

# Deepfakes in Elections

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# How NCSL Strengthens Legislatures

## Policy Research

NCSL provides trusted, nonpartisan policy research and analysis



## Connections

NCSL links legislators and staff with each other and with experts



## State Voices in D.C.

NCSL represents and advocates on behalf of states on Capitol Hill



## Training

NCSL delivers training tailored specifically for legislators and staff



## Meetings

NCSL meetings facilitate information exchange and policy discussions

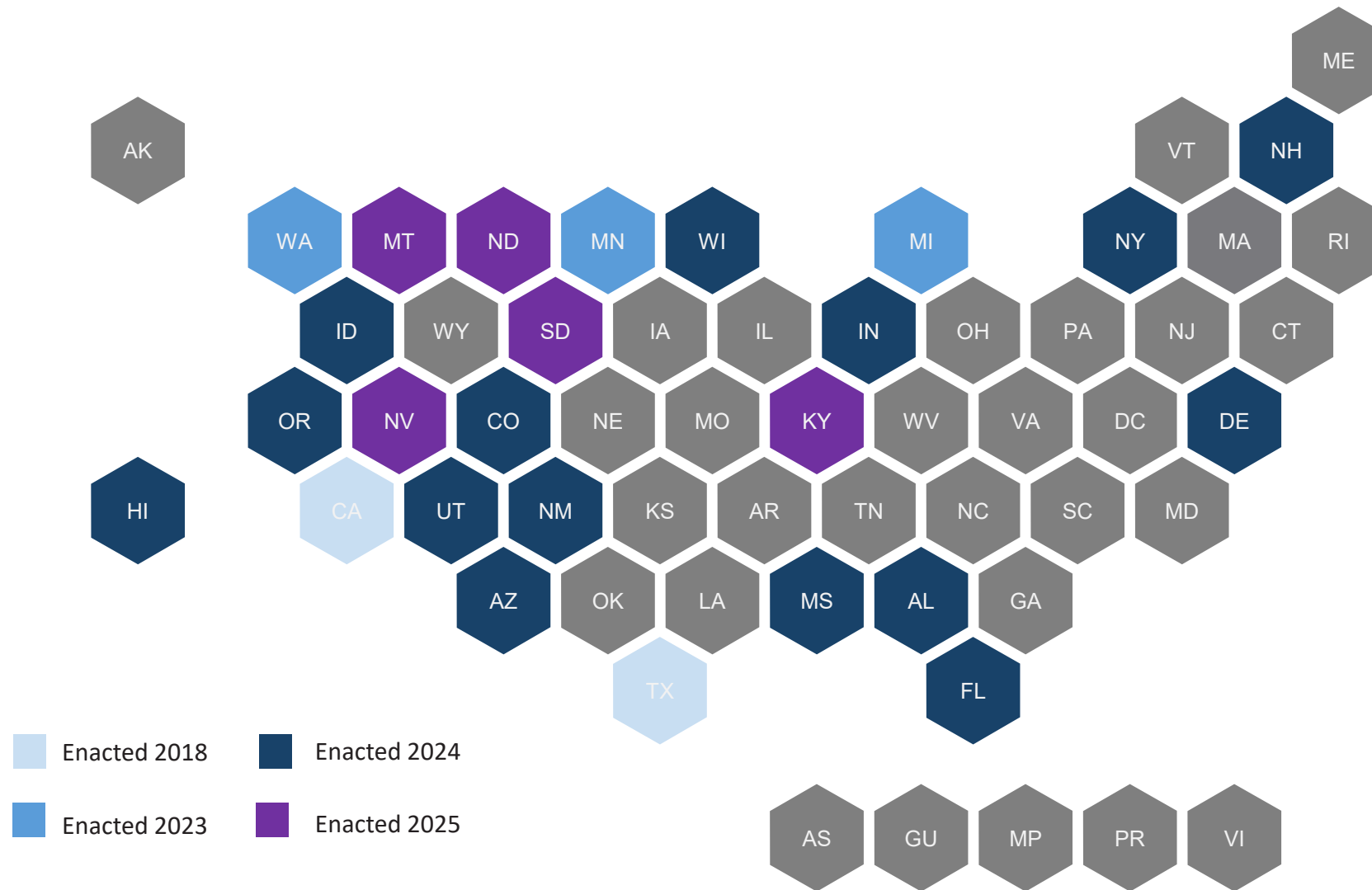


# Today's Agenda

- Background on AI/deepfakes in campaigns
- Scope of laws on AI/deepfakes in campaigns
- Approaches to regulation
- Court challenges
- Federal action



# When States Enacted Laws on Deepfakes in Campaigns and Elections

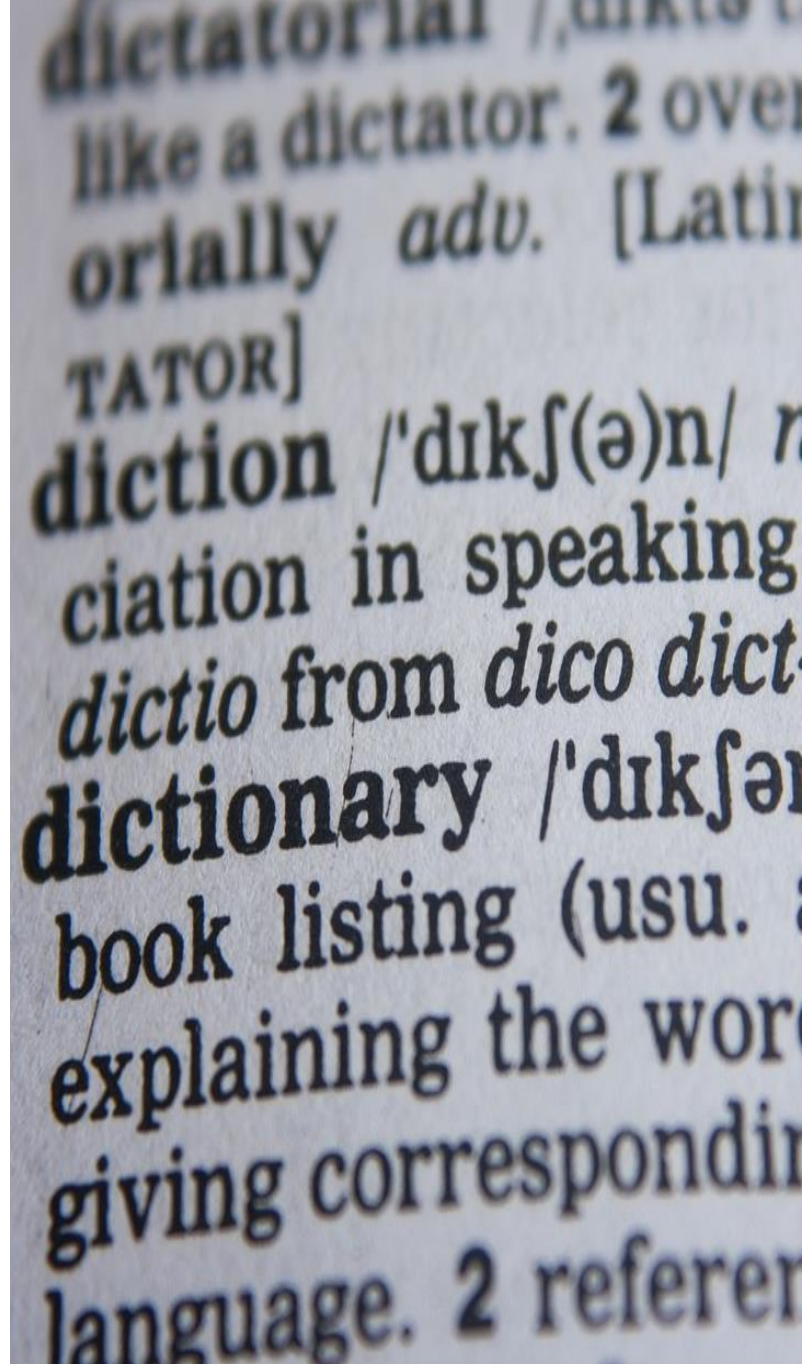


# Scope of Deepfake Laws

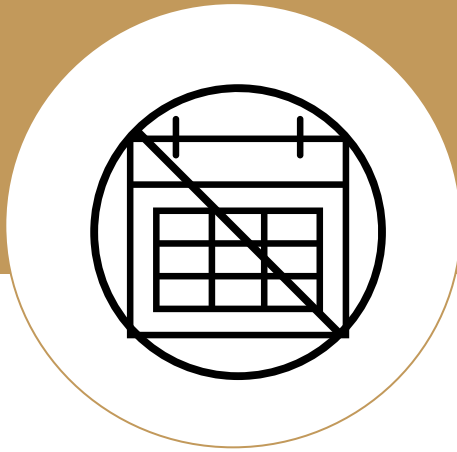
Media mentioned: audio, images, video

Some mention certain types of technology

Some states don't mention AI specifically



# Common Types of Provisions



## Durational Prohibitions

- Prohibits the publication of AI-generated content related to an election “x” days prior to an election.
- *MN, TX*



## Disclosure Requirements

- Requires a disclosure statement on media generated by AI.
- *AL, AZ, CA, CO, DE, FL, HI, ID, ID, KY, MI, MS, MT, NM, NH, NY, ND, NV, OR, SD, UT, WA, WI*

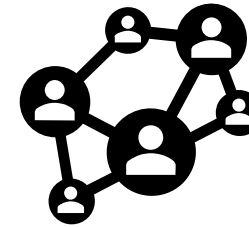
# Other Provisions



1010  
1010

## Digitally Embedded Disclosures

- Requires a file's metadata to include information on whether it was created with AI.
- *Colorado and Utah*



## Social Media Moderation

- Requires online platforms to create guidelines for dealing with deepfakes related to campaigns and elections.
- *California*

# Penalties



## Injunctive Relief

- Allows a candidate or other individual to seek to prohibit the further publication of a deepfake.



## Fines

- Civil or criminal fines.
- Colorado: Fine based on amount spent to promote a deepfake.



## Prison/Jail Time

- Prison time can differ if it's a second offense
- Prison time can be greater if deepfake was intended to incite violence.

# Legal Action

## **Kohls v. Bonta 752 F.Supp.3d 1187 (Calif. 2024)**

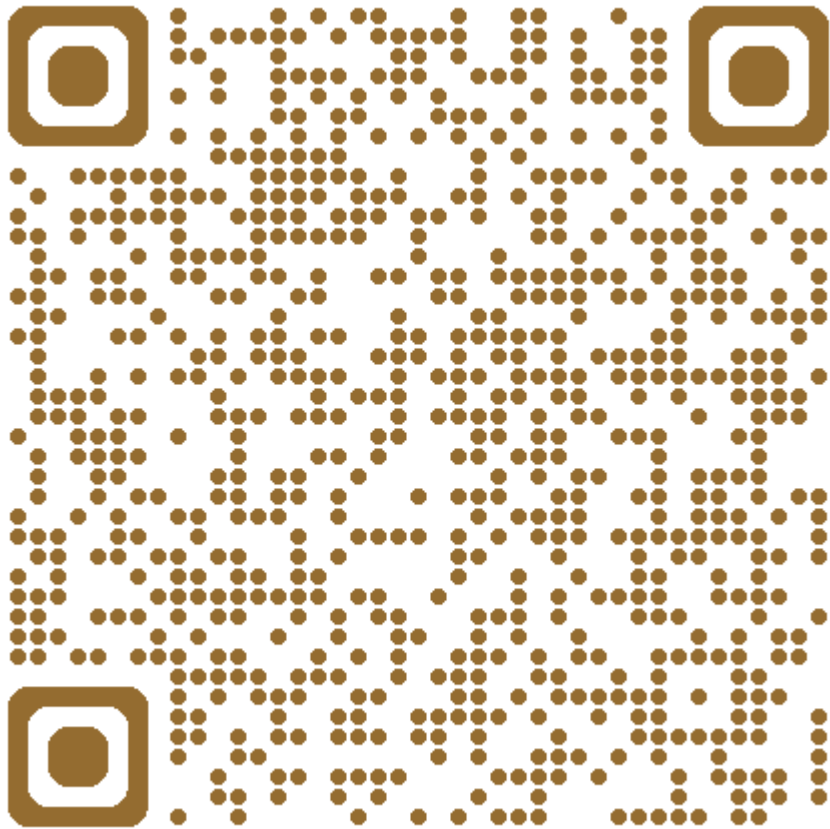
- Digital content creator created what he argued were parody deepfakes.
- Content creator argued CA's prohibition on that type of content violated his 1st Amendment right to free speech.
- The court said that CA had a compelling interest in protecting the integrity of and confidence in elections, but the law was not narrowly tailored enough.



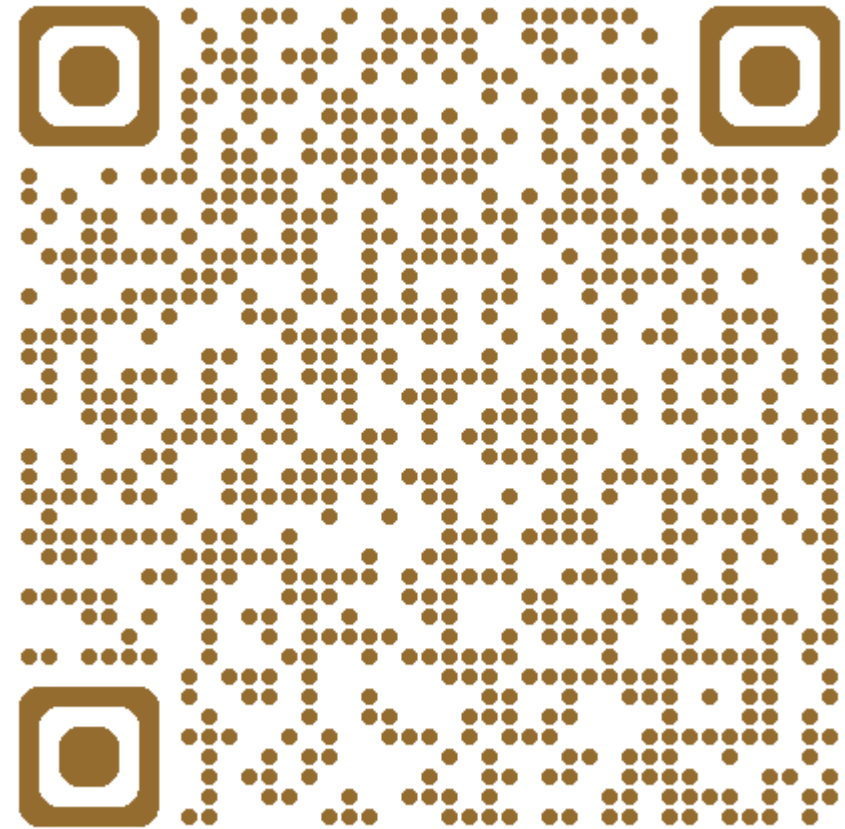


# Federal AI Moratorium

- H.R. 1: One Big Beautiful Bill Act
- Will last for 10 years
- Prohibits state laws limiting, restricting or regulating artificial intelligence models
- Exceptions for removing legal impediments to, or facilitate the deployment or operation of artificial intelligence



[NCSL's AI in Elections and Campaigns Page](#)



[NCSL's AI Policy Toolkit](#)



# Thank you for having us today!

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