

H. B. No. 185
As Introduced

_____ moved to amend as follows:

After line 45, insert:

"(H) "Modified facsimile" means a realistic, electronic representation of an individual's persona that is transmitted or created after the effective date of this amendment with an intent to mislead and that depicts an individual in a way that the individual did not actually perform or appear, or in which the fundamental character of the performance or appearance has been materially altered."

In line 48, delete "or" and insert ", including via"; delete "of an"

In line 49, delete "individual's persona"

In line 179, delete "or an audiovisual work"

Delete lines 180 and 181

In line 182, delete "and the individual"

In line 183, after "value" insert ", relates to a matter of public interest, or that is commentary, criticism, scholarship, satire, or parody"



In line 213, after "chapter" insert "; 17

(8) A provider or developer of any technology used in the 18
creation of content provided by another person, including all of 19
the following: 20

(a) An interactive computer service, as defined in 47 21
U.S.C. 230; 22

(b) An information service, as defined in 47 U.S.C. 153; 23

(c) A telecommunications service, as defined in 47 U.S.C. 24
153; 25

(d) A provider of broadband internet access service as 26
described in 47 C.F.R. 8.1(b)" 27

In line 221, after "appears" insert "to a reasonable person" 28

In line 224, delete "that" 29

In line 225, delete "intends to cause" and insert "knowingly and 30
with the intent to harass, extort, or cause physical or serious 31
emotional"; delete "another" and insert "the"; after "person" insert 32
"depicted" 33

In line 231, after "individual," insert "knowingly or intentionally" 34

In line 237, delete "recklessly" and insert "knowingly or 35
intentionally" 36

In line 243, delete "context" and insert "work"; delete "would 37
cause" 38

In line 244, delete "to believe that the material is inauthentic," 39

In line 245, delete "such as in a parody or fictionalized movie" and 40
insert "would perceive as fictional based on the content or context of the 41
depiction or relates to a matter of public interest, or that is 42

<u>commentary, criticism, scholarship, satire, or parody"</u>	43
After line 266, insert:	44
<u>"(F) Nothing in this section shall be construed to impose liability on any of the following:</u>	45
<u>(1) An interactive computer service, as defined in 47 U.S.C. 230, for content provided by another person;</u>	46
<u>(2) An information service, as defined in 47 U.S.C. 153, for content provided by another person;</u>	47
<u>(3) A telecommunications service, as defined in 47 U.S.C. 153, for content provided by another person;</u>	48
<u>(4) A provider or developer of any technology used in the creation of a recording or deepfake recording;</u>	49
<u>(5) A provider of broadband internet access service, as described in 47 C.F.R. 8.1(b).</u>	50
<u>(G) Nothing in this section shall be construed to restrict the ability of a person to detect, prevent, respond to, or protect against security incidents, identity theft, fraud, harassment, malicious or deceptive activities, or any illegal activity, preserve the integrity or security of systems, or investigate, report, or prosecute those responsible for such actions."</u>	51
After line 309, insert:	52
<u>"(e) If the plaintiff is found to have knowingly misrepresented a violation of a person's rights under section 2741.01 of the Revised Code, the court shall award the defendant reasonable costs and attorney's fees, as well as any other compensatory or punitive damages as the court deems just."</u>	53
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In line 323, delete " <u>affirmative steps to cause others to take</u> "	70
In line 324, after " <u>recording</u> " insert " <u>identified by the plaintiff</u> "	71
In line 335, after " <u>a</u> " insert " <u>malicious</u> "	72
In line 375, after " <u>by</u> " insert " <u>knowingly or intentionally</u> "	73
In line 448, strike through "solely for" and insert " <u>on the basis</u> <u>of</u> "	74 75
In line 471, after "who" insert " <u>willfully</u> "	76
In line 473, after "knowingly" insert " <u>or intentionally</u> "	77

The motion was _____ agreed to.

SYNOPSIS 78

Miscellaneous changes 79

**R.C. 2741.01, 2741.02, 2741.09, 2742.01, 2742.02, 2742.03,
2742.04, and 2905.11** 80
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Defines "modified facsimile" as a realistic, electronic 82
representation of an individual's persona that is transmitted or 83
created after the bill's effective date with an intent to 84
mislead and that depicts an individual in a way that the 85
individual did not actually perform or appear, or in which the 86
fundamental character of the performance or appearance has been 87
materially altered. 88

Exempts providers of broadband internet access service 89
from the bill's provisions. 90

Exempts materials that relate to a matter of public interest, or that is commentary, criticism, scholarship, satire, or parody from the bill's provisions.	91 92 93
Exempts an interactive computer service, an information service, or a telecommunications service from the bill's provisions regarding content provided by another person.	94 95 96
Exempts providers or developers of any technology used in the creation of content provided by another person from the bill's provisions.	97 98 99
Specifies that the bill does not restrict the ability of a person to respond to illegal activity, preserve the security of systems, or investigate, report, or prosecute those responsible.	100 101 102
Removes an exemption from the bill's provisions for an audiovisual work with a modified facsimile of an individual's persona wherein a reasonable trier of fact would confuse the modified facsimile and the individual.	103 104 105 106
Redefines "deepfake recording" as any visual or audio media in an electronic format, video recording, or sound recording that is created or altered in a manner such that it falsely appears to a reasonable person to be an authentic record of the actual speech or conduct of an individual depicted in the media or recording.	107 108 109 110 111 112
Redefines "malicious deepfake" as a deepfake recording created or altered by, or on behalf of, a person that knowingly and with the intent to harass, extort, or cause physical or serious emotional harm to the person depicted due to the false nature of the speech or conduct recorded or depicted therein.	113 114 115 116 117
Defines the mens rea of nonconsensually preparing,	118

producing, or developing any malicious deepfake recording of an individual's voice, image, or likeness to distribute to, exhibit to, or exchange with others, or offer to distribute, exhibit, or exchange with others a malicious deepfake recording as knowingly or intentionally.

Modifies the mens rea of distributing any malicious deepfake recording from recklessly to knowingly or intentionally.

Provides that a defendant is entitled to compensatory or punitive damages, reasonable attorney's fees, and reasonable costs if a plaintiff is found to have knowingly misrepresented a violation of the defendant's rights under the bill.

Provides that any person that purchases a *malicious* deepfake recording, while holding a good-faith belief that the recording is authentic, may commence a civil action. The bill currently allows for the purchaser of any deepfake recording to commence an action.

Specifies the mens rea for using a malicious deepfake to utter or threaten any calumny against any person or expose or threaten to expose any matter tending to subject any person to hatred, contempt, or ridicule, or to damage any person's personal or business repute, or to impair any person's credit as knowingly or intentionally.

Specifies that the good faith exemption from the offense of sexual extortion does not apply to a person who willfully conspires with another person actively involved in the creation or knowing distribution of material supporting the offense, or who knowingly or intentionally advertises the availability of material of that nature.