

**ALASKA STATE LEGISLATURE  
HOUSE JUDICIARY STANDING COMMITTEE**

March 27, 2024

1:04 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. 227

"An Act relating to liability of an electric utility for contact between vegetation and the utility's facilities."

- MOVED CSHB 227(JUD) OUT OF COMMITTEE

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

HOUSE BILL NO. 107

"An Act relating to criminal law definitions."

- BILL HEARING CANCELED

**PREVIOUS COMMITTEE ACTION**

BILL: HB 227

SHORT TITLE: ELECTRIC UTILITY LIABILITY

SPONSOR(S): REPRESENTATIVE(S) RAUSCHER

01/16/24	(H)	PREFILE RELEASED 1/8/24
01/16/24	(H)	READ THE FIRST TIME - REFERRALS
01/16/24	(H)	ENE, JUD
01/23/24	(H)	ENE AT 10:15 AM BARNES 124
01/23/24	(H)	Heard & Held
01/23/24	(H)	MINUTE(ENE)
01/25/24	(H)	ENE AT 10:15 AM BARNES 124
01/25/24	(H)	Moved HB 227 Out of Committee
01/25/24	(H)	MINUTE(ENE)
01/26/24	(H)	ENE RPT 4DP 3AM
01/26/24	(H)	DP: BAKER, MCKAY, WRIGHT, RAUSCHER
01/26/24	(H)	AM: SCHRAGE, ARMSTRONG, PRAX
03/06/24	(H)	JUD AT 1:00 PM GRUENBERG 120
03/06/24	(H)	Heard & Held
03/06/24	(H)	MINUTE(JUD)
03/08/24	(H)	JUD AT 1:00 PM GRUENBERG 120
03/08/24	(H)	Heard & Held
03/08/24	(H)	MINUTE(JUD)
03/11/24	(H)	JUD AT 1:00 PM GRUENBERG 120
03/11/24	(H)	Heard & Held
03/11/24	(H)	MINUTE(JUD)
03/27/24	(H)	JUD AT 1:00 PM GRUENBERG 120

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
03/25/24	(H)	Heard & Held

03/25/24 (H) MINUTE (JUD)  
03/27/24 (H) JUD AT 1:00 PM GRUENBERG 120

**WITNESS REGISTER**

REPRESENTATIVE GEORGE RAUSCHER  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Gave final comment on HB 227, as amended, as the prime sponsor.

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

**POSITION STATEMENT:** Explained amendments to the proposed CS for HB 358, Version U, on behalf of Representative Vance.

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

**POSITION STATEMENT:** Answered questions during the hearing on the proposed CS for HB 358, Version U.

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

**POSITION STATEMENT:** Answered questions during the hearing on the proposed CS for HB 358, Version U.

**ACTION NARRATIVE**

[1:04:45 PM](#)

**CHAIR VANCE** called the House Judiciary Standing Committee meeting to order at 1:04 p.m. Representatives Allard, Carpenter, Johnson, Sumner, Gray, Groh, and Vance were present at the call to order.

**HB 227-ELECTRIC UTILITY LIABILITY**

[1:05:32 PM](#)

CHAIR VANCE announced that the first order of business would be HOUSE BILL NO. 227, "An Act relating to liability of an electric utility for contact between vegetation and the utility's facilities."

CHAIR VANCE noted that Amendment 3 had been tabled [on 3/11/24].

[1:06:04 PM](#)

The committee took an at-ease from 1:06 p.m. to 1:08 p.m.

[1:08:13 PM](#)

REPRESENTATIVE GRAY moved Amendment 4 to HB 227, labeled 33-LS0969\B.6, Walsh/A. Radford, 3/13/24, which read:

Page 1, line 14:

Delete "if a part of the trunk of the vegetation is"

Page 2, line 1, following "right-of-way":

Insert ", even if the vegetation is rooted outside the boundaries of the utility's real property, lease, permit, easement, or right-of-way"

REPRESENTATIVE CARPENTER objected for the purpose of discussion.

[1:08:27 PM](#)

REPRESENTATIVE GRAY explained that Amendment 4 would make the language starting on page 1, line 13, read "A utility is not liable for cutting, girdling, or otherwise injuring or removing vegetation inside the boundaries of the utility's real property, lease, permit, easement, or right-of-way, even if the vegetation is rooted outside the boundaries of the utility's real property, lease, permit, easement, or right-of-way." He indicated that the proposed amendment would allow utilities to cut down anything [inside the right-of-way] without being held liable.

[1:09:19 PM](#)

REPRESENTATIVE CARPENTER removed his objection. There being no further objection, Amendment 4 was adopted.

CHAIR VANCE sought final comment on HB 227, as amended.

[1:09:56 PM](#)

REPRESENTATIVE GEORGE RAUSCHER, Alaska State Legislature, said he appreciated Amendment 4 and directed members to a legal memorandum ("memo"), dated 3/27/24 [hard copy included in the committee packet].

[1:10:37 PM](#)

REPRESENTATIVE ALLARD moved to report HB 227, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 227(JUD) was reported from the House Judiciary Standing Committee.

[1:11:02 PM](#)

The committee took a brief at-ease.

[1:11:14 PM](#)

REPRESENTATIVE ALLARD gave Legislative Legal Services permission to make all technical and conforming changes as necessary.

[1:11:23 PM](#)

The committee took an at-ease from 1:11 p.m. to 1:13 p.m.

**HB 358-PROHIBIT AI-ALTERED REPRESENTATIONS**

[1:13:55 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." [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").]

[1:14:52 PM](#)

The committee took a brief at-ease.

[1:15:03 PM](#)

REPRESENTATIVE ALLARD moved to adopt Amendment 1 to Version U, labeled 33-LS1272\U.10, A. Radford/Walsh, 3/26/24, which read:

Page 3, lines 23 - 30:

Delete all material and insert:

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

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

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

(C) is intended to harm the individual whose appearance, action, or speech has been altered or manipulated;"

REPRESENTATIVE CARPENTER objected.

[1:15:16 PM](#)

BOB BALLINGER, Staff, Representative Sarah Vance, Alaska State Legislature, on behalf of Representative Vance, explained that Amendment 1 would incorporate subparagraph (C) into the definition of "deepfake" in an attempt to further qualify the intent of the bill. Subparagraph (C) would specify that the deepfake must be intended to cause harm to the individual whose appearance, action, or speech has been altered or manipulated.

CHAIR VANCE sought questions from members of the committee.

[1:17:16 PM](#)

REPRESENTATIVE GRAY asked why the term "deepfake" had not been replaced by ["materially deceptive media"].

MR. BALLINGER indicated that the disclaimer language "felt awkward" [with the use of "materially deceptive media"].

REPRESENTATIVE GRAY pointed out that different terminology was used in different settings. He opined that "deepfake" sounds like slang, whereas "materially deceptive material" sounds more official.

CHAIR VANCE agreed that "deepfake" sounds like slang. However, she pointed out that using the term "materially deceptive media"

in the disclaimer for electioneering communications could be harder to understand.

REPRESENTATIVE GRAY pointed out that the proposed disclaimer language does not contain the term "deepfake" or "materially deceptive media" at this time.

MR. BALLINGER acknowledged that the disclaimer would work with either definition.

[1:22:41 PM](#)

REPRESENTATIVE CARPENTER asked why it was necessary to specify the intent to cause harm.

MR. BALLINGER explained that the new subparagraph was included to ensure that an individual who used Photoshop, for example, to make himself/herself look better would not be criminalized.

REPRESENTATIVE SUMNER said, to Representative Carpenter's point, it's important to realize that a campaign may include independent expenditure groups that are not intending to harm a candidate; however, by allowing them to put forward materially deceptive media in support of their own principles or policy, it may be harmful.

[1:27:11 PM](#)

REPRESENTATIVE CARPENTER opined that materially deceptive material is deceptive whether or not the intent is to cause harm.

MR. BALLINGER said the same thing could be said about deepfakes, which is why the qualifiers are necessary.

REPRESENTATIVE CARPENTER shared his belief that the public would like [elected officials] to err on the side of transparency and to eliminate the fakeness.

REPRESENTATIVE ALLARD asserted that comments are often taken out of context by the press.

[1:29:29 PM](#)

REPRESENTATIVE GRAY said his problem with subparagraph (C) was the word "individual." He shared a hypothetical example to suggest that the creation of a video that uses Nancy Pelosi to

endorse a conservative republican would be a deepfake, despite it not being encompassed in the current definition.

MR. BALLINGER agreed with Representative Gray and questioned where to draw the line. He claimed that everyone uses AI to make themselves look better, and therefore, advised against criminalizing that conduct.

[1:33:57 PM](#)

REPRESENTATIVE CARPENTER said he was not in favor of subparagraph (C) being in statute and suggested changing "the individual" in subparagraph (B) to "an individual".

REPRESENTATIVE GRAY shared his understanding that the term "the individual" in subparagraph (B) is a reference back to the language "a individual" in section (A) whose appearance, action, or speech has been altered or manipulated.

REPRESENTATIVE CARPENTER asked whether "the individual" in subparagraph (B) of Amendment 1 applied to the individual identified in subparagraph (A) and whether changing it to "an individual" would apply to more than one person.

[1:39:26 PM](#)

IAN WALSH, Attorney, Legislative Legal Services, Legislative Affairs Agency (LAA), confirmed that "the individual" in subparagraph (B) refers to the individual in subparagraph (A). He directed attention [page 2], lines 18-27 of Version U and explained that both subsections (b) and (c) permit causes of action by an individual whose likeness has been manipulated. Consequently, it would not allow someone other than Nancy Pelosi in the Nancy Pelosi hypothetical to bring a cause of action if Ms. Pelosi's likeness had been manipulated.

[1:40:44 PM](#)

REPRESENTATIVE CARPENTER maintained his objection.

A roll call vote was taken. Representatives Allard, C. Johnson, and Vance voted in favor of Amendment 1. Representatives Sumner, Gray, Groh, and Carpenter voted against it. Therefore, Amendment 1 failed by a vote of 3-4.

[1:41:34 PM](#)

The committee took a brief at-ease.

[1:41:58 PM](#)

REPRESENTATIVE ALLARD moved to adopt Amendment 2 to Version U, labeled 33-LS1272\U.4, Walsh, 3/26/24, which read:

Page 1, line 13, through page 2, line 6:

Delete all material and insert:

"(1) production of the material involved the use of a child under 18 years of age who engaged in the conduct; or

(2) the material depicts [A DEPICTION OF] a part of an actual child under 18 years of age, or is a representation that is indistinguishable from an identifiable child under 18 years of age, who, by manipulation, creation, or modification, including by use of artificial intelligence, appears to be engaged in the conduct."

Page 2, line 13, following "AS 11.46.990":

Insert ";

(3) "identifiable child" means an individual who is recognizable as an actual child by the child's face, likeness, or other distinguishing characteristics, regardless of whether the individual depicted is no longer under 18 years of age"

REPRESENTATIVE CARPENTER objected for the purpose of discussion.

[1:42:11 PM](#)

MR. BALLINGER stated that Amendment 2 came from the Department of Law (DOL). He described the proposed amendment as "a better way at accomplishing what we were ... looking to do." He added that Amendment 2 would clarify that [as it pertains to child sexual abuse material], an image of a child who is recognizable as an actual child but is no longer 18 years of age would be covered by the bill.

[1:42:59 PM](#)

REPRESENTATIVE GRAY inquired about the language on line 8 of Amendment 2.

MR. BALLINGER explained that the language on line 8 would specify that an image of a child under the age of 18 that was

wholly created or manipulated with the use of artificial intelligence (AI) would still fall into this category.

[1:45:32 PM](#)

REPRESENTATIVE CARPENTER asked whether Amendment 2 would empower investigators or law enforcement [with regard to prosecutions involving child sexual abuse material].

[1:46:21 PM](#)

KACI SCHROEDER, Assistant Attorney General, Legal Services Section, Criminal Division, Department of Law (DOL), said current law does not require prosecutors to prove the identity of a child; however, because Amendment 2 specifically calls out "an identifiable child," the department would be required to prove the identity of the child if the proposed amendment were to pass.

[1:48:07 PM](#)

REPRESENTATIVE CARPENTER asked how the department would determine whether the child is 18 years old.

MS. SCHROEDER stated that under current law, the age of the child must be proven, which can be difficult to ascertain and sometimes requires expert testimony.

REPRESENTATIVE CARPENTER asked whether Amendment 2, as currently written, would be enforceable.

MS. SCHROEDER said [DOL] could attempt to enforce it. She reiterated that even under current law, identification is rare, so the number of cases would be small.

[1:49:44 PM](#)

REPRESENTATIVE CARPENTER removed his objection. There being no further objection, Amendment 2 was adopted.

[1:50:04 PM](#)

REPRESENTATIVE ALLARD moved to adopt Amendment 3 to Version U, labeled 33-LS1272\U.6, Walsh, 3/26/24, which read:

Page 3, lines 13 - 17:

Delete all material and insert:

"(e) An interactive computer service, Internet service provider, cloud service provider, telecommunications network, or radio or television broadcaster, including a cable or satellite television operator, programmer, or producer, is not liable under this section for hosting, publishing, or distributing an electioneering communication provided by another person. This subsection does not prevent an individual from bringing an action under (b)(2) of this section for removing a disclosure statement."

Page 4, lines 11 - 12:

Delete all material and insert:

"(4) "interactive computer service" has the meaning given in 47 U.S.C. 230, as that section read on January 1, 2024."

REPRESENTATIVE CARPENTER objected for the purpose of discussion.

[1:50:12 PM](#)

MR. BALLINGER noted that Amendment 3 came from TechNet. He explained that the proposed amendment would broaden the exemption language that protects certain service providers from liability unless they were to remove a disclaimer from the media. In addition, it would add the date of January 1, 2024, to the federal citation 47 U.S.C. 230 to ensure that if the federal code were to change, state law would not change with it.

[1:51:28 PM](#)

REPRESENTATIVE SUMNER asked why [instead of referencing federal statute], the language in 47 U.S.C. 230 wasn't inserted into the bill.

MR. BALLINGER said the purpose was to ensure that state statute reflects whatever was codified on January 1, 2024, in federal code. He added that the language from 47 U.S.C. 230 could be added at the committee's discretion.

REPRESENTATIVE SUMNER said his preference was to avoid making references to federal code in state statute, and instead, insert the necessary language. He expressed concern that if the federal government were to change that code retroactively, it could "make a mess of things."

REPRESENTATIVE ALLARD pointed out that other bills had been passed with reference to federal statute. She asked how this would be any different.

[1:54:53 PM](#)

The committee took an at-ease from 1:54 p.m. to 1:57 p.m.

[1:57:19 PM](#)

REPRESENTATIVE SUMNER moved to adopt conceptual Amendment 1 to Amendment 3, which would delete lines 12-13 and insert the following language:

or interactive computer service. The term "interactive computer service" means any information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including specifically a service or system that provides access to the Internet and such systems operated or services offered by libraries or educational institutions.

CHAIR VANCE announced that there being no objection, Conceptual Amendment 1 to Amendment 3 was adopted.

[1:58:21 PM](#)

REPRESENTATIVE GRAY sought to confirm that platforms, such as Instagram, X, and Facebook could still be held liable for spreading AI generated [electioneering communications].

MR. BALLINGER clarified that those platforms are included in Amendment 3 and therefore, would be excluded from liability unless they were to specifically remove a disclaimer.

REPRESENTATIVE GRAY asked whether [the committee] would be laying the groundwork for deepfake material to flourish by granting social media platforms immunity.

MR. BALLINGER shared his belief that immunity must be granted from this type of prosecution unless these platforms were to proactively and knowingly perpetuate the problem.

REPRESENTATIVE GRAY expressed concern that there would be no incentive to stop something from going viral.

MR. BALLINGER stated that the bill would provide the ability to request an injunction that requires the publisher to remove the material. He shared his belief that by not granting immunity to social media platforms, it could prevent the legislation from moving forward and fundamentally change how people use social media.

[2:03:09 PM](#)

REPRESENTATIVE CARPENTER urged social media websites to do a better job at policing their content; nonetheless, he acknowledged their First Amendment rights. He opined that keeping responsibility with the person [who published the content] is the right thing to do.

REPRESENTATIVE ALLARD shared her belief that there are consequences and repercussions for speaking freely in this country.

[2:05:01 PM](#)

REPRESENTATIVE GRAY asked where social media platforms are included in Amendment 3.

MR. BALLINGER stated that they are encompassed in the definition of "interactive computer service."

REPRESENTATIVE GRAY moved to adopt Conceptual Amendment 2 to Amendment 3 to delete "an interactive computer service" on page 1, line 3.

REPRESENTATIVE ALLARD objected.

REPRESENTATIVE SUMNER objected.

[2:06:33 PM](#)

REPRESENTATIVE SUMNER said he objected to the proposed amendment because [the committee] should be practical about what can be passed.

CHAIR VANCE questioned the impact of removing "interactive computer services" from the exemption in Amendment 3.

[2:08:20 PM](#)

MR. WALSH said ultimately, it may have no impact because 47 U.S.C. 230 has been interpreted by the courts to basically provide immunity to social media platforms for moderation decisions and content provided by third parties. He explained that if "interactive computer service" were removed, federal law still preempts state law and would still provide immunity. He noted that the definition of "interactive computer service" adopted by the committee includes terms, such as "information service" and "active software provider" that are defined in federal law. Consequently, the effect of Amendment 3, as amended, might still require a reference to federal code to make sense.

[2:10:21 PM](#)

REPRESENTATIVE ALLARD maintained her objection.

[2:10:25 PM](#)

A roll call vote was taken. Representatives Gray and Groh voted in favor of Conceptual Amendment 2 to Amendment 3. Representatives Allard, Carpenter, C. Johnson, Sumner, and Vance voted against it. Therefore, Conceptual Amendment 2 to Amendment 3 failed by a vote of 2-5.

[2:11:11 PM](#)

REPRESENTATIVE CARPENTER removed his objection to Amendment 3, as amended.

REPRESENTATIVE GRAY objected.

[2:11:22 PM](#)

A roll call vote was taken. Representatives C. Johnson, Sumner, Groh, Allard, Carpenter, and Vance voted in favor of Amendment 3, as amended. Representative Gray voted against it. Therefore, Amendment 3, as amended, passed by a vote of 6-1.

[2:12:01 PM](#)

REPRESENTATIVE ALLARD moved to adopt Amendment 4 to Version U, labeled 33-LS1272\U.8, Klein/Walsh, 3/26/24, which read:

Page 2, lines 9 - 12:

Delete all material and insert:

"(1) "artificial intelligence" means a machine-based system that, for explicit or implicit objectives, infers, from the input the system receives, how to generate outputs, including predictions, content, recommendations, and decisions that can influence physical or virtual environments, with different artificial intelligence systems varying in their levels of autonomy and adaptiveness after deployment;"

Page 3, lines 19 - 22:

Delete all material and insert:

"(1) "artificial intelligence" means a machine-based system that, for explicit or implicit objectives, infers, from the input the system receives, how to generate outputs, including predictions, content, recommendations, and decisions that can influence physical or virtual environments, with different artificial intelligence systems varying in their levels of autonomy and adaptiveness after deployment;"

REPRESENTATIVE CARPENTER objected for the purpose of discussion.

[2:12:03 PM](#)

MR. BALLINGER stated that Amendment 4 would update the definition of "artificial intelligence" to the language provided by TechNet.

REPRESENTATIVE SUMNER said he supported the proposed amendment because it would address previously raised issues.

REPRESENTATIVE GROH asked Mr. Ballinger to explain what Amendment 4 would do in terms of sanctions.

MR. BALLINGER reiterated that Amendment 4 would insert the most "up to date" definition of AI into the bill.

REPRESENTATIVE CARPENTER removed his objection. There being no further objection, Amendment 4 was adopted.

[2:13:41 PM](#)

REPRESENTATIVE ALLARD moved to adopt Amendment 5 to Version U, labeled 33-LS1272\U.3, Walsh, 3/26/24, which read:

Page 2, line 2:  
Delete "or"

Page 2, line 6, following "characteristics":  
Insert "; or  
(3) material has been manipulated, created,  
or modified using artificial intelligence to appear to  
depict a child under 10 years of age engaging in the  
conduct"

REPRESENTATIVE CARPENTER objected for the purpose of discussion.

[2:14:03 PM](#)

REPRESENTATIVE GRAY explained that Amendment 5 would prohibit AI depictions of a child under the age of 10 engaging in conduct outlined in AS 11.41.455(a). He acknowledged that the provision might run afoul of the First Amendment; however, he noted that the Miller Test was established in Miller v. California to determine whether [expression constitutes obscenity] and reasoned that the depiction of a child under 10 years of age being sexually abused would meet that standard.

[2:15:43 PM](#)

REPRESENTATIVE GROH noted that it is sometimes hard to tell whether a person is 14 or 19 due to varying rates of development and other factors. Conversely, he opined that it's easy to tell whether a person had gone through puberty. Consequently, he shared his belief that Amendment 4 makes sense.

[2:17:12 PM](#)

The committee took a brief at-ease.

[2:18:23 PM](#)

REPRESENTATIVE CARPENTER asked why it was necessary to identify a child under 10 years of age, as opposed to a child under 18 years of age.

REPRESENTATIVE GRAY said he chose the age of 10 because if AI is being used to wholly generate unidentifiable children, he wanted to choose an age that would be clearly identifiable as a minor.

[2:21:14 PM](#)

CHAIR VANCE asked whether there was any risk to adopting Amendment 4.

MS. WALSH deferred to DOL. He reported that before AI became what it is today, the U.S. Supreme Court held that the government interest in prohibiting virtual child pornography was not sufficient for it to be allowed under the First Amendment.

[2:22:27 PM](#)

REPRESENTATIVE GROH said he would be interested in Ms. Schroeder's perspective on Amendment 4.

MS. SCHROEDER explained that the bill would extend the identifiable harm associated with child pornography and morphed child pornography to identifiable children, which is untested. Amendment 4 is one step away from that, she said. She highlighted case law addressing child pornography developed without the use of an actual child. She acknowledged that the Miller Test helps define something as obscene, however, the department was unable to "suss all that out" to give a definitive answer on Amendment 4.

MR. BALLINGER commented on the Miller Test and referenced arguments made in the Ashcroft case.

[2:24:59 PM](#)

CHAIR VANCE questioned how Amendment 4 would be enforced and whether there would be a risk to adopting it.

MS. SHCROEDER said the risk would be if the department were to prosecute under this statute, and the statute being declared unconstitutional, which would [nullify] the criminal case.

[2:27:36 PM](#)

REPRESENTATIVE CARPENTER asked how the department would discern whether the child in an AI generated image was under the age of 10 if there is no actual child to ask.

MS. SCHROEDER said [the child in] the image would have to appear to a reasonable person to be under the age of 10. She pointed out that the language "appears to depict" would soften the requirements of having to hardline prove the child's age.

[2:29:04 PM](#)

REPRESENTATIVE GRAY, in wrap up, read the following language from a legal memo from Mr. Walsh: "The First Amendment does allow the government to prohibit material that meets the obscenity standard in Miller v. California because it is not protected speech." He opined that it would be worth trying to prohibit "the most disgusting material imaginable."

[2:29:48 PM](#)

REPRESENTATIVE CARPENTER removed his objection.

CHAIR VANCE objected. She explained that she was not yet comfortable with the proposed language and that it required further development.

[2:31:08 PM](#)

A roll call vote was taken. Representatives Sumner, Gray, and Groh voted in favor of Amendment 5. Representatives Carpenter, C. Johnson, and Vance voted against it. Therefore, Amendment 5 failed by a vote of 3-3.

[2:31:48 PM](#)

REPRESENTATIVE GROH moved to adopt Amendment 6 to Version U, labeled 33-LS1272\U.1, Gunther/Walsh, 3/26/24, which read:

Page 1, line 2:

Delete "**and**"

Following "**communications**":

Insert "**; relating to the Alaska Artificial Intelligence Task Force; and providing for an effective date**"

Page 4, following line 12:

Insert a new bill section to read:

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

ALASKA ARTIFICIAL INTELLIGENCE TASK FORCE. (a) The Alaska Artificial Intelligence Task Force is created as a joint task force of the Alaska State Legislature. The task force consists of seven voting members appointed as follows:

(1) a member of the house of representatives, appointed by the speaker of the house

of representatives, who shall serve as co-chair of the task force;

(2) a member of the senate, appointed by the president of the senate, who shall serve as co-chair of the task force;

(3) a member who is an expert on law enforcement and, if possible, has experience in the usage of artificial intelligence systems, appointed by the governor;

(4) a member who is an expert in constitutional and legal rights, appointed by the governor;

(5) three members who are academic faculty members of the University of Alaska, appointed by the Board of Regents; in appointing members under this paragraph, the Board of Regents shall ensure that

(A) one member specializes in ethics and, if possible, has experience in the ethics of technology;

(B) one member specializes in computer systems and, if possible, has experience in artificial intelligence; and

(C) one member specializes in the economic or social effects of new technology.

(b) A member appointed under (a) of this section serves at the pleasure of the appointing authority.

(c) In calendar years 2025 and 2026, the task force shall meet at least once each calendar quarter at the call of the co-chairs. The co-chairs shall determine whether the task force will meet in calendar years 2027 and 2028 and notify the members. If the co-chairs notify members that the task force will meet in calendar years 2027 and 2028, the task force shall meet at least once each calendar quarter at the call of the co-chairs. A majority of the members of the task force constitutes a quorum for the transaction of business. A member of the task force participating in a meeting by remote communication is present for the purposes of establishing a quorum. Meetings of the task force are subject to AS 44.62.310 - 44.62.319 (Open Meetings Act).

(d) The task force may adopt procedures for the management and governance of the task force.

(e) Not later than February 1, 2027, and, if the co-chairs of the task force determine that the task force will meet in calendar years 2027 and 2028 under (c) of this section, not later than February 1, 2029,

the task force shall submit a report to the chief clerk of the house of representatives and the senate secretary and notify the legislature that the report is available. The report must

(1) contain a detailed review of the effect of artificial intelligence technology on the state and residents, businesses, and local governments in the state; and

(2) provide recommendations on changes in policy, including policies related to criminal and civil liability for violations of law resulting from the use of artificial intelligence by an individual, an organization, a local government, or the state.

(f) In preparing a report required under (e) of this section, the task force shall

(1) investigate how potential problems with artificial intelligence may be addressed under state law;

(2) determine how the application of state law may be affected by artificial intelligence;

(3) review how other states have regulated artificial intelligence;

(4) investigate the potential benefits and harms of artificial intelligence on economic and community development, including

(A) education, workforce development, and employment in the state;

(B) the acquisition and disclosure of confidential information;

(C) crime, public safety, and weaponry; and

(D) discrimination resulting from the use of automated decision systems;

(5) determine the feasibility of using artificial intelligence in the public sector, including

(A) assessing the need for a state code of ethics on the use of artificial intelligence systems in state government;

(B) the effect of automated decision systems on the constitutional and legal rights, duties, and privileges of state residents; and

(C) the potential benefits available to and liability of the state that may result from implementing automated decision systems;

(6) investigate the effects of deepfakes on the government, elections, and cybersecurity of the state; and

(7) research the potential effects on the private sector of any recommendation the task force intends to make.

(g) The task force may use the research services of the Legislative Affairs Agency.

(h) Members serve without compensation but are entitled to per diem and travel expenses authorized for members of boards and commissions under AS 39.20.180.

(i) In this section,

(1) "algorithm" includes a procedure incorporating machine learning or other artificial intelligence techniques;

(2) "artificial intelligence" means systems capable of

(A) perceiving an environment through data acquisition and processing and interpreting the derived information to take an action or to imitate intelligent behavior given a specific goal; and

(B) learning and adapting behavior by analyzing how the environment is affected by past actions;

(3) "automated decision system" means an algorithm that uses data-based analytics to make or support governmental decisions, judgments, or conclusions;

(4) "deepfake" means audio or visual content generated or manipulated by artificial intelligence that falsely appears to be authentic or truthful and that features a depiction of an individual appearing to say or do things the individual did not say or do, without the individual's consent."

Renumber the following bill section accordingly.

Page 4, line 17, following "of":

Insert "secs. 2 and 3 of"

Page 4, following line 17:

Insert new bill sections to read:

**\* Sec. 7.** Section 5 of this Act is repealed February 2, 2029.

**\* Sec. 8.** Section 5 of this Act takes effect January 1, 2025."

REPRESENTATIVE CARPENTER objected for the purpose of discussion.

[2:31:55 PM](#)

REPRESENTATIVE GROH explained Amendment 6 would create a state task force composed of members of the legislature; experts in law enforcement and constitutional and legal rights; and academic faculty members of the University of Alaska. The task force would be a way to understand this giant and multi-faceted topic. He noted that the definitions included in the proposed amendment differed from those adopted by the committee in today's hearing.

[2:35:22 PM](#)

REPRESENTATIVE CARPENTER questioned the costs associated with Amendment 6, noting that the bill was not scheduled to go to the House Finance Committee at this time.

CHAIR VANCE asked whether Representative Groh had goals in mind for the four-year task force.

REPRESENTATIVE GROH directed attention to page 3 of Amendment 6, which outlined the proposed goals. He reiterated that AI could both help and hurt [the state].

REPRESENTATIVE CARPENTER asked whether similar efforts were being conducted by better funded and better equipped organizations. He asked whether the committee could piggyback on those efforts instead of spending the state's own money.

REPRESENTATIVE GROH stressed the nuance of Alaska-specific applications.

[2:39:19 PM](#)

REPRESENTATIVE C. JOHNSON stated his belief that in four years, AI won't look the same as it does today; consequently, the task force could last forever. He added that he was reluctant to invest money in something that's changing so fast.

REPRESENTATIVE GROH said he would be happy to shorten the timeframe because the issue is critical to understand.

[2:41:38 PM](#)

REPRESENTATIVE SUMNER wondered whether the task force needs to be established in statute or whether legislative committees can

do their own investigative work and report back to the legislature.

REPRESENTATIVE CARPENTER recommended leaning on the computer experts within the executive branch and creating intent language to require a legislative report on technology security, as well as recommendations on AI. He added that law enforcement could be engaged as well to create a whole government approach.

[2:43:17 PM](#)

A roll call vote was taken. Representatives Sumner, Gray, and Groh voted in favor of Amendment 6. Representatives Allard, Carpenter, C. Johnson, and Vance voted against it. Therefore, amendment 6 failed by a vote of 3-4.

CHAIR VANCE noted that Amendment 7 would not be offered.

[2:44:01 PM](#)

REPRESENTATIVE GRAY moved to adopt Amendment 8 to Version U, labeled 33-LS1272\U.12, Walsh, 3/27/24, which read:

Page 1, line 2:

Delete "and"

Following "communications":

Insert "; and relating to reproductions of voice or likeness using artificial intelligence"

Page 4, following line 12:

Insert a new bill section to read:

"\* **Sec. 5.** AS 45.50 is amended by adding a new section to read:

**Sec. 45.50.905. Reproduction of voice or likeness using artificial intelligence.** (a) A person may not knowingly, without the authorization of an individual or, for an individual who is an unemancipated child under 18 years of age, without the authorization of the individual's parent or guardian,

(1) use artificial intelligence to create or alter the voice or likeness of the individual; and

(2) make that voice or likeness commercially available to the public.

(b) An individual whose voice or likeness is depicted in violation of this section may bring an action in the superior court for an injunction to

prohibit dissemination of the voice or likeness and to recover damages.

(c) In this section,

(1) "artificial intelligence" has the meaning given in AS 15.80.009;

(2) "likeness" means an image or video that is readily identifiable as a particular individual;

(3) "voice" means a sound in a medium that is readily identifiable as and attributable to a particular individual, regardless of whether the sound contains the actual voice or a simulation of the voice of the individual."

Renumber the following bill section accordingly.

REPRESENTATIVE CARPENTER objected for the purpose of discussion.

[2:44:06 PM](#)

REPRESENTATIVE GRAY explained that Amendment 8 would create a section similar to the Ensuring Likeness Voice and Image Security (ELVIS) Act that was passed in Tennessee. The proposed amendment would protect artists from having their voice or likeness used for commercial purposes without their prior authorization and allow them to sue for damages if the law is violated.

[2:45:32 PM](#)

REPRESENTATIVE ALLARD sought to clarify whether [this type of intellectual property] was already protected in existing state or federal law.

MR. WALSH shared his understanding that there is no statutory protection in current state law for the kind of media that Amendment 8 would apply to. He noted that there is federal copyright law that protects owners from unauthorized use of their copyrighted works, in addition to a common law right of publicity that is fairly undeveloped in Alaska courts but could be applied to the media covered by Amendment 8.

[2:47:43 PM](#)

REPRESENTATIVE C. JOHNSON asked whether Amendment 8 would extend existing copyright law.

MR. WALSH said the proposed amendment would not modify existing copyright law, nor would it grant property rights under tenancy law.

[2:52:13 PM](#)

CHAIR VANCE asked whether Amendment 8 would prohibit the use of an AI generated image of President Trump or his voice for commercial purposes.

MR. WALSH answered yes, if the use met the elements of the proposed statute and there was no prior authorization from President Trump.

REPRESENTATIVE ALLARD expressed concern that she could be sued for creating a meme of, for example, Representative Gray.

MR. WALSH said under that hypothetical, Representative Gray could only sue if his voice or likeness was made commercially available to the public. He added that the inclusion of "commercially available" means that there must be monetary gain.

[2:54:21 PM](#)

CHAIR VANCE posed a hypothetical scenario involving talk radio, which uses the voices of different politicians to build an introduction, and asked whether that would be considered a violation of the proposed amendment.

MR. WALSH said it's unclear whether the voice or likeness in the example was being made commercially available. He stated that it would be open to interpretation and up to the courts to decide.

[2:55:47 PM](#)

REPRESENTATIVE CARPENTER posed a hypothetical scenario in which a deceased artist's voice was being reconstituted and used for economic gain. He asked whether Amendment 8 would cover a deceased individual.

MR. WALSH said, unlike the ELVIS Act, the proposed amendment would not create a property right that survives the death of the individual.

[2:58:59 PM](#)

REPRESENTATIVE GRAY explained that Amendment 8 was crafted intentionally narrower than the ELVIS Act to protect living artists from being used in this way. He reiterated that the intent was to protect people from having their likeness used to make money without their permission.

REPRESENTATIVE CARPENTER maintained his objection.

[3:00:09 PM](#)

A roll call vote was taken. Representatives Groh, Allard, and Gray voted in favor of Amendment 8. Representatives Carpenter, C. Johnson, Sumner, and Vance voted against it. Therefore, Amendment 8 failed by a vote of 3-4.

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

[3:02:24 PM](#)

#### **ADJOURNMENT**

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 3:02 p.m.