

**CS FOR HOUSE BILL NO. 358(JUD)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-THIRD LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

**Offered:****Referred:****Sponsor(s): REPRESENTATIVES CRONK, McCabe****A BILL****FOR AN ACT ENTITLED**

1   **"An Act relating to defamation claims based on the use of deepfakes; relating to child**  
2   **pornography; and relating to the use of deepfakes in electioneering communications."**

3   **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4   \* **Section 1.** AS 09.65 is amended by adding a new section to read:

5                   **Sec. 09.65.360. Civil liability for defamation based on deepfakes.** An action

6                   for defamation based on the use of a deepfake is a claim for defamation per se. In this  
7                   section, "deepfake" has the meaning given in AS 15.80.009.

8   \* **Sec. 2.** AS 11.61.127(a) is amended to read:

9                   (a) A person commits the crime of possession of child pornography if the  
10                  person knowingly possesses or knowingly accesses on a computer with intent to view  
11                  any material that visually depicts conduct described in AS 11.41.455(a) knowing that  
12                  the

13                   (1) production of the material involved the use of a child under 18  
14                  years of age who engaged in the conduct or a depiction of a part of an actual child

1 under 18 years of age who, by manipulation, creation, or modification, appears to be  
2 engaged in the conduct; or

3 (2) material has been manipulated, created, or modified using  
4 artificial intelligence to appear to depict a child under 18 years of age engaging in  
5 the conduct and the depiction is recognizable as an identifiable actual child by  
6 the child's face, likeness, or other distinguishing characteristics.

7 \* Sec. 3. AS 11.61.127(f) is amended to read:

8 (f) In this section,

9 (1) "artificial intelligence" means an automated system that uses  
10 data input, human-defined objectives, and machine learning, natural language  
11 processing, or other computational processing techniques of similar or greater  
12 complexity to make a decision or facilitate human decision making;

13 (2) "computer" has the meaning given in AS 11.46.990.

14 \* Sec. 4. AS 15.80 is amended by adding a new section to read:

15 **Sec. 15.80.009. Deepfakes in electioneering communications.** (a) A person  
16 may not use a deepfake in an electioneering communication made with the intent to  
17 influence an election.

18 (b) An individual whose speech, conduct, or likeness is manipulated in a  
19 deepfake in violation of this section may bring an action in the superior court to  
20 recover damages, full reasonable attorney fees, and costs from

21 (1) the person who created the deepfake or retained the services of  
22 another to create the deepfake; or

23 (2) a person who removes a disclosure statement described in (d) of  
24 this section from an electioneering communication.

25 (c) An individual whose speech, conduct, or likeness is manipulated in a  
26 deepfake in violation of this section may seek injunctive relief in the superior court to  
27 prohibit publication of the deepfake.

28 (d) It is a defense to an action under this section that the electioneering  
29 communication included the following disclosure statement: "This  
30 (image/video/audio) has been manipulated." and

31 (1) for visual media that included other text, the text of the disclosure

1 statement remained visible throughout the entirety of the communication, was easily  
2 readable by the average viewer, and was in a font not smaller than the largest font size  
3 of any other text that appeared in the visual component;

4 (2) for visual media that did not include any other text, the disclosure  
5 statement was in a font size that was easily readable by the average viewer;

6 (3) for a communication that consisted of only audio, the disclosure  
7 statement was read

8 (A) at the beginning of the audio, at the end of the audio, and,  
9 if the audio was longer than two minutes in duration, at intervals interspersed  
10 within the audio that occurred at least once every two minutes; and

11 (B) in a clear manner and in a pitch that was easily heard by the  
12 average listener.

13 (e) An individual may not bring an action under this section against an  
14 interactive computer service for an electioneering communication provided by another  
15 information content provider. This subsection does not prevent an individual from  
16 bringing an action against an interactive computer service under (b)(2) of this section  
17 for removing a disclosure statement.

18 (f) In this section,

19 (1) "artificial intelligence" means an automated system that uses data  
20 input, human-defined objectives, and machine learning, natural language processing,  
21 or other computational processing techniques of similar or greater complexity to make  
22 a decision or facilitate human decision making;

23 (2) "deepfake" means any visual or audio media that is created, altered,  
24 or otherwise manipulated by artificial intelligence in a manner that

25 (A) to a reasonable observer, appears to be an authentic record  
26 of an individual's actual speech, conduct, or likeness; and

27 (B) conveys a fundamentally different understanding or  
28 impression of the individual's appearance, action, or speech than a reasonable  
29 person would have from the unaltered, original version of the individual's  
30 appearance, action, or speech;

31 (3) "electioneering communication" means a communication that

(A) directly or indirectly identifies a candidate or political party;

(B) is disseminated through a mailing, a newspaper, the Internet, or broadcast media, including radio, television, cable, or satellite, to an audience that includes voters who will have the opportunity to vote on a candidate identified in the communication or on a candidate of a party identified in the communication; and

(C) when read as a whole and with limited reference to outside events, is susceptible of no other reasonable interpretation but as an exhortation to vote for or against a specific candidate;

(4) "information content provider" and "interactive computer service" have the meanings given in 47 U.S.C. 230.

\* **Sec. 5.** The uncodified law of the State of Alaska is amended by adding a new section to read:

APPLICABILITY. AS 11.61.127(a), as amended by sec. 2 of this Act, and AS 11.61.127(f), as amended by sec. 3 of this Act, apply to offenses committed on or after the effective date of this Act.