

SENATE BILL REPORT

SHB 1205

As Reported by Senate Committee On:
Law & Justice, March 20, 2025

Title: An act relating to prohibiting the knowing distribution of a forged digital likeness.

Brief Description: Prohibiting the knowing distribution of a forged digital likeness.

Sponsors: House Committee on Community Safety (originally sponsored by Representatives Ryu, Obras, Cortes, Callan, Pollet, Kloba and Timmons).

Brief History: Passed House: 3/4/25, 90-7.

Committee Activity: Law & Justice: 3/17/25, 3/20/25 [DP, w/oRec].

Brief Summary of Bill

- Expands the conduct that constitutes the crime of second-degree criminal impersonation to includes the knowing distribution of a forged digital likeness.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass.

Signed by Senators Dhingra, Chair; Trudeau, Vice Chair; Holy, Ranking Member; Fortunato, Lovick, Salomon, Torres and Valdez.

Minority Report: That it be referred without recommendation.

Signed by Senator Wagoner.

Staff: Joe McKittrick (786-7287)

Background: In 2023, the state enacted legislation creating a civil cause of action for candidates whose appearance, action, or speech is altered in electioneering communications through the use of synthetic media without a valid disclosure. Synthetic media are images,

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audio recordings, or video recordings that have been intentionally manipulated with the use of generative adversarial network techniques or other digital technology in a manner to create a realistic but false image, audio, or video that produces:

- a depiction that to a reasonable individual is of a real individual in appearance, action, or speech that did not actually occur in reality; and
- a fundamentally different understanding or impression of the appearance, action, or speech than a reasonable person would have from the unaltered, original version of the image, audio recording, or video recording.

In 2024, the state enacted legislation to prohibit conduct involving fabricated depictions of identifiable minors or the disclosure of fabricated intimate images. A fabricated intimate image is any visual or printed matter that depicts a minor who is identifiable from the matter itself or from information displayed with or otherwise connected to the matter, and that was created or altered by digitization to depict the minor engaging in sexually explicit conduct in which the minor did not actually engage. A fabricated intimate image is any photograph, motion picture film, videotape, digital image, or any other recording or transmission of another person who is identifiable from the image itself, or from information displayed with or otherwise connected to the image, and that was created or altered by digitization to depict certain false imagery or conduct that did not actually occur.

A person commits second-degree criminal impersonation if the person:

- claims to be a law enforcement officer or creates an impression that the person is a law enforcement officer and acts with intent to convey the impression that the person is acting in an official capacity, and a reasonable person would believe the person is a law enforcement officer; or
- falsely assumes the identity of a veteran or active duty member of the armed forces of the United States with intent to defraud for the purpose of personal gain or to facilitate any unlawful activity.

Second-degree criminal impersonation is a gross misdemeanor, punishable by up to 364 days in jail, or a \$5,000 fine, or both.

Summary of Bill: The conduct that constitutes second-degree criminal impersonation is expanded to include when a person:

- knowingly distributes a forged digital likeness of another person as a genuine visual representation or audio recording with intent to defraud, harass, threaten, or intimidate another or for any other unlawful purpose; and
- knows or reasonably should know that the forged digital likeness is not genuine.

The criminalization of such conduct may not be construed to:

- prohibit the distribution of visual representations or audio recordings for matters of cultural, historical, political, religious, educational, newsworthy, or public interest including but not limited to, use in works of art, commentary, satire, and parody protected by the state and federal constitutions; or

- impose liability upon an interactive computer service, mobile telecommunications service provider, or telecommunications network or broadband provider, solely as a result of content provided by another person.

"Forged digital likeness" means a visual representation of an actual and identifiable individual, or an audio recording of an actual and identifiable individual's voice, which:

- has been digitally created, adapted, altered, or modified to be indistinguishable from a genuine visual representation or audio recording of the individual;
- misrepresents the appearance, speech, or conduct of the individual; and
- is likely to deceive a reasonable person into believing that the visual representation or audio recording is genuine.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: The use of artificial intelligence to create fake likenesses of others can ruin the lives of those targeted by these acts, and the increased quality of AI-created images, and audio makes it more likely these acts will do irreparable damage. Even when fake images or audio are recalled or redacted, those who've seen or heard it cannot unsee or unhear it.

Persons Testifying: PRO: Representative Cindy Ryu, Prime Sponsor.

Persons Signed In To Testify But Not Testifying: No one.