

**ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE**

March 22, 2024

1:16 p.m.

MEMBERS PRESENT

Representative Sarah Vance, Chair
Representative Ben Carpenter
Representative Craig Johnson
Representative Jesse Sumner
Representative Andrew Gray
Representative Cliff Groh

MEMBERS ABSENT

Representative Jamie Allard, Vice Chair

COMMITTEE CALENDAR

CONFIRMATION HEARING(S)

Alaska State Commission for Human Rights

Rebecca Carrillo - Juneau

- CONFIRMATION(S) ADVANCED

HOUSE BILL NO. 358

"An Act relating to use of artificial intelligence to create or alter a representation of the voice or likeness of an individual."

- HEARD & HELD

HOUSE BILL NO. 107

"An Act relating to criminal law definitions."

- BILL HEARING CANCELED

PREVIOUS COMMITTEE ACTION

BILL: HB 358

SHORT TITLE: PROHIBIT AI-ALTERED REPRESENTATIONS

SPONSOR(S): REPRESENTATIVE(S) CRONK

02/20/24 (H) READ THE FIRST TIME - REFERRALS

| | | |
|----------|-----|------------------------------|
| 02/20/24 | (H) | JUD |
| 03/13/24 | (H) | JUD AT 1:00 PM GRUENBERG 120 |
| 03/13/24 | (H) | Heard & Held |
| 03/13/24 | (H) | MINUTE (JUD) |
| 03/15/24 | (H) | JUD AT 1:00 PM GRUENBERG 120 |
| 03/15/24 | (H) | Heard & Held |
| 03/15/24 | (H) | MINUTE (JUD) |
| 03/20/24 | (H) | JUD AT 1:00 PM GRUENBERG 120 |
| 03/20/24 | (H) | <Bill Hearing Canceled> |
| 03/22/24 | (H) | JUD AT 1:00 PM GRUENBERG 120 |

WITNESS REGISTER

REBECCA CARRILLO, Appointee
 Alaska State Commission for Human Rights
 Juneau, Alaska

POSITION STATEMENT: Testified as appointee to the Alaska State Commission for Human Rights.

BOB BALLINGER, Staff
 Representative Sarah Vance
 Alaska State Legislature
 Juneau, Alaska

POSITION STATEMENT: Gave an explanation of changes in the proposed committee substitute (CS) for HB 358, Version U, on behalf of Representative Vance.

DAVE STANCLIF, Staff
 Representative Mike Cronk
 Alaska State Legislature
 Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on CSHB 358, Version U, on behalf of Representative Cronk, prime sponsor.

IAN WALSH, Attorney
 Legislative Legal Services
 Legislative Affairs Agency
 Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on CSHB 358, Version U.

ACTION NARRATIVE

[1:16:23 PM](#)

CHAIR VANCE called the House Judiciary Standing Committee meeting to order at 1:16 p.m. Representatives Carpenter, C. Johnson, and Vance were present at the call to order. Representatives Sumner, Groh, and Gray arrived as the meeting was in progress.

CONFIRMATION HEARING(S): Alaska State Commission for Human Rights

[1:17:00 PM](#)

CHAIR VANCE announced that the first order of business would be a confirmation hearing for Rebecca Carrillo to the Alaska State Commission for Human Rights (ASCHR).

[1:17:24 PM](#)

REBECCA CARRILLO, Appointee, Alaska State Commission for Human Rights, shared that this was her second appointment to ASCHR. She said she would like to continue the work she began three years ago on the commission, which was a continuation of the work she conducted as a 32-year employee of the state on the Alaska Supplemental Food Program for Women and Children. She stated that ASCHR dealt with issues that are important to her as an individual and a minority. She added that the commission resolves issues, such as discrimination and inequality, in manner that is meaningful, fair, and equitable.

[1:20:05 PM](#)

REPRESENTATIVE CARPENTER asked Ms. Carrillo to share one thing that she's proud of and one thing that she looks forward to achieving.

MS. CARRILLO stated that she is proud of the commission's conversations about relevant issues, such as improving education for children with visual disabilities and advocating for the elderly. She added that as a commission, ASCHR looks forward to facilitating fairness and improving the quality of life for these particular demographics.

REPRESENTATIVE CARPENTER inquired about the most recent issues that ASCHR had been working on.

MS. CARRILLO stated that ASCHR had recently moved offices to improve staff and client safety. In addition, the commission

was instituting automated services and advertising to better serve the community.

[1:26:45 PM](#)

REPRESENTATIVE CARPENTER asked Ms. Carrillo what strengths she would bring to the commission.

MS. CARRILLO explained that as a minority, she had lived in two different worlds: one in the Philippines, a third world country with many challenges, and Juneau, Alaska. She said she had navigated different cultures and experienced discrimination in many forms.

CHAIR VANCE opened public testimony on the appointee. After ascertaining that no one wished to testify, she closed public testimony.

[1:30:56 PM](#)

CHAIR VANCE moved to advance the confirmation of Rebecca Carrillo to the Alaska State Commission for Human Rights to the joint session of the House and Senate for consideration. He reminded members that signing the reports regarding appointment to boards and commissions in no way reflects individual members' approval or disapproval of the appointees, and that the nominations are merely forwarded to the full legislature for confirmation or rejection. There being no objection, the confirmation was advanced.

[1:31:18 PM](#)

The committee took an at-ease from 1:31 p.m. to 1:33 p.m.

HB 358-PROHIBIT AI-ALTERED REPRESENTATIONS

[1:33:11 PM](#)

CHAIR VANCE announced that the final order of business would be HOUSE BILL NO. 358, "An Act relating to use of artificial intelligence to create or alter a representation of the voice or likeness of an individual."

[1:33:36 PM](#)

REPRESENTATIVE CARPENTER moved to adopt the proposed committee substitute (CS) for HB 358, Version 33-LS1272\U, Walsh, 3/21/24, as the working document.

REPRESENTATIVE GROH objected for the purpose of discussion.

[1:33:57 PM](#)

REPRESENTATIVE GROH expressed concern that Version U had been distributed on short notice.

[1:34:26 PM](#)

The committee took an at-ease from 3:34 p.m. to 1:36 p.m.

[1:36:00 PM](#)

REPRESENTATIVE GROH removed his objection.

REPRESENTATIVE CARPENTER objected for the purpose of discussion.

[1:37:09 PM](#)

BOB BALLINGER, Staff, Representative Sarah Vance, Alaska State Legislature, gave an explanation of changes in the proposed committee substitute (CS) for HB 358, Version U, on behalf of Representative Vance. Section 1 addresses civil liability for defamation based on deepfakes and allows for a claim of defamation per se. Section 2 addresses child pornography that has been manipulated, created, or modified using artificial intelligence (AI) to appear to depict a child under 18 years of age. Section 3 defines "artificial intelligence" as an automated system that uses data input, human-defined objectives and machine learning, natural language processing, or other computational processing techniques of similar or greater complexity to make a decision or facilitate human decision making. Section 4 addresses deepfakes in electioneering communications and allows for the following disclosure statement when included in the communication to be used as a defense: "This (image/video/audio) has been manipulated." Section 4 also defines "deepfake" as any visual or audio media that is created, altered, or otherwise manipulated by artificial intelligence, and defines "information content provider" and "interactive computer service" with the meanings given in 47 U.S.C. 230. Section 5 indicates that the law would not be retroactive.

[1:47:17 PM](#)

REPRESENTATIVE SUMNER expressed concern about the phrase "human defined objectives" in the proposed definition of AI and suggested striking it from the bill.

CHAIR VANCE pointed out that the definition includes the words "machine learning" and asked whether that would assuage Representative Sumner's concern.

REPRESENTATIVE SUMNER stated that machines can be trained by other AI programs on AI-generated data, thereby completely removing humans from the process. He maintained his belief that the definition would not be hindered by removing the phrase "human defined objectives."

MR. BALLINGER opined that the definition should include the phrase "human defined objectives" for the purpose of the legislation, which seeks to hold an individual liable, either criminally or civilly. Nonetheless, he agreed that if the goal was to generally define "artificial intelligence," it would make sense to remove it.

[1:50:11 PM](#)

REPRESENTATIVE CARPENTER removed his objection. There being no further objection, Version U was adopted as the working document.

[1:50:43 PM](#)

REPRESENTATIVE CARPENTER considered a hypothetical scenario and asked whether it would fall under the definition of deepfake.

MR. BALLINGER said he did not know the answer. He explained that it would be hard to argue that the scenario posed by Representative Carpenter portrays a fundamentally different understanding or impression from the altered original version.

REPRESENTATIVE CARPENTER asked whether superimposing a speech that was made by a legislator on the House or Senate floor onto the same legislator in a different location would be considered a deepfake.

MR. BALLINGER suspected that it probably wouldn't rise to the level of deepfake. He noted that the video would have to be used in electioneering communication before considering whether it was a deepfake.

[1:55:03 PM](#)

REPRESENTATIVE GRAY considered a scenario in which the meaning of a video is altered to convey the opposite messaging and then used on a political stage. He asked whether that would be considered a deepfake.

MR. BALLINGER explained that if AI is used to convey a fundamentally different message, it would fall under the definition of deepfake.

REPRESENTATIVE GRAY asked whether the bill would be "hurt" by including this scenario in the language.

MR. BALLINGER stated that it would be a policy call.

[1:56:56 PM](#)

DAVE STANCLIF, Staff, Representative Mike Cronk, Alaska State Legislature, on behalf of Representative Cronk, prime sponsor of CSHB 358, Version U, advised that the bill should remain narrowly focused on deepfakes.

REPRESENTATIVE GRAY questioned the legality of altering a person's words or image without the use of AI in political advertising.

[1:58:38 PM](#)

IAN WALSH, Attorney, Legislative Legal Services, Legislative Affairs Agency (LAA), shared his understanding that the creation of falsely edited media would likely fall under defamation. He offered to follow up with the requested information as it pertains to election law. He noted that currently, the bill applies to AI that modifies something to be fundamentally different than it appears.

[1:59:30 PM](#)

REPRESENTATIVE C. JOHNSON shared his understanding that per Version U, the disclaimer [stating "This (image/video/audio) has been manipulated"] must be the same text size as the headline. He expressed concern that [the size] is not workable.

MR. BALLINGER noted that this provision would only apply when a deepfake is used in electioneering communications.

REPRESENTATIVE C. JOHNSON pointed out that not all deepfakes are necessarily bad and gave the example of Photoshopping a dog into a photo to induce a loving feeling.

MR. BALLINGER contended that inserting a dog would not fundamentally change the meaning.

[2:04:26 PM](#)

REPRESENTATIVE GROH asked whether "electioneering" is defined elsewhere in statute.

MR. BALLINGER answered yes, "in two parts," indicating that both "electioneering" and "communication" are defined separately in statute.

REPRESENTATIVE GROH asked how many people would need to see the deepfake for it to become actionable.

MR. BALLINGER indicated that it would depend on whether the material was generated with the intent to alter a person's vote. He added that if all elements were met and damages were demonstrated, then the individual could be held liable.

[2:07:07 PM](#)

REPRESENTATIVE GROH asked whether the disclosure in a falsified image should be at least as big as the size of the headline.

MR. BALLINGER said it would be a policy call.

REPRESENTATIVE GROH highlighted the definition of "artificial intelligence" on page 3, lines 19-22 of Version U. He referenced Photoshop, ChatGPT, and Grammarly and asked what would fit under the proposed definition of AI.

MR. BALLINGER answered yes, all of those applications are considered AI.

[2:09:47 PM](#)

REPRESENTATIVE GROH asked whether there is a distinction between child pornography that manipulates the likeness of a real child versus that which is entirely generated by AI.

MR. BALLINGER shared his understanding that AI generated child pornography [that does not depict a real child] is not prosecutable under current laws.

REPRESENTATIVE GROH questioned whether the intent of the legislation would be to ask the jury whether the material depicts an identifiable, actual child.

MR. BALLINGER explained that the jury would need to consider whether a reasonable person could think that the material depicts an actual child.

REPRESENTATIVE GROH said he understood the dual purposes of the legislation, which both involve complicated issues. He stressed the importance of thinking through the implications of the bill.

[2:15:17 PM](#)

REPRESENTATIVE SUMNER suggested that the creation of deepfake pornography based on the likeness of an adult should be, at a minimum, defamation per se.

MR. BALLINGER clarified that it would be considered defamation per se because damages are assumed.

[2:16:46 PM](#)

REPRESENTATIVE GRAY asked whether a campaign photo with artificially whitened teeth would be considered a deepfake and would require the inclusion of a disclosure statement.

MR. BALLINGER said that would not be considered a deepfake because it would not [convey a fundamentally different understanding].

[2:18:42 PM](#)

REPRESENTATIVE GRAY asked what would happen if the language on page 2, line 5, "and the depiction is recognizable as an identifiable actual child" was deleted.

MR. BALLINGER remarked, "It probably, almost definitely, would be considered unconstitutional" until it reaches the Supreme Court.

[2:22:01 PM](#)

REPRESENTATIVE SUMNER recalled a previous election in which his political opponent Photoshopped him into a Planned Parenthood t-shirt. He asked whether that would be considered defamation per se under the proposed legislation.

MR. BALLINGER responded, "probably not," because the standard for political officials is much higher. However, if Version U were to pass, he suspected that the photo could be considered a deepfake if it were made to look legitimate.

[2:23:32 PM](#)

REPRESENTATIVE CARPENTER shared a hypothetical example and asked whether it would be considered a deepfake in addition to defamation.

MR. BALLINGER reiterated that it would depend on whether [the manipulated material] conveyed a fundamentally different meaning.

[2:25:47 PM](#)

REPRESENTATIVE CARPENTER sought to confirm that if the material included a disclosure statement, it would not be considered a deepfake.

MR. BALLINGER confirmed that if the disclosure were used, there would be "no harm no foul."

REPRESENTATIVE CARPENTER pointed out that there are years of quoted text available to AI, which could be used to create a speech in video form to manipulate the context and portray the candidate in a certain light. He sought to confirm that this conduct would not be covered by the bill.

MR. BALLINGER maintained that if the quote was used with the intent to convey a completely different message, that would be considered [a deepfake].

[2:28:03 PM](#)

MR. STANCLIFF asked the committee to identify the most significant constitutional issues with the bill.

MR. BALLINGER shared his belief that the biggest constitutional issue surrounds AI generated child pornography because, under current jurisprudence, it is victimless.

CHAIR VANCE emphasized the importance of ensuring that any sweeping changes pertaining to AI would not unintentionally impact current electioneering practices. Furthermore, she opined that there needs to be a disclaimer on the use of deepfakes for consumer protection.

[2:33:50 PM](#)

REPRESENTATIVE CARPENTER suggested that the committee take a step back from child pornography [that is generated artificially] in an effort to realize that it may not involve the filming of humans.

CHAIR VANCE agreed that much of this discussion bleeds over into First Amendment rights. She shared her belief that [the bill] should not push the envelope with regard to constitutionality in an effort to protect Alaskans' rights. She added that the use of AI would be an ongoing conversation because it's moving at a much faster pace than the legislature.

[CSHB 358, Version U, was held over.]

[2:37:13 PM](#)

CHAIR VANCE issued closing remarks on future business.

[2:37:23 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 2:37 p.m.