

**ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE**

March 25, 2024

1:05 p.m.

MEMBERS PRESENT

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

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

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. 338

"An Act relating to physician liability for gender transition procedures performed on minors; and providing for an effective date."

- 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
03/22/24 (H) Heard & Held
03/22/24 (H) MINUTE(JUD)
03/25/24 (H) JUD AT 1:00 PM GRUENBERG 120

WITNESS REGISTER

REPRESENTATIVE MIKE CRONK
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Gave introductory remarks on CSHB 358, Version U, as the prime sponsor.

DAVE STANCLIFF, Staff
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Gave introductory remarks and answered questions during the hearing on CSHB 358, Version U, on behalf of Representative Cronk, prime sponsor.

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

POSITION STATEMENT: Presented a summary of recommendations for CSHB 358, Version U, on behalf of Representative Vance.

KACI SCHROEDER, Assistant Attorney General
Legal Services Section
Criminal Division
Department of Law
Juneau, Alaska

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

ACTION NARRATIVE

[1:05:07 PM](#)

CHAIR VANCE called the House Judiciary Standing Committee meeting to order at 1:05 p.m. Representatives Carpenter, C.

Johnson, Sumner, Gray, Groh, Allard, and Vance were present at the call to order.

HB 358-PROHIBIT AI-ALTERED REPRESENTATIONS

[1:05:44 PM](#)

CHAIR VANCE announced that the first 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." [Before the committee, adopted as the working document on 3/22/24, was the proposed committee substitute (CS) for HB 358, Version 33-LS1272\U, Walsh, 3/21/24 ("Version U").]

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REPRESENTATIVE MIKE CRONK, Alaska State Legislature, prime sponsor of CSHB 358, Version U, introduced himself and deferred to his staff.

[1:08:15 PM](#)

DAVE STANCLIFF, Staff, Alaska State Legislature, on behalf of Representative Cronk, prime sponsor of CSHB 358, Version U, shared that he had been working closely with a "big tech" representative on language that would make the bill better. He characterized the bill as landmark legislation and emphasized the need to do things right because [other legislation] would be built on it rapidly.

[1:09:22 PM](#)

REPRESENTATIVE CARPENTER asked Mr. Stancliff to disclose which company he had been working with.

MR. STANCLIFF identified his contact as Ben Moore who had introduced himself as having worked with every major technology [company] except Microsoft and TikTok.

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BOB BALLINGER, Staff, Representative Sarah Vance, Alaska State Legislature, on behalf of Representative Vance, noted that Ben Moore is affiliated with an organization, called TechNet, which is an association of technical providers and technology companies.

CHAIR VANCE said she had not drafted any amendments because she wanted to allow the committee to determine which direction to go in light of the conversations [with TechNet].

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MR. BALLINGER offered the following recommended changes based on the conversation with TechNet: make the depiction of child sexual abuse material apply to "viewing, production, and distribution," in addition to possession; on page 2, line 3, include "it is not a defense to this section that an individual depicted is no longer a child"; grant entities, like TechNet, exemption from civil or criminal penalties for violations of this act for actions taken to prevent, detect, protect against, report, or respond to the production, generation, incorporation, synthetization of child sexual abuse material;

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REPRESENTATIVE CARPENTER sought to confirm that Mr. Ballinger was referring to platforms that may want to rid their system [of pornographic material], which by doing so, would require conducting a search that would violate the proposed legislation.

MR. BALLINGER confirmed that Representative Carpenter's understanding was accurate, adding that a similar exemption is provided to law enforcement for the purposes of investigation.

[1:15:45 PM](#)

MR. BALLINGER resumed his explanation of the following recommendations: specify that unless the person or entity removes the disclosure set forth in AS 15.80.009, liability would not be applied to the following entities: interactive computer service, internet service provider, telecommunications network, or radio/television/broadcaster, including cable, satellite television operator, programmer, or producer. In addition, TechNet recommended using the term "materially deceptive media" in place of "deepfake."

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REPRESENTATIVE GRAY asked why the use of a disclaimer was being allowed, as opposed to outlawing the use of AI in electioneering communications entirely.

MR. BALLINGER said he did not know the answer. He surmised that it would make it more "manageable and defensible" on the grounds of First Amendment rights.

REPRESENTATIVE SUMNER agreed that prohibiting a form of political satire could be a substantial First Amendment issue.

CHAIR VANCE said the point of this discussion was to have an open, transparent conversation about the use of AI.

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REPRESENTATIVE CARPENTER asked whether the committee should consider criminal violations in response to egregious conduct, as opposed to civil liability. He pointed out that once a deep fake is posted, the damage is already done.

CHAIR VANCE added that part of it, is considering what authority to give to the Alaska Public Offices Commission (APOC).

MR. STANCLIFF pondered the best way to define "deepfake" and said it would be up to the committee to decide.

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MR. BALLINGER noted that TechNet had suggested updating the definition of "artificial intelligence" to "a machine-based system that for explicit or implicit objectives, infers from the input it receives how to generate outputs, such as predictions, content recommendations, or decisions that can influence physical or virtual environments. Different AI systems vary in their levels of autonomy and adaptiveness after deployment." In regard to the disclosure statement, TechNet suggested that the candidate or sponsor responsible for the advertisement or electioneering communication include a clear and conspicuous disclosure that states, "This (image/audio/video) includes materially deceptive media." Furthermore, he suggested including a subsection under the definition of "deepfake" or "materially deceptive media" which states, "is intended to cause harm to the individual whose appearance, action, or speech has been manipulated."

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REPRESENTATIVE CARPENTER pointed out that AS 11.46.565 [criminal impersonation in the first degree] and AS 11.46.570 [criminal

impersonation in the second degree] could apply to the conduct in question.

CHAIR VANCE stated that the committee needs to be clear and deliberative on the specifics of deepfakes and the use of AI, as programs, such as spell check, are considered AI.

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REPRESENTATIVE SUMNER asked whether Chair Vance was implying that using spell check to write a statement that misrepresents an opponent could fall under the proposed legislation. He opined that such a proposal could be problematic.

CHAIR VANCE said she was saying that the use of AI needs to be clearly defined because it's already being used in many ways. She explained that if the legislation is too broad, it could inadvertently encompass things, like spell check and Photoshop, so the committee needs to be intentional in narrowly defining its appropriate use and that which would need a disclaimer.

REPRESENTATIVE GROH said he was struck by three things [with regard to AI]: how little is known, the rapidly changing field, and the enormous potential for both good and ill.

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MR. STANCLIFF noted that the bill sponsor would like the bill to stay focused on individual protections. He encouraged the committee to start small and stay limited in scope; in addition, he pointed out that there was a more comprehensive bill in the House State Affairs Standing Committee.

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REPRESENTATIVE GRAY directed attention to page 2, lines 3-6 of Version U, and asked whether AI created pornography depicting [legislators] is legal under current law.

[1:41:56 PM](#)

KACI SCHROEDER, Assistant Attorney General, Legal Services Section, Criminal Division, Department of Law (DOL), confirmed that it is not a crime. She noted that she had posed the question to [her colleagues at DOL] when the incident involving [explicit deepfake images of Taylor Swift] occurred, and it was

determined that it would possibly be a civil matter, not a crime.

REPRESENTATIVE GRAY asked whether [the legislature] could make it a crime.

MS. SCHROEDER indicated that it would be a policy call. She noted that there may be First Amendment issues.

[1:42:50 PM](#)

REPRESENTATIVE GRAY expressed his interest in outlawing the use of AI to make child sexual abuse material [even if the identity of the child could not be proven].

MS. SCHROEDER noted that AS 11.61.127, as it's currently written, provides that the identity of the child does not have to be proven; however, she was unsure how it would work with the proposed language.

[1:45:25 PM](#)

REPRESENTATIVE GRAY considered a hypothetical scenario in which AI was used to alter real child sexual abuse material by making the face unrecognizable. He asked whether that would still be considered child sexual abuse material.

MS. SCHROEDER directed attention to page 1, line 14 [of Version u], and explained that it doesn't matter if the face has been blurred, as long as part of the individual can be identified as an actual child under the age of 18.

REPRESENTATIVE GRAY asked whether the bill would run into constitutional problems if the language "and the depiction is recognizable as an identifiable, actual child from the child's face, likeness, or other distinguishing characteristics" was deleted from page 2, line 5.

MS. SCHROEDER responded, "That's an open question." She explained that [DOL] had considered limiting it to an identifiable child, adding that there is an analysis already in play for morphed child pornography that would also apply to images that are identifiable as an actual child.

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REPRESENTATIVE CARPENTER asked how [the state] would be able to prosecute if there's no actual individual to point to.

MS. SCHROEDER stated that there is caselaw surrounding morphed child pornography with reference to its emotional and reputational harm. She shared her understanding that the same argument could extend to the circumstance of a wholly, artificially created image.

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CHAIR VANCE referred to Version U and asked whether AI generated pornography of an adult would fall under the civil liability for defamation.

MS. SCHROEDER said potentially, it could fall under that.

CHAIR VANCE asked how often AI had been used as evidence during criminal trials.

MS. SCHROEDER stated that the department had not seen AI used very much, if at all, in the context of criminal law. Of the cases involving pornography, she explained that some morphed child pornography was encountered; however, it involved an actual image of a child, not something that had been wholly created by AI.

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REPRESENTATIVE GRAY asked, if an amendment were passed [in another bill] that defines AI as people, whether wholly AI generated depictions of unrecognizable people could be outlawed on the basis of defaming the AI as a person.

MS. SCHROEDER did not know the answer, adding that the question would require further research.

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CHAIR VANCE announced that CSHB 358, Version U, would be held over.

[1:54:26 PM](#)

CHAIR VANCE issued closing remarks on future business.

[1:54:44 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 1:54 p.m.