a
15 task force within the Science and Technology Directorate
16 of the Department of Homeland Security (in this section
17 referred to as the “Deepfakes Task Force”), to—

18 (1) advance efforts of the United States Gov-
19 ernment to combat the national security implications
20 of deepfakes;

21 (2) as appropriate, research and develop tech-
22 nologies to detect, or otherwise counter and combat,
23 deepfakes and other advanced image manipulation
24 methods and distinguish such deepfakes or related

1 forgeries from legitimate audiovisual recordings or
2 visual depictions of actual events;

3 (3) provide support, both administrative and
4 scientific, to other Federal entities researching such
5 technologies;

6 (4) encourage efforts of the United States Gov-
7 ernment to adopt such technologies; and

8 (5) facilitate discussion and appropriate co-
9 operation between the United States Government
10 and relevant private sector technology enterprises or
11 other nongovernmental entities, including academic
12 and research institutions, regarding the identifica-
13 tion of deepfakes or other advanced image manipula-
14 tion methods.

15 (b) PRIVATE SECTOR COLLABORATION.—If the
16 United States Government develops technologies to reli-
17 ably detect deepfakes and other advanced image manipula-
18 tion methods and distinguish such deepfakes or related
19 forgeries from legitimate audiovisual recordings or visual
20 depictions of actual events, the President shall, unless the
21 President determines such is contrary to the national in-
22 terests of the United States, seek to make such tech-
23 nologies available to appropriate United States private
24 sector internet platforms, including social networks.

1 (c) ANNUAL REPORT.—Not later than one year after
2 the date of the enactment of this Act and annually there-
3 after for five years, the Secretary of Homeland Security
4 shall submit to the Committee on Homeland Security of
5 the House of Representatives and the Committee on
6 Homeland Security and Governmental Affairs of the Sen-
7 ate an unclassified report, which may contain a classified
8 annex, describing the following:

9 (1) The activities of the Deepfakes Task Force.

10 (2) As appropriate, technological progress re-
11 lated to the detection of deepfakes and other ad-
12 vanced image manipulation methods.

13 (3) New developments related to the national
14 security threat posed by deepfakes and other ad-
15 vanced image manipulation methods, which shall in-
16 clude a description of any efforts of the Russian
17 Federation and the People’s Republic of China, and
18 such other countries or groups as the Secretary de-
19 termines appropriate, to distribute deepfakes or re-
20 lated forgeries in the United States or other democ-
21 racies.

22 (4) Related efforts of the United States to com-
23 bat and counter deepfakes and other advanced
24 image manipulation methods.

1 (d) DEFINITION.—The term “deepfake” shall have
2 the meaning given such term in section 1041 of title 18,
3 United States Code, as added by section 2 of this Act.

4 **SEC. 8. CONGRESSIONAL NOTIFICATION.**

5 The Secretary of Homeland Security shall annually
6 submit to the Committee on Homeland Security of the
7 House of Representatives and the Committee on Home-
8 land Security and Governmental Affairs of the Senate a
9 classified written notification and, upon request, a brief-
10 ing, regarding any known attempts of foreign countries
11 to use deepfakes (as such term is defined in section 1041
12 of title 18, United States Code, as added by section 2 of
13 this Act) or other advanced image manipulation methods
14 to influence or otherwise interfere in an official proceeding
15 within the United States, including an election.

16 **SEC. 9. INFORMATION SHARING.**

17 The Secretary of Homeland Security shall take such
18 actions as may be necessary to establish in the Depart-
19 ment of Homeland Security an information sharing pro-
20 gram relating to deepfakes (as such term is defined in sec-
21 tion 1041 of title 18, United States Code, as added by
22 section 2 of this Act) and other advanced image manipula-
23 tion methods to permit online platforms (as defined in sec-
24 tion 10(d) of this Act) to alert other such platforms to
25 prevent the spread of a malicious deepfake or other related

1 forgery, as well as to promptly alert for public dissemina-
2 tion news organizations regarding such deepfake or re-
3 lated forgery.

4 **SEC. 10. REQUIREMENTS FOR ONLINE PLATFORMS.**

5 (a) TECHNICAL CAPABILITY RELATING TO DIGITAL
6 CONTENT PROVENANCE.—A provider of an online plat-
7 form shall ensure such platform has the technical capa-
8 bility to insert digital content provenance and disclosures
9 of the nature described in section 1041 of title 18, United
10 States Code, as added by this Act, into any deepfakes that
11 are distributed on such platform.

12 (b) SYSTEM TO DETECT DEEPFAKES.—A provider of
13 an online platform shall have in place a system to detect
14 deepfakes in the content distributed on such platform.

15 (c) ENFORCEMENT BY FEDERAL TRADE COMMIS-
16 SION.—

17 (1) UNFAIR OR DECEPTIVE ACTS OR PRAC-
18 TICES.—A violation of this section or a regulation
19 promulgated under this section shall be treated as a
20 violation of a regulation under section 18(a)(1)(B)
21 of the Federal Trade Commission Act (15 U.S.C.
22 57a(a)(1)(B)) regarding unfair or deceptive acts or
23 practices.

24 (2) POWERS OF COMMISSION.—The Federal
25 Trade Commission shall enforce this section and the

1 regulations promulgated under this section in the
2 same manner, by the same means, and with the
3 same jurisdiction, powers, and duties as though all
4 applicable terms and provisions of the Federal Trade
5 Commission Act (15 U.S.C. 41 et seq.) were incor-
6 porated into and made a part of this section. Any
7 person who violates this section or a regulation pro-
8 mulgated under this section shall be subject to the
9 penalties and entitled to the privileges and immuni-
10 ties provided in the Federal Trade Commission Act.

11 (3) RULEMAKING.—The Federal Trade Com-
12 mission may promulgate regulations, in accordance
13 with section 553 of title 5, United States Code, to
14 implement this section.

15 (d) DEFINITIONS.—In this section:

16 (1) DEEPFAKE.—The term “deepfake” has the
17 meaning given such term in section 1041 of title 18,
18 United States Code, as added by this Act.

19 (2) ONLINE PLATFORM.—The term “online
20 platform” means any public-facing website, online
21 service, online application, or mobile application
22 which is operated for commercial purposes and pro-
23 vides a community forum for user-generated content,
24 including a social network site, content aggregation

1 service, or service for sharing videos, images, games,
2 audio files, or other content.

3 **SEC. 11. EFFECTIVE DATE.**

4 This Act and the amendments made by this Act shall
5 take effect on the date that is one year after the date of
6 enactment of this Act.

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