

**ALASKA STATE LEGISLATURE**  
**SENATE JUDICIARY STANDING COMMITTEE**

May 13, 2024

1:33 p.m.

**MEMBERS PRESENT**

Senator Matt Claman, Chair  
Senator Jesse Kiehl, Vice Chair  
Senator James Kaufman  
Senator Löki Tobin

**MEMBERS ABSENT**

Senator Cathy Giessel

**COMMITTEE CALENDAR**

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 358(2D JUD)

"An Act relating to defamation claims based on the use of deepfakes; and relating to the use of deepfakes in electioneering communications."

- MOVED SCS CSHB 358(JUD) OUT OF COMMITTEE

**PREVIOUS COMMITTEE ACTION**

BILL: HB 358

SHORT TITLE: DEEPFAKES: LIABILITY; ELECTIONS

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
03/27/24	(H)	Heard & Held
03/27/24	(H)	MINUTE (JUD)
04/01/24	(H)	JUD AT 1:00 PM GRUENBERG 120
04/01/24	(H)	Heard & Held
04/01/24	(H)	MINUTE (JUD)
04/03/24	(H)	JUD AT 1:00 PM GRUENBERG 120
04/03/24	(H)	Moved CSHB 358 (JUD) Out of Committee
04/03/24	(H)	MINUTE (JUD)
04/08/24	(H)	JUD RPT CS (JUD) NEW TITLE 6DP
04/08/24	(H)	DP: GRAY, CARPENTER, GROH, SUMNER, ALLARD, VANCE
04/29/24	(H)	RETURNED TO JUD COMMITTEE
05/01/24	(H)	JUD AT 1:00 PM GRUENBERG 120
05/01/24	(H)	Moved CSHB 358 (2D JUD) Out of Committee
05/01/24	(H)	MINUTE (JUD)
05/02/24	(H)	JUD RPT CS (2D JUD) NEW TITLE 4DP 1AM
05/02/24	(H)	DP: GRAY, CARPENTER, ALLARD, SUMNER
05/02/24	(H)	AM: VANCE
05/02/24	(H)	RETURNED TO RLS COMMITTEE
05/09/24	(H)	TRANSMITTED TO (S)
05/09/24	(H)	VERSION: CSHB 358 (2D JUD)
05/10/24	(S)	READ THE FIRST TIME - REFERRALS
05/10/24	(S)	JUD
05/11/24	(S)	JUD AT 10:00 AM BUTROVICH 205
05/11/24	(S)	Heard & Held
05/11/24	(S)	MINUTE (JUD)
05/13/24	(S)	JUDICIARY at 01:30 PM BUTROVICH 205

**WITNESS REGISTER**

BREANNA KAKARUK, Staff  
 Senator Matt Claman  
 Alaska State Legislature  
 Juneau, Alaska

**POSITION STATEMENT:** Presented the explanation of changes for HB 358 from version D to version H.

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

**POSITION STATEMENT:** Made closing remarks on HB 358.

**ACTION NARRATIVE**

[1:33:32 PM](#)

**CHAIR MATT CLAMAN** called the Senate Judiciary Standing Committee meeting to order at 1:33 p.m. Present at the call to order were Senators Tobin, Kaufman, Kiehl, and Chair Claman.

**HB 358-DEEPPAKES: LIABILITY; ELECTIONS**

[1:34:02 PM](#)

CHAIR CLAMAN announced the consideration of CS FOR HOUSE BILL NO. 358(2d JUD) "An Act relating to defamation claims based on the use of deepfakes; and relating to the use of deepfakes in electioneering communications."

[This is the second hearing of HB 358 in the Senate Judiciary Standing Committee.] The intent is to consider a proposed Senate committee substitute (SCS). He invited Ms. Kakaruk to present the summary of changes.

[1:34:34 PM](#)

BREANNA KAKARUK, Staff, Senator Matt Claman, Alaska State Legislature, Juneau, Alaska, presented the summary of changes from version D to version H for HB 358:

[Original punctuation provided.]

**Summary of Changes**

**Senate Judiciary Committee: Version D to Version H**

In the Committee Substitute to HB 358, the following changes were made:

**Page 2, line 12**

- Reformat (d) and following subsections

**Page 2, line 29 following "pitch"**

- Insert "and at a speed"

**Page 2, line [31]**

- Insert  
"(2) the synthetic media constitutes satire or parody."

**Multiple sections**

- Delete "deepfake"
- Insert "synthetic media"

**Page 4, lines 4**

- Delete all material related to the definition of "deepfake" (version D page 3, lines 14-21)

- Insert
  - "(3) "synthetic media"
    - (A) means an image, audio recording, or video recording of an individual's appearance, speech, or conduct that is manipulated by artificial intelligence or in a manner that creates a realistic but false image, audio recording, or video recording and produces
      - (i) a depiction that a reasonable person would believe is of a real individual in appearance, speech, or conduct but did not actually occur in reality; and
      - (ii) a materially different understanding or impression than a reasonable person would have from the unaltered, original version of the image, audio recording, or video recording;
    - (B) does not include an image, audio recording, or video recording that is minimally edited, adjusted, or enhanced by artificial intelligence without materially altering how the meaning or significance of the depiction would be perceived by a reasonable person;"

**Page 4, line 15**

- Insert
  - "(B) does not include visual or audio media that is minimally edited, adjusted, or enhanced by artificial intelligence without materially altering how the meaning or significance of media would be perceived by a reasonable person"

**Page 4, line 19**

- Insert "\* Sec. 3. This Act takes effect immediately under AS 01.10.070(c)."

**Conforming changes:**

- Title change
- Renumbering

[1:36:40 PM](#)

SENATOR TOBIN corrected a line number in the summary of changes for the following text in subsection (d):

Page 2, line 31:

Insert "(2) the synthetic media constitutes satire or parody."

[1:37:11 PM](#)

MS. KAKARUK expressed appreciation for the recommendation and said that she will correct the line number to "31" in the summary of changes.

[1:37:21 PM](#)

CHAIR CLAMAN reminded members that the SCS changed the "deepfakes" verbiage to "synthetic media" in the bill.

[1:37:32 PM](#)

CHAIR CLAMAN solicited a motion.

[1:37:36 PM](#)

SENATOR KIEHL moved to adopt the Senate committee substitute (SCS) for CSHB 358, work order 33-LS1272\H, as the working document.

[1:37:54 PM](#)

CHAIR CLAMAN found no objection and SCS CSHB 358 was adopted as the working document. He invited the bill sponsor's staff to make a closing statement.

[1:38:15 PM](#)

DAVE STANCLIFF, Staff, Representative Mike Cronk, Alaska State Legislature, Juneau, Alaska, indicated the bill sponsor had reviewed the SCS. He said there was discussion about:

- the term "deepfakes" trivializing the seriousness of the bill. He stated that "synthetic media" is a more accurate and appropriate term.
- the paragraph regarding satire and parody. He expressed confidence that the paragraph gives the Court System latitude to resolve such matters. He explained that, in his experience, legislation that is overly rigid or constructed for a guaranteed court outcome often fails.

MR. STANCLIFF expressed gratitude for the committee's work on HB 358 and for doing it expeditiously.

[1:39:33 PM](#)

SENATOR KAUFMAN inquired about the scope of liability under this legislation and the extent of activities the bill would encompass. He gave the example of a campaign mailer featuring a photo with a noisy background that required cleanup. He wondered whether HB 358 casts such a wide net that a person could be liable for cleaning up the background. He asked whether

individuals could unintentionally violate the law under the definitions in HB 358 by making similarly common alterations for use in a mailer or electronic media.

[1:41:00 PM](#)

MR. STANCLIFF replied that this would be part of the determination if the courts were presented with a case. He said the courts would have to make a judgment on the matter. He reiterated that being too specific can create problems related to freedom of speech, but at the same time, the issue arises regarding the purpose and intent of the act, including whether it was:

- meant to be funny or a joke;
- intended to seriously damage a person's image to the extent that they lose a political campaign; or
- meant to cause other harm.

MR. STANCLIFF agreed that HB 358 is not far from casting a wide net, but emphasized the courts would ultimately need to make those determinations.

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CHAIR CLAMAN clarified that HB 358 only addresses defamation claims, defamatory material published about someone else. He stated that material a candidate posts about themselves would not form the basis of a defamation claim.

[1:42:57 PM](#)

SENATOR KAUFMAN explained that a past opponent depicted him in a very nice, three-piece black suit, which he did not own. The photo showed him throwing money around wildly to suggest he was irrational with spending. He stated the photo was wildly inaccurate. He asked whether HB 358 would provide standing to claim damages if he lost based on:

- being depicted in a suit he never wore or owned, and
- handing out state money he never would have, given his very responsible nature.

CHAIR CLAMAN directed the question to Mr. Stancliff and said he would follow-up on it afterward.

MR. STANCLIFF replied that he had a 50 / 50 chance.

SENATOR KAUFMAN commented this was just food for thought.

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CHAIR CLAMAN answered the question, stating the bill would probably provide the standing needed to bring such a claim. He noted that part of the issue would involve demonstrating that the opponent's intent was to misrepresent him. The focus would likely be more on the depiction of throwing money around than on the black suit.

CHAIR CLAMAN said that given the economic earning potential in the oil industry compared to the legislature, it might be difficult to argue that losing the election resulted in economic damages.

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SENATOR KAUFMAN conceded that the economic point was fair enough; however, he brought up the reputational damage that the photo could have caused by depicting him as a spendthrift.

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SENATOR TOBIN said that, to avoid this dynamic, Senator Kaufman's opponent would simply need to include a disclosure on the image that is visible, easily readable, and printed in a font no smaller than any other text in the visual component. She noted that this protects everyone and is an important aspect of HB 358. She expressed hope that individuals would take heed, and that Alaskans remain honest and clear in their communications. She stated that Alaskans should neither engage in nefarious activities nor defame their political opponents and that such behavior does not belong in Alaska's political system.

SENATOR KAUFMAN agreed.

[1:46:21 PM](#)

CHAIR CLAMAN shared an anecdotal story about a constituent. He said he once asked a well-known Anchorage satire-parody comedian why he never endorsed political candidates in radio or television commercials. The comedian explained that he ran a satire and parody show, and he needed to be able to make fun of all candidates regardless of party lest Anchorage residents assume the Fly by Night Club advocates on behalf of certain candidates. That is why he never did campaign advertising for anyone. He said this touches on the issue of satire and parody in the bill.

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SENATOR KIEHL circled back to a conversation from the first hearing on HB 358, specifically regarding falsifying conduct. He said that he had presented some hypotheticals, to which the presenters explained the intent of HB 358. They stated the purpose of the bill is to address false representations of physical conduct, such as depicting someone engaging in criminal, obscene, or otherwise inappropriate behavior.

SENATOR KIEHL said that after thinking it through, he concluded that interpreting the meaning of someone's conduct is likely protected speech. Therefore, it would not fall within the scope of HB 358, which primarily addresses overt deception. He acknowledged that his interpretation of those provisions had evolved, and he said the provisions themselves would remain unchanged.

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CHAIR CLAMAN solicited the will of the committee.

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SENATOR KIEHL moved to report SCS CSHB 358, work order 33-LS1272\H, from committee with individual recommendations and attached zero fiscal note(s).

[1:49:00 PM](#)

CHAIR CLAMAN found no objection and SCS CSHB 358(JUD) was reported from the Senate Judiciary Standing Committee.

CHAIR CLAMAN said that this is probably the last Senate Judiciary Standing Committee meeting for the year and thanked members of the committee for their diligent work.

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There being no further business to come before the committee, Chair Claman adjourned the Senate Judiciary Standing Committee meeting at 1:49 p.m.