

Honolulu, Hawaii

APR 22 2021

RE: S.B. No. 309  
S.D. 1  
H.D. 2  
C.D. 1

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

Honorable Scott K. Saiki  
Speaker, House of Representatives  
Thirty-First State Legislature  
Regular Session of 2021  
State of Hawaii

Sirs:

Your Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House of Representatives in S.B. No. 309, S.D. 1, H.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO PRIVACY,"

having met, and after full and free discussion, has agreed to recommend and does recommend to the respective Houses the final passage of this bill in an amended form.

The purpose of this measure is to add the intentional creation, disclosure, or threat of disclosure of certain types of realistic deep fake images or videos to the offense of violation of privacy in the first degree, subject to specified exemptions.

Your Committee on Conference finds that one of the recommendations made by the Twenty-First Century Privacy 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 on Conference 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. This measure will protect the privacy of a person's likeness by prohibiting the unauthorized use of deep fake technology.

Your Committee on Conference has amended this measure by:


- (1) Removing the requirement that the image or video of a composite fictitious person be realistic;
- (2) Removing the reasonable person standard for believing that a composite fictitious person is a known person;
- (3) Removing the exemption for images or videos made in connection with a matter of legitimate public concern, a work of political or newsworthy value, or expression protected by the First Amendment of the United States Constitution;
- (4) Making it effective upon its approval; and
- (5) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 309, S.D. 1, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 309, S.D. 1, H.D. 2, C.D. 1.

Respectfully submitted on behalf  
of the managers:

ON THE PART OF THE HOUSE

ON THE PART OF THE SENATE

  
AARON LINE JOHANSON  
Co-Chair

  
KARL RHOADS  
Chair

  
MARK M. NAKASHIMA  
Co-Chair



