

117TH CONGRESS
1ST SESSION

H. R. 2395

To combat the spread of disinformation through restrictions on deep-fake video alteration technology.

IN THE HOUSE OF REPRESENTATIVES

APRIL 8, 2021

Ms. CLARKE of New York (for herself, Ms. ADAMS, Ms. BASS, Mr. BUTTERFIELD, Mr. CARSON, Mr. CLEAVER, Mr. COHEN, Mr. DESAULNIER, Mr. GREEN of Texas, Ms. JACKSON LEE, Ms. JOHNSON of Texas, Ms. KELLY of Illinois, Mr. KRISHNAMOORTHY, Ms. KUSTER, Mr. LAWSON of Florida, Mr. MALINOWSKI, Mr. MCGOVERN, Ms. MOORE of Wisconsin, Ms. NORTON, Ms. PLASKETT, Mr. RUSH, Mr. THOMPSON of Mississippi, Mrs. WATSON COLEMAN, and Ms. WILSON of Florida) 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 combat the spread of disinformation through restrictions on deep-fake video alteration technology.

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-

1 tation Subject to Accountability Act of 2021” or the
 2 “DEEP FAKES Accountability Act”.

3 **SEC. 2. TRANSPARENCY REQUIREMENTS.**

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

7 **“§ 1041. Advanced technological false personation**
 8 **record**

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

16 “(1) the watermark requirement under sub-
 17 section (b); and

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

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

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

24 “(b) DIGITAL WATERMARK.—Any advanced techno-
 25 logical false personation record which contains a moving

1 visual element shall contain an embedded digital water-
2 mark clearly identifying such record as containing altered
3 audio or visual elements.

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

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

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

17 “(d) VISUAL DISCLOSURE.—Any advanced techno-
18 logical false personation records exclusively containing a
19 visual element shall include an unobscured written state-
20 ment in clearly readable text appearing at the bottom of
21 the image throughout the duration of the visual element
22 that identifies the record as containing altered visual ele-
23 ments, and a concise description of the extent of such al-
24 teration.

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

11 “(f) PENALTY.—

12 “(1) CRIMINAL PENALTY.—

13 “(A) FAILURE TO DISCLOSE.—Whoever
14 knowingly violates subsection (a)—

15 “(i) with the intent to humiliate or
16 otherwise harass the person falsely exhib-
17 ited, provided the advanced technological
18 false personation record contains sexual
19 content of a visual nature and appears to
20 feature such person engaging in such sex-
21 ual acts or in a state of nudity;

22 “(ii) with the intent to cause violence
23 or physical harm, incite armed or diplo-
24 matic conflict, or interfere in an official
25 proceeding, including an election, provided

1 the advanced technological false
2 personation record did in fact pose a cred-
3 ible threat of instigating or advancing
4 such;

5 “(iii) in the course of criminal conduct
6 related to fraud, including securities fraud
7 and wire fraud, false personation, or iden-
8 tity theft; or

9 “(iv) by a foreign power, or an agent
10 thereof, with the intent of influencing a do-
11 mestic public policy debate, interfering in a
12 Federal, State, local, or territorial election,
13 or engaging in other acts which such power
14 may not lawfully undertake;

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

17 “(B) ALTERING DISCLOSURES.—Whoever
18 knowingly alters an advanced technological false
19 personation record to remove or meaningfully
20 obscure the disclosures required under sub-
21 section (a) with the intent to distribute such al-
22 tered record and—

23 “(i) with the intent to humiliate or
24 otherwise harass the person falsely exhib-
25 ited, provided the advanced technological

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

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

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

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

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

25 “(2) CIVIL PENALTY.—

1 “(A) FAILURE TO DISCLOSE.—Any person
2 who violates subsection (a) shall be subject to
3 a civil penalty of up to \$150,000 per record or
4 alteration, as well as appropriate injunctive re-
5 lief.

6 “(B) ALTERING DISCLOSURES.—Any per-
7 son who alters an advanced technological false
8 personation record to remove or meaningfully
9 obscure the disclosures required under sub-
10 section (a) with the intent to distribute such al-
11 tered record shall be subject to a civil penalty
12 of up to \$150,000 per record or alteration, as
13 well as appropriate injunctive relief.

14 “(g) PRIVATE RIGHT OF ACTION.—

15 “(1) IN GENERAL.—Any living individual or af-
16 filiated corporate or other entity who has been exhib-
17 ited as engaging in falsified material activity in an
18 advanced technological false personation record may
19 bring a civil action before the appropriate Federal
20 district court for damages under paragraph (2) and
21 injunctive relief under paragraph (3) against a per-
22 son who violates subsection (a) or alters an advanced
23 technological false personation record to remove or
24 meaningfully obscure the disclosures required under
25 subsection (a).

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

3 “(A) actual damages suffered by the living
4 person or the affiliated corporation or entity,
5 and any additional substantially derivative prof-
6 its of the person who violated subsection (a) or
7 altered an advanced technological false
8 personation record to remove or meaningfully
9 obscure the disclosures required under sub-
10 section (a);

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

15 “(C) \$100,000 per record, if the living per-
16 son or affiliated corporation or entity experi-
17 enced a perceptible individual harm or faced a
18 tangible risk of experiencing such and the
19 record purported to depict extreme or out-
20 rageous conduct by the living person; or

21 “(D) \$150,000 per record, if the advanced
22 technological false personation record contains
23 explicit sexual content of a visual nature in-
24 tended to humiliate or otherwise harass the per-

1 son falsely depicted as engaging in such sexual
2 acts or in a state of nudity.

3 “(3) INJUNCTIVE RELIEF.—Injunctive relief
4 under this subsection shall include mandated compli-
5 ance with the requirements described in subsection
6 (a).

7 “(h) PRIVACY PROTECTIONS.—

8 “(1) FEDERAL ACTIONS.—In pursuing criminal
9 or civil penalties under this Act, Federal authorities
10 shall, to the extent practicable, consult with living
11 persons exhibited as engaging in falsified material
12 activity in advanced technological false personation
13 records regarding measures such authorities can rea-
14 sonably undertake to protect their privacy and mini-
15 mize additional public viewings of such records.

16 “(2) PRIVATE ACTIONS.—Private actions
17 brought under subsection (g), upon petition of the
18 plaintiff, shall be permitted to be filed under seal if
19 such plaintiff can demonstrate a reasonable likeli-
20 hood that the creation of public records regarding
21 the advanced technological false personation record
22 would result in embarrassing or otherwise harmful
23 publicization of the falsified material activity in an
24 advanced technological false personation record.

25 “(i) RULES OF CONSTRUCTION.—

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

6 “(2) The word ‘advanced’ within the term ‘ad-
7 vanced technological false personation record’ shall
8 not be interpreted as narrowing the definition of
9 such term.

10 “(3) Nothing in this section shall be interpreted
11 as a defense against, or as preempting or limiting,
12 any Federal, State, local, or territorial laws, regula-
13 tions, or policies that prohibit, impose more strin-
14 gent standards in relation to, or provide additional
15 or alternative remedies or damages in relation to,
16 the production or distribution of advanced techno-
17 logical false personation records, deep fakes, or re-
18 lated content, including criminal and civil laws relat-
19 ing to copyright, tortious conduct, and false
20 personation.

21 “(j) EXCEPTIONS.—

22 “(1) DISCLOSURE.—The requirements under
23 subsections (c), (d), and (e) shall not apply with re-
24 spect to any advanced technological false personation
25 record—

1 “(A) containing alternative disclosures re-
2 garding the falsity of the exhibited material ac-
3 tivities which a reasonable person would deem
4 to be more prominent than those required
5 under subsection (c), (d), or (e), as the case
6 may be;

7 “(B) during the process of producing such
8 record, provided the ultimately distributed
9 record is in compliance;

10 “(C) which primarily contains images or
11 sound recordings of actual persons, such as per-
12 forming artists, and have not been substantially
13 digitally modified;

14 “(D) created in connection with editing a
15 motion picture, television, music, or similar pro-
16 duction or creating a derivative production
17 thereof, the original content of which was cre-
18 ated prior to the enactment of this Act, in
19 which the person appearing provided consent to
20 their original appearance;

21 “(E) appearing in a context such that a
22 reasonable person would not mistake the fal-
23 sified material activity for actual material activ-
24 ity of the exhibited living person, such as par-
25 ody shows or publications, historical reenact-

1 ments, or fictionalized radio, television, or mo-
2 tion picture programming; or

3 “(F) produced by an officer or employee of
4 the United States, or under the authority there-
5 of, in furtherance of public safety or national
6 security.

7 “(2) WATERMARK.—The watermark require-
8 ment under subsection (b) shall not apply with re-
9 spect to any class of advanced technological false
10 personation records which the Attorney General de-
11 termines by regulation should be excluded from such
12 requirement.

13 “(k) ADVISORY OPINIONS, WAIVER, AND STAND-
14 ARDS.—

15 “(1) ADVISORY OPINIONS.—The Attorney Gen-
16 eral shall—

17 “(A) establish a process by which any pro-
18 ducer of audio, visual, or audiovisual content
19 may seek an advisory opinion regarding the le-
20 gality of their proposed production under this
21 section;

22 “(B) respond to such requests for advice
23 not later than 30 days after the date of submis-
24 sion; and

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

4 “(2) WAIVER.—The Attorney General shall be
5 authorized to grant, and shall establish and publish
6 procedures to govern the issuance of, waivers from
7 any requirements or liabilities under this section to
8 additional categories of advanced technological false
9 personation records upon petition of any producer
10 thereof if such producer can demonstrate compliance
11 with this section would impede their ability to en-
12 gage in otherwise lawful activities protected by the
13 First Amendment of the Constitution.

14 “(3) WATERMARK STANDARDS.—Not later than
15 1 year after the date of enactment of this section,
16 the Attorney General shall issue rules governing the
17 technical specifications of the digital watermarks re-
18 quired under subsection (b) which shall include, if
19 such is determined appropriate, a requirement for
20 such watermarks to contain embedded metadata.

21 “(l) VENUE.—Any action under this section may be
22 brought, in addition to in any district otherwise described
23 in section 1391 of title 28, in the district where or the
24 person falsely depicted in the advanced technological false
25 personation record resides.

1 “(m) EXTRATERRITORIALITY.—There is extraterrito-
2 rial Federal jurisdiction over an offense under this section
3 if the defendant or the depicted person is a citizen or per-
4 manent resident of the United States.

5 “(n) DEFINITIONS.—

6 “(1) ADVANCED TECHNOLOGICAL FALSE
7 PERSONATION RECORD.—The term ‘advanced tech-
8 nological false personation record’ means any deep
9 fake, which—

10 “(A) a reasonable person, having consid-
11 ered the visual or audio qualities of the record
12 and the nature of the distribution channel in
13 which the record appears, would believe accu-
14 rately exhibits—

15 “(i) any material activity of a living
16 person which such living person did not in
17 fact undertake; or

18 “(ii) any material activity of a de-
19 ceased person which such deceased person
20 did not in fact undertake, and the exhi-
21 bition of which is substantially likely to ei-
22 ther further a criminal act or result in im-
23 proper interference in an official pro-
24 ceeding, public policy debate, or election;
25 and

1 “(B) was produced without the consent of
2 such living person, or in the case of a deceased
3 person, such person or the heirs thereof.

4 “(2) MATERIAL ACTIVITY.—The term ‘material
5 activity’ means any falsified speech, conduct, or de-
6 piction which causes, or a reasonable person would
7 recognize has a tendency to cause perceptible indi-
8 vidual or societal harm, including misrepresentation,
9 reputational damage, embarrassment, harassment,
10 financial losses, the incitement of violence, the alter-
11 ation of a public policy debate or election, or the fur-
12 therance of any unlawful act.

13 “(3) DEEP FAKE.—The term ‘deep fake’ means
14 any video recording, motion-picture film, sound re-
15 cording, electronic image, or photograph, or any
16 technological representation of speech or conduct
17 substantially derivative thereof—

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

21 “(B) the production of which was substan-
22 tially dependent upon technical means, rather
23 than the ability of another person to physically
24 or verbally impersonate such person.

1 “(o) REPORTS.—The Attorney General, in coordina-
2 tion with other relevant Federal agencies, shall submit a
3 report to Congress 5 years after the date of enactment
4 of this section, and 5 years thereafter, describing trends
5 related to prosecutions and civil penalties pursued under
6 this section, and recommending any updates to this sec-
7 tion necessitated by the emergence of new technologies.

8 **“§ 1042. Deep fakes victim assistance**

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

17 “(b) COORDINATOR FOR FALSE INTIMATE DEPIC-
18 TIONS.—The Attorney General shall designate a coordi-
19 nator in each United States Attorney’s Office to receive
20 reports from the public regarding potential violations of
21 section 1041 (relating to deep fake depictions of an inti-
22 mate and sexual nature) and coordinate prosecutions for
23 any violation of such section.

1 “(c) PLAN AND GUIDANCE.—On the effective date of
 2 this Act, the Attorney General shall publish a report con-
 3 taining—

4 “(1) a plan to effectuate and enforce section
 5 1041;

6 “(2) a description of the efforts of the Russian
 7 Federation and the People’s Republic of China, and
 8 such other states or groups as the Attorney General
 9 determines appropriate, to use deep fake technology
 10 to impact elections or public policy debates in the
 11 United States or other democracies;

12 “(3) a description of the impact of intimate and
 13 sexual deep fakes on women and marginalized com-
 14 munities; and

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

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

“1041. Advanced technological false personation record.

“1042. Deep fakes victim assistance.”.

22 **SEC. 3. TRANSPARENCY FACILITATION.**

23 Any manufacturer of software, who in the course of
 24 conducting such business produces software, in or affect-

1 ing interstate or foreign commerce, which such manufac-
 2 turer reasonably believes, in the context of their intended
 3 distribution of the product, will be used to produce deep
 4 fakes, as such term is defined in section 1041 of title 18,
 5 United States Code, as added by this Act, shall—

6 (1) ensure such software has the technical ca-
 7 pability to insert watermarks and disclosures of the
 8 nature described in such section into such deep
 9 fakes; and

10 (2) include terms of use or other analogous dis-
 11 closures with such software, which require the user
 12 of such software to affirmatively acknowledge their
 13 general awareness of their legal obligations under
 14 this Act.

15 **SEC. 4. IN REM LITIGATION AGAINST FOREIGN AND UN-**
 16 **KNOWN DEFENDANTS.**

17 (a) IN GENERAL.—A living person, or an affiliated
 18 corporate or other entity substantially connected to such
 19 living person, exhibited as engaging in falsified material
 20 activity in an advanced technological false personation
 21 record, as such term is defined in section 1041 of title
 22 18, United States Code, as added by section 2 of this Act,
 23 and subject to parallel exceptions to those enumerated in
 24 section 1041(j) of such title, may file an in rem civil action
 25 against an advanced technological false personation

1 record, in the judicial district in which such living person
2 or related entity resides, if—

3 (1) the creator of such advanced technological
4 false personation record is in violation of any provi-
5 sion in section 1041 of title 18, United States Code,
6 as added by section 2 of this Act, for which a pri-
7 vate remedy is provided; and

8 (2) the court finds that such living person or
9 related entity—

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

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

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

23 (ii) publishing notice of the action as
24 the court may direct promptly after filing
25 the action; and

1 (iii) complying with such other due
2 diligence measures the Attorney General
3 promulgates through regulation.

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

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

11 (d) REMEDIES.—The remedies in an in rem action
12 under this paragraph shall be limited to a court order de-
13 claring there to be a substantial likelihood that the mate-
14 rial activity depicted in such advanced technological false
15 personation record is false and lacking the watermarks
16 and disclosures required under section 1041 of title 18,
17 United States Code, as added by section 2 of this Act,
18 and as appropriate at the discretion of the court, the for-
19 feiture by the producer of such advanced technological
20 false personation record of profits directly derived from
21 the production and distribution of such content.

22 (e) ESTOPPEL AND ADDITIONAL REMEDIES.—A
23 court order under subsection (d) may not be used for pur-
24 poses of estoppel in subsequent litigation should the living
25 person or related entity bringing suit file additional ac-

1 tions under other provisions of law. The in rem action es-
 2 tablished under this Act shall be in addition to any other
 3 civil action or remedy otherwise applicable and any other
 4 jurisdiction that otherwise exists, whether in rem or in
 5 personam.

6 (f) FEE WAIVER.—The Federal judiciary shall waive
 7 all filing fees for actual living persons pursuing private
 8 relief under this section, if such litigant provides a sworn
 9 certification that the primary purpose of such filing is
 10 reputational restoration.

11 (g) REGULATIONS.—The Attorney General may pro-
 12 mulgate regulations governing proceedings under this sec-
 13 tion, or otherwise limiting the applicability of this section
 14 as such is determined necessary.

15 **SEC. 5. FRAUD AND RELATED ACTIVITY IN CONNECTION**
 16 **WITH AUDIOVISUAL AND BIOMETRIC IDEN-**
 17 **TITY AUTHENTICATION.**

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

20 (1) in subsection (a)—

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

1 (B) in paragraph (4), by striking “or a
2 false identification document,” and inserting “a
3 false identification document, or a false audio-
4 visual identification record,”; and

5 (C) in paragraph (5), by striking “or a
6 false identification document” and inserting “a
7 false identification document, false audiovisual
8 identification record”;

9 (2) in subsection (b)(1), by striking “or a false
10 identification document” and inserting “a false iden-
11 tification document, or a false audiovisual identifica-
12 tion record”;

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

16 (4) in subsection (d)—

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

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

1 (C) in paragraph (11), strike “and” at the
2 end;

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

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

6 “(13) The term ‘false audiovisual identification
7 record means’ any ‘deep fake’ which is an ‘advanced
8 technological false personation record’, as such
9 terms are defined in section 1041, used or attempted
10 to be used by a person for the purpose of conducting
11 actual activities while assuming the identity of an-
12 other person without such other person’s consent,
13 that—

14 “(A) seeks to further any unlawful activity
15 that constitutes a violation of Federal law, or
16 that constitutes a felony under any applicable
17 State, territorial, or local law;

18 “(B) depicts obscenity or sexually explicit
19 conduct, considering the extent to which the
20 record appeals to the prurient interest, is pat-
21 ently offensive, and lack serious literary, artis-
22 tic, political, or scientific value;

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

1 “(D) constitutes a call to imminent lawless
 2 action, and is likely, whether on its own or col-
 3 lectively in connection with related records, to
 4 incite or produce such action; and

5 “(E) depicts or constitutes other activities
 6 or speech that the Attorney General determines
 7 by regulation pose a credible threat to the na-
 8 tional interests of the United States, which, as
 9 of the date of such regulation, have been deter-
 10 mined by a Federal court to constitute an un-
 11 protected class of speech under the first amend-
 12 ment.”.

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

19 **SEC. 6. FALSE PERSONATION.**

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

23 **“§ 918. Deep fake false personation generally**

24 “Section 911 through 917 of this chapter (relating
 25 to false personation of citizens of the United States, offi-

1 cers, or employees of the United States, authorities mak-
 2 ing arrests or searches, creditors of the United States, for-
 3 eign diplomats, consultants, or officers, 4-H Club members
 4 or agents, and Red Cross members or agents) shall be in-
 5 terpreted to include those who produce, or substantially
 6 knowingly contribute to the production and unlawful use
 7 of, ‘deep fakes’ which constitute an ‘advanced techno-
 8 logical false personation record’, as such terms are defined
 9 by section 2 of the Defending Each and Every Person
 10 from False Appearances by Keeping Exploitation Subject
 11 to Accountability Act of 2021 and subject to parallel ex-
 12 ceptions to those enumerated in section 2(j) of such Act,
 13 of such classes of persons covered by this chapter.”.

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

“918. Deep fake false personation generally.”.

17 **SEC. 7. DETECTION OF DEEP FAKES.**

18 (a) ESTABLISHMENT OF TASK FORCE.—The Sec-
 19 retary of Homeland Security, in coordination with the
 20 heads of other relevant Federal elements, shall establish
 21 a task force within the Science and Technology Direc-
 22 torate, hereinafter referred to as the Deep Fakes Task
 23 Force, to—

1 (1) advance efforts of the United States Gov-
2 ernment to combat the national security implications
3 of deep fakes;

4 (2) as appropriate, research and develop tech-
5 nologies to detect, or otherwise counter and combat,
6 deep fakes and other advanced image manipulation
7 methods and distinguish such deep fakes or related
8 forgeries from legitimate audiovisual recordings or
9 visual depictions of actual events;

10 (3) provide support, both administrative and
11 scientific, to other Federal elements researching
12 such technologies;

13 (4) encourage efforts of the United States Gov-
14 ernment to adopt such technology; and

15 (5) facilitate discussion and appropriate co-
16 operation between the United States Government
17 and relevant private sector technology enterprises or
18 other nongovernmental entities, including academic
19 and research institutions, regarding the identifica-
20 tion of deep fakes or other advanced image manipu-
21 lation methods.

22 (b) PRIVATE SECTOR COLLABORATION.—In the
23 event the United States Government develops technology
24 to reliably detect deep fakes and distinguish such from le-
25 gitimate audiovisual recordings or visual depictions of ac-

1 tual events, the President shall, unless he determines such
2 is contrary to the national interests of the United States,
3 endeavor to make such technology available to appropriate
4 United States private sector internet platforms, including
5 social networks.

6 (c) ANNUAL REPORT.—Not later than one year after
7 the date of the enactment of this Act and annually there-
8 after for a period of five years, the Secretary of Homeland
9 Security shall submit an unclassified report, which may
10 however contain a classified annex, to the Committee on
11 Homeland Security of the House of Representatives and
12 the Committee on Homeland Security and Governmental
13 Affairs of the Senate describing—

14 (1) the activities of the Task Force;

15 (2) as appropriate, technological progress re-
16 lated to the detection of deep fakes;

17 (3) new developments related to the national se-
18 curity threat posed by deep fakes or related image
19 manipulation technologies, which shall include a de-
20 scription of any efforts of the Russian Federation
21 and the People’s Republic of China, and such other
22 states or groups as the Attorney General determines
23 appropriate, to distribute unlawful deep fakes in the
24 United States or other democracies; and

1 (4) related efforts of the United States to com-
2 bat and counter deep fakes or related image manipu-
3 lation technologies.

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

7 **SEC. 8. CONGRESSIONAL NOTIFICATION.**

8 The Secretary of Homeland Security, on no less than
9 an annual basis, shall provide the Committee on Home-
10 land Security of the House of Representatives and the
11 Committee on Homeland Security and Governmental Af-
12 fairs of the Senate with a classified written notification
13 and, upon request, a briefing regarding any known at-
14 tempts of foreign states to use deep fake technology to
15 influence or otherwise interfere in an official proceeding
16 within the United States, including an election.

17 **SEC. 9. EFFECTIVE DATE.**

18 This Act shall enter into effect on the date that is
19 one year after the date of enactment of this Act.

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