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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 3625

02/13/2024 Authored by Stephenson, Heintzeman and Bahner The bill was read for the first time and referred to the Committee on Elections Finance and Policy

1.1 A bill for an act
1.2 relating to public safety; modifying the deep fake election crime; disqualifying a
1.3 convicted person from holding elected office; amending Minnesota Statutes 2022,
1.4 sections 211B.17, subdivision 1; 211B.18; Minnesota Statutes 2023 Supplement,
1.5 section 609.771, subdivisions 1, 2, 3, 4, by adding a subdivision.

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. Minnesota Statutes 2022, section 211B.17, subdivision 1, is amended to read:

1.8 Subdivision 1. Forfeiture of nomination or office. Except as provided in subdivision
1.9 2, if a candidate is found guilty of violating this chapter or section 609.771 or an offense
1.10 was committed by another individual with the knowledge, consent, or connivance of the
1.11 candidate, the court, after entering the adjudication of guilty, shall enter a supplemental
1.12 judgment declaring that the candidate has forfeited the nomination or office. If the court
1.13 enters the supplemental judgment, it shall transmit to the filing officer a transcript of the
1.14 supplemental judgment, the nomination or office becomes vacant, and the vacancy must be
1.15 filled as provided by law.

1.16 EFFECTIVE DATE. This section is effective July 1, 2024, and applies to crimes
1.17 committed on or after that date.

1.18 Sec. 2. Minnesota Statutes 2022, section 211B.18, is amended to read:

1.19 211B.18 DISQUALIFIED CANDIDATE NOT TO HOLD VARIOUS POSITIONS.

1.20 A candidate whose election to office has been set aside for a violation of this chapter or
1.21 section 609.771 may not be appointed, during the period fixed by law as the term of the
1.22 office, to fill a vacancy in that office. A candidate or other individual who is convicted of

2.1 a violation of this chapter or section 609.771 may not be appointed, during the period fixed
2.2 by law as the term of the office with respect to which the election was held and the offense
2.3 was committed, to fill a vacancy that may occur in the office. An appointment to an office
2.4 made contrary to the provisions of this section is void.

2.5 A candidate or other individual who is convicted of a violation of this chapter or section
2.6 609.771 is not qualified, during the period fixed by law as the term of the office with respect
2.7 to which the election was held and the offense was committed, to fill a vacancy in an office
2.8 for which the legislature may establish qualifications under article XII, section 3, of the
2.9 Minnesota Constitution.

2.10 **EFFECTIVE DATE.** This section is effective July 1, 2024, and applies to crimes
2.11 committed on or after that date.

2.12 Sec. 3. Minnesota Statutes 2023 Supplement, section 609.771, subdivision 1, is amended
2.13 to read:

2.14 Subdivision 1. **Definitions.** (a) As used in this section, the following terms have the
2.15 meanings given.

2.16 (b) "Candidate" means an individual who seeks nomination or election to a federal,
2.17 statewide, legislative, judicial, or local office including special districts, school districts,
2.18 towns, home rule charter and statutory cities, and counties.

2.19 (c) "Deep fake" means any video recording, motion-picture film, sound recording,
2.20 electronic image, or photograph, or any technological representation of speech or conduct
2.21 substantially derivative thereof:

2.22 (1) that is so realistic that a reasonable person would:

2.23 (i) believe it depicts speech or conduct of an individual who did not in fact engage in
2.24 such speech or conduct; or

2.25 (ii) have a fundamentally and materially different understanding of the substance or
2.26 meaning of the content of the speech or conduct compared to the unaltered, original version;
2.27 and

2.28 (2) the production of which was substantially dependent upon technical means, rather
2.29 than the ability of another individual to physically or verbally impersonate such individual.

2.30 (d) "Depicted individual" means an individual in a deep fake who appears to be engaging
2.31 in speech or conduct in which the individual did not engage.

3.1 **EFFECTIVE DATE.** This section is effective July 1, 2024, and applies to crimes
 3.2 committed on or after that date.

3.3 Sec. 4. Minnesota Statutes 2023 Supplement, section 609.771, subdivision 2, is amended
 3.4 to read:

3.5 Subd. 2. **Use of deep fake to influence an election; violation.** (a) A person who
 3.6 disseminates a deep fake or enters into a contract or other agreement to disseminate a deep
 3.7 fake is guilty of a crime and may be sentenced as provided in subdivision 3 if the person
 3.8 knows or reasonably should know that the item being disseminated is a deep fake and
 3.9 dissemination:

3.10 (1) takes place within 30 days before a political party nominating convention, presidential
 3.11 primary, state primary, local primary, special primary, or special election, or 90 days before
 3.12 an a general election;

3.13 (2) is made without the consent of the depicted individual; and

3.14 (3) is made with the intent to injure a candidate or influence the result of an election.

3.15 (b) A website; social media platform; regularly published newspaper, magazine, or other
 3.16 periodical, including an Internet or electronic publication; a radio or television broadcasting
 3.17 station, including a cable or satellite television operator, programmer, or producer; or a
 3.18 streaming service is not in violation of this section if the entity's only role is to distribute
 3.19 political advertisements that are prohibited by this section.

3.20 **EFFECTIVE DATE.** This section is effective July 1, 2024, and applies to crimes
 3.21 committed on or after that date.

3.22 Sec. 5. Minnesota Statutes 2023 Supplement, section 609.771, subdivision 3, is amended
 3.23 to read:

3.24 Subd. 3. **Use of deep fake to influence an election; penalty.** (a) A person convicted of
 3.25 violating subdivision 2 may be sentenced as follows:

3.26 (1) if the person commits the violation within five years of one or more prior convictions
 3.27 under this section, to imprisonment for not more than five years or to payment of a fine of
 3.28 not more than \$10,000, or both;

3.29 (2) if the person commits the violation with the intent to cause violence or bodily harm,
 3.30 to imprisonment for not more than 364 days or to payment of a fine of not more than \$3,000,
 3.31 or both; or

4.1 (3) in other cases, to imprisonment for not more than 90 days or to payment of a fine of
4.2 not more than \$1,000, or both.

4.3 (b) In the case of a candidate convicted of violating subdivision 2, the court must enter
4.4 a supplemental judgment declaring that the candidate has forfeited the nomination or office
4.5 in accordance with section 211B.17.

4.6 (c) A candidate or other individual convicted of violating subdivision 2 is disqualified
4.7 from being appointed to that office or any other office for which the legislature may establish
4.8 qualifications under the Minnesota Constitution, article XII, section 3, in accordance with
4.9 section 211B.18.

4.10 **EFFECTIVE DATE.** This section is effective July 1, 2024, and applies to crimes
4.11 committed on or after that date.

4.12 Sec. 6. Minnesota Statutes 2023 Supplement, section 609.771, subdivision 4, is amended
4.13 to read:

4.14 Subd. 4. **Injunctive relief.** A cause of action for injunctive or equitable relief may be
4.15 maintained against any person who is reasonably believed to be about to violate or who is
4.16 in the course of violating this section by:

4.17 (1) the attorney general;

4.18 (2) a county attorney or city attorney;

4.19 (3) the depicted individual; or

4.20 (4) a candidate for nomination or election to a public office who is injured or likely to
4.21 be injured by dissemination.

4.22 **EFFECTIVE DATE.** This section is effective July 1, 2024, and applies to acts committed
4.23 on or after that date.

4.24 Sec. 7. Minnesota Statutes 2023 Supplement, section 609.771, is amended by adding a
4.25 subdivision to read:

4.26 Subd. 5. **Severability.** If any one or more provision, subdivision, sentence, clause, phrase,
4.27 or word of this section or the application of it to any person or circumstance is found to be
4.28 unconstitutional, it is declared to be severable and the balance of this section shall remain
4.29 effective notwithstanding that unconstitutionality. The legislature intends that it would have
4.30 passed this section, and each provision, subdivision, sentence, clause, phrase, or word,

- 5.1 regardless of the fact that any one provision, subdivision, sentence, clause, phrase, or word
- 5.2 is declared unconstitutional.
- 5.3 **EFFECTIVE DATE.** This section is effective July 1, 2024.