

Fake Files, Real Results

AI-Generated Evidence in Family Court

By K. Dean Kantaras and Diana Rouse

In the rapidly evolving landscape of technology and the law, artificial intelligence (AI) has become both a powerful tool and a formidable challenge. One of the most pressing issues facing family law practitioners today is the rise of AI-generated evidence, ranging from fake text messages and emails to highly realistic synthetic audio, video and photos. As generative AI tools become increasingly accessible and sophisticated, concerns are mounting about the authenticity of digital evidence in custody, divorce, and domestic violence cases.

The core problem lies in the ease with which even nonexperts can now fabricate compelling digital content. Open-source tools and commercially available applications can create fake screenshots of text conversations, generate emails that appear to come from legitimate accounts, and even produce audio clips that mimic a person's voice with alarming realism. Deepfake video technology, once the domain of high-budget media projects, is now accessible to anyone with a smartphone.

In family law, where emotions run high and the outcome of a case can hinge on a single piece of digital evidence, the implications are profound. The introduction of AI-fabricated evidence challenges several core principles of the justice system, including fairness, truth, and the reliability of evidence. Family courts are already grappling with high caseloads and limited resources, and the added burden of vetting digital submissions for authenticity can strain an already overtaxed system.

From a legal perspective, existing rules of evidence may not be fully equipped to address the nuances of AI-generated content. While parties must disclose sources and maintain metadata, there is no standardized protocol across jurisdictions for identifying synthetic media. Worse, opposing parties may not have the financial means to hire forensic experts to contest falsified content, leading to asymmetrical power dynamics, especially



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in cases involving coercive control or economic abuse.

In Florida, digital evidence is frequently central to family court proceedings, particularly under Chapter 61 of the *Florida Statutes*, which governs dissolution of marriage, custody, and support. The Florida Evidence Code (Chapter 90) outlines rules for admissibility, and courts require that evidence be relevant, authenticated, and not unduly prejudicial.

However, the code does not yet specifically address AI-generated or synthetic evidence. This creates a gray area where potentially fabricated content could enter proceedings unless successfully challenged by opposing counsel. Additionally, Florida family courts often issue temporary injunctions or parenting plans based on emergency motions, which may rely heavily on submitted text messages, emails, or voice recordings. If a party submits falsified digital evidence to obtain a restraining order or gain leverage in custody arrangements, the consequences can be immediate and damaging before the other party has a chance to refute the claim.

Florida attorneys must therefore take particular care in requesting metadata, chain-of-custody documentation, and, where necessary, digital forensic analysis. As courts begin to encounter AI-generated content more frequently, the need for judicial education and perhaps legislative clarification will become increasingly urgent. Several jurisdictions are beginning to explore rules and technologies to address the admissibility of AI-generated evidence. Some suggestions include strengthening requirements for digital authentication under evidentiary rules, particularly Federal Rule of Evidence 901 or its state equivalents, including Florida's version. Judges and court staff need ongoing training to recognize signs of AI manipulation and understand the forensic tools available to verify digital content. Court systems may eventually adopt tools that use machine learning to detect inconsistencies in digital evidence, much like plagiarism detectors or deepfake spotters.

The potential for AI-generated evidence to be used maliciously in family law cases presents a clear and urgent challenge. As technology outpaces regulation, it is incumbent upon legal professionals to remain vigilant, informed, and proactive. Only through a combination of legal reform, technological literacy, and ethical responsibility can the justice system maintain its commitment to truth in this new digital age, especially in a high-stakes environment like Florida's family courts. ❖

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