

Honolulu, Hawaii

FEB 08 2021

RE: S.B. No. 309
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-First State Legislature
Regular Session of 2021
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred S.B. No. 309 entitled:

"A BILL FOR AN ACT RELATING TO PRIVACY,"

begs leave to report as follows:

The purpose and intent of this measure is to add the intentional disclosure or threat of disclosure of certain types of deep fake images or video to the offense of violation of privacy in the first degree.

Your Committee received testimony in support of this measure from the Department of the Prosecuting Attorney of the City and County of Honolulu; Imua Alliance; Screen Actors Guild - American Federation of Television and Radio Artists Hawaii Local; International Longshore and Warehouse Union Local 142; Iron Workers Stabilization Fund; International Association of Bridge, Structural, Ornamental and Reinforcing Iron Workers; Hawaii State AFL-CIO; and eight individuals. Your Committee received testimony in opposition to this measure from the Motion Picture Association - America.

Your Committee finds that in 2019, the legislature established the twenty-first century privacy law task force (task force), whose membership consisted of individuals in government and the private sector with an interest or expertise in privacy law in the digital era. Your Committee additionally finds that



one of the recommendations made by the task force was that the State protect the privacy of a person's likeness by adopting laws that prohibit the unauthorized use of deep fake technology, which is advancing rapidly and is easily sharable on social media. Your Committee further finds that deep fake technology enables the creation of synthetic media in which a person in an existing image or video is replaced with the likeness of another person, and that this technology can be used to insert the likeness of a person into media that is pornographic or otherwise inappropriate or damaging to the person.

This measure will provide increased privacy protections by adding certain inappropriate and harmful uses of deep fake technology to the offense of violation of privacy in the first degree.

Your Committee has amended this measure by making technical, nonsubstantive amendments for the purpose of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 309, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 309, S.D. 1, and be placed on the calendar for Third Reading.

Respectfully submitted on
behalf of the members of the
Committee on Judiciary,



KARL RHOADS, Chair



The Senate
Thirty-First Legislature
State of Hawai'i

**Record of Votes
Committee on Judiciary
JDC**

Bill / Resolution No.:* 5B309	Committee Referral: JDC	Date: 2/2/2021
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The Committee is reconsidering its previous decision on this measure.
If so, then the previous decision was to: _____

The Recommendation is:

Pass, unamended 2312
 Pass, with amendments 2311
 Hold 2310
 Recommit 2313

Members	Aye	Aye (WR)	Nay	Excused
RHOADS, Karl (C)	✓			
KEOHOKALOLE, Jarrett (VC)	✓			
ACASIO, Laura		✓		
GABBARD, Mike	✓			
KIM, Donna Mercado	✓			
LEE, Chris	✓			
FEVELLA, Kurt	✓			
TOTAL	6	1	0	0

Recommendation: Adopted Not Adopted

Chair's or Designee's Signature:
Karl Rhoads

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*Only one measure per Record of Votes