

REFERENCE TITLE: candidates; digital impersonation; injunctive relief

State of Arizona  
House of Representatives  
Fifty-sixth Legislature  
Second Regular Session  
2024

## **HB 2394**

Introduced by  
Representatives Kolodin: Chaplik

AN ACT

AMENDING TITLE 16, CHAPTER 7, ARTICLE 1, ARIZONA REVISED STATUTES, BY  
ADDING SECTION 16-1023; RELATING TO PROHIBITED ACTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 16, chapter 7, article 1, Arizona Revised  
3 Statutes, is amended by adding section 16-1023, to read:

4 16-1023. Digital impersonation of candidate or other person;  
5 injunctive relief; expedited relief

6 A. A CANDIDATE FOR PUBLIC OFFICE WHO WILL APPEAR ON THE BALLOT IN  
7 THIS STATE OR ANY CITIZEN OF THIS STATE MAY BRING AN ACTION FOR DIGITAL  
8 IMPERSONATION WITHIN TWO YEARS AFTER THE DATE THAT THE PERSON KNOWS, OR IN  
9 THE EXERCISE OF REASONABLE DILIGENCE SHOULD KNOW, THAT A DIGITAL  
10 IMPERSONATION OF THAT PERSON WAS PUBLISHED. THE SOLE REMEDY IN THIS CAUSE  
11 OF ACTION IS PRELIMINARY AND PERMANENT DECLARATORY RELIEF EXCEPT AS  
12 OTHERWISE EXPRESSLY PROVIDED BY THIS SECTION. TO PREVAIL ON AN ACTION  
13 PRESCRIBED BY THIS SECTION, A PLAINTIFF MUST PROVE ALL OF THE FOLLOWING BY  
14 A PREPONDERANCE OF THE EVIDENCE:

15 1. THAT A DIGITAL IMPERSONATION OF THE PERSON WAS PUBLISHED TO ONE  
16 OR MORE OTHER PERSONS WITHOUT THE PERSON'S CONSENT.

17 2. THAT ON PUBLICATION, THE PUBLISHER DID NOT TAKE REASONABLE STEPS  
18 TO INFORM THE PERSONS TO WHOM THE PUBLICATION WAS MADE THAT THE RECORDING  
19 OR IMAGE WAS A DIGITAL IMPERSONATION, OR IT WAS NOT OTHERWISE OBVIOUS TO  
20 THE PERSON OR PERSONS TO WHOM THE PUBLICATION WAS MADE THAT THE RECORDING  
21 OR IMAGE WAS A DIGITAL IMPERSONATION.

22 B. A PERSON BRINGING AN ACTION FOR DIGITAL IMPERSONATION HAS THE  
23 RIGHT TO OBTAIN A PRELIMINARY JUDICIAL DECLARATION THAT A RECORDING OR  
24 IMAGE IS A DIGITAL IMPERSONATION WITHIN TWO JUDICIAL DAYS AFTER SEEKING  
25 THAT RELIEF. THAT RELIEF SHALL BE GRANTED ONLY IF THE PERSON IS ABLE TO  
26 PROVE BY A PREPONDERANCE OF THE EVIDENCE THE ELEMENTS OF DIGITAL  
27 IMPERSONATION AND ANY OF THE FOLLOWING ADDITIONAL REQUIREMENTS ARE MET:

28 1. THE PERSON IS A CANDIDATE FOR PUBLIC OFFICE AND AN ELECTION IS  
29 SCHEDULED TO BE HELD FOR THAT PUBLIC OFFICE WITHIN ONE HUNDRED EIGHTY DAYS  
30 OF THE DATE THAT THE RELIEF IS REQUESTED.

31 2. THE DIGITAL IMPERSONATION DEPICTS THE PERSON ENGAGING IN A  
32 SEXUAL ACT OR DEPICTS THE UNCLOTHED BREASTS, BUTTOCKS OR GENITALS OF THE  
33 PERSON.

34 3. THE DIGITAL IMPERSONATION DEPICTS THE PERSON ENGAGING IN A  
35 CRIMINAL ACT.

36 4. IN THE ABSENCE OF EXPEDITED RELIEF, THE PERSON CAN BE REASONABLY  
37 EXPECTED TO SUFFER SIGNIFICANT PERSONAL OR FINANCIAL HARDSHIP OR LOSS OF  
38 EMPLOYMENT OPPORTUNITIES.

39 5. IN THE ABSENCE OF EXPEDITED RELIEF, THE PERSON'S REPUTATION WILL  
40 BE IRREPARABLY HARMED.

41 6. THE INTERESTS OF JUSTICE OTHERWISE REQUIRE.

1 C. A PERSON BRINGING AN ACTION FOR DIGITAL IMPERSONATION  
2 ADDITIONALLY HAS THE RIGHT TO RECOVER INJUNCTIVE RELIEF AND DAMAGES IF ALL  
3 OF THE FOLLOWING REQUIREMENTS ARE MET:

4 1. THE DIGITAL IMPERSONATION DEPICTS THE PERSON ENGAGING IN A  
5 SEXUAL ACT OR DEPICTS THE UNCLOTHED BREASTS, BUTTOCKS OR GENITALS OF THE  
6 PERSON.

7 2. THE PERSON WAS NOT A PUBLIC FIGURE AT THE TIME THE CAUSE OF  
8 ACTION ACCRUED.

9 3. THE ELEMENTS OF SUBSECTION A OF THIS SECTION ARE PROVEN BY CLEAR  
10 AND CONVINCING EVIDENCE.

11 4. THE PERSON PROVES, BY CLEAR AND CONVINCING EVIDENCE, THAT THE  
12 PUBLICATION WAS MADE WITH ACTUAL KNOWLEDGE THAT THE RECORDING OR IMAGE WAS  
13 A DIGITAL IMPERSONATION OR, IF A DIGITAL IMPERSONATION WAS PUBLISHED  
14 WITHOUT SUCH KNOWLEDGE, THAT THE PUBLISHER FAILED TO TAKE REASONABLE  
15 CORRECTIVE ACTION AFTER THE PUBLISHER HAD ACTUAL KNOWLEDGE THAT THE  
16 RECORDING OR IMAGE WAS A DIGITAL IMPERSONATION.

17 D. ANY FACTUAL DETERMINATIONS MADE BY THE COURT IN A REQUEST FOR  
18 PRELIMINARY RELIEF UNDER SUBSECTION B OF THIS SECTION SHALL NOT BE  
19 CONSIDERED BY THE TRIER OF FACT AT ANY LATER STAGE OF THE PROCEEDING.

20 E. A PARENT OR GUARDIAN OF A MINOR CHILD OR INCAPACITATED PERSON  
21 MAY SEEK RELIEF UNDER THIS SECTION ON THE MINOR CHILD'S OR INCAPACITATED  
22 PERSON'S BEHALF.

23 F. THIS SECTION SHALL BE NARROWLY CONSTRUED IN FAVOR OF BOTH FREE  
24 AND OPEN DISCOURSE ON MATTERS OF PUBLIC CONCERN AND ARTISTIC EXPRESSION  
25 AND SHALL NOT BE CONSTRUED SO AS TO DENY OR DISPARAGE ANY CAUSE OF ACTION  
26 OTHERWISE AVAILABLE.

27 G. FOR THE PURPOSES OF THIS SECTION:

28 1. "APPEAR ON THE BALLOT IN THIS STATE" INCLUDES A CANDIDATE FOR  
29 PRESIDENT OF THE UNITED STATES WHOSE CANDIDATES FOR PRESIDENTIAL ELECTOR  
30 WILL APPEAR ON THE BALLOT IN THIS STATE.

31 2. "DIGITAL IMPERSONATION" MEANS SYNTHETIC MEDIA, TYPICALLY VIDEO  
32 OR AUDIO, THAT:

33 (a) HAS BEEN DIGITALLY MANIPULATED TO CONVINCINGLY REPLACE ONE  
34 PERSON'S LIKENESS OR VOICE WITH THAT OF ANOTHER USING DEEP GENERATIVE  
35 METHODS AND ARTIFICIAL INTELLIGENCE TECHNIQUES, OR FOR WHICH ONE PERSON'S  
36 LIKENESS OR VOICE HAS OTHERWISE BEEN SIMULATED USING DEEP GENERATIVE  
37 METHODS AND ARTIFICIAL INTELLIGENCE TECHNIQUES.

38 (b) WAS CREATED WITH THE INTENTION TO DECEIVE OR LEAD REASONABLE  
39 LISTENERS OR VIEWERS INTO BELIEVING THAT THE CONTENT IS AUTHENTIC.

40 (c) REASONABLE VIEWERS OR LISTENERS WOULD BELIEVE ACTUALLY  
41 REPRESENTS THE PERSON'S VOICE OR LIKENESS.

42 (d) WOULD CAUSE REASONABLE VIEWERS OR LISTENERS TO CONCLUDE THAT  
43 THE RECORDING OR IMAGE IS A TRUE AND ACCURATE DEPICTION OF SOMETHING THE  
44 PERSON SAID OR DID AND NOT MERELY COMMENTARY, PARODY, SATIRE, CRITICISM OR  
45 ARTISTIC EXPRESSION RELATED TO THAT PERSON.

1 (e) WAS NOT CREATED BY THE PERSON OR WITH THE PERSON'S CONSENT.

2 3. "ELECTION" MEANS ANY ELECTION IN THIS STATE, INCLUDING A  
3 PRIMARY, PRESIDENTIAL PREFERENCE, SPECIAL OR GENERAL ELECTION.

4 4. "PUBLIC FIGURE", FOR THE AVOIDANCE OF DOUBT, INCLUDES LIMITED  
5 PURPOSE PUBLIC FIGURES.

6 5. "PUBLIC OFFICE" MEANS ANY OFFICE OF PUBLIC TRUST OR ANY POSITION  
7 TO WHICH PERSONS ARE ELECTED WITHIN A POLITICAL PARTY.

8 Sec. 2. Emergency

9 This act is an emergency measure that is necessary to preserve the  
10 public peace, health or safety and is operative immediately as provided by  
11 law.