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S.F. No. 3550 - Deep Fake Election Crime Modifications

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Section 1 [§ 211B.71, subd. 1; Forfeiture of nomination or office] adds a cross reference to Minnesota Statute § 609.771 (use of deep fake technology to influence an election). The effect of adding the cross reference here is that if a candidate is found guilty of that section, the court must enter a supplemental judgement declaring that the candidate has forfeited the nomination or office. This section is effective July 1, 2024, and applies to crimes committed on or after that date.

Section 2 [§211B.18; Disqualified candidate not to hold various positions] adds cross-references to Minnesota Statute § 609.771 (use of deep fake technology to influence an election). The effect of adding cross references here is that a candidate whose election to office has been set aside for violating or who has been convicted of a violation of § 609.771 may not be appointed to fill a vacancy in that office, including an office for which the legislature may establish qualifications under the state constitution. This section is effective July 1, 2024, and applies to crimes committed on or after that date.

Section 3 [§609.771, subd. 1; Definitions] amends the definition of “deep fake” to include a video recording, film, sound recording, electronic image, photograph, technological representation of speech or conduct that is so realistic that a reasonable person would have a fundamentally and materially different understanding of the substance or meaning of the content of the speech or conduct compared to the unaltered, original version. This is in addition to the current law requirement that the production was substantially dependent on technical means. This section is effective July 1, 2024, and applies to crimes committed on or after that date.

Section 4 [§609.771, subd. 2; Use of deep fake to influence an election; violation] adds that the criminal penalties apply during the 30 days before a political party nominating convention, presidential nominating primary, and primary elections. Websites, social media platforms, regularly published newspapers, magazines, radio or tv broadcasting stations, and streaming services are not in violation of this section of law if the entity’s only role is to distribute political advertisements that

are prohibited by this section. This section is effective July 1, 2024, and applies to crimes committed on or after that date.

Section 5 [§609.774, subd. 3; Use of deep fake to influence an election; penalty] requires a court to enter a supplemental judgement declaring that a candidate has forfeited nomination or office if the candidate is convicted of violating subdivision 2. This is consistent with section 1 of the bill. A candidate or other individual convicted of violating section 2 is disqualified from being appointed to that office or any other office for which the legislature may establish qualifications under the state constitution. This is consistent with section 3 of the bill. This section is effective July 1, 2024, and applies to crimes committed on or after that date.

Section 6 [§609.771, subd. 4; Injunctive relief] allows equitable relief to be sought if the law is violated. This section is effective July 1, 2024, and applies to crimes committed on or after that date.

Section 7 [§609.771, subd. 5; Severability] says that if any provision is found to be unconstitutional, it is severable and the balance of the section remains effective. The legislature intends that it would have passed each part of this section regardless of the fact that any piece is declared unconstitutional. This section is effective July 1, 2024.