



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-THIRD LEGISLATURE, 2025**

ON THE FOLLOWING MEASURE:
S.B. NO. 1156, RELATING TO DEEPFAKES.

BEFORE THE:
SENATE COMMITTEE ON LABOR AND TECHNOLOGY

DATE: Friday, February 7, 2025 **TIME:** 3:00 p.m.

LOCATION: State Capitol, Room 224

TESTIFIER(S): Anne E. Lopez, Attorney General, or
Albert Cook, Deputy Attorney General

Chair Aquino and Members of the Committee:

The Department provides the following comments on this bill.

This bill establishes the crime of Unlawful Creation or Distribution of a Sexually Explicit Deepfake as a misdemeanor.

The Department supports the intent of this bill but submits that the conduct sought to be prevented is already covered by section 711-1110.9(1)(c), Hawaii Revised Statutes (HRS), under the offense of Violation of Privacy in the First Degree. Section 711-1110.9 states that:

§711-1110.9 Violation of privacy in the first degree. (1) A person commits the offense of violation of privacy in the first degree if, except in the execution of a public duty or as authorized by law:

...
(c)

The person intentionally creates or discloses or threatens to disclose an image or video of a composite fictitious person depicted in the nude as defined in section 712-1210, or engaged in sexual conduct as defined in section 712-1210, that includes the recognizable physical characteristics of a known person so that the image or video appears to depict the known person and not a composite fictitious person, with intent to substantially harm the depicted person with respect to that person's health, safety, business, calling, career, education, financial condition, reputation, or personal relationships, or as an act of revenge or retribution.

....

The commentary to section 711-1110.9, HRS, includes a note on the amendments made to the section in 2021, and essentially concludes that its intent is the same as this bill:

Act 59, Session Laws 2021, amended this section to add the intentional creation, disclosure, or threat of disclosure of certain types of deep fake images or videos to the offense of violation of privacy in the first degree. The legislature found 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 had been advancing rapidly and is easily sharable on social media. The legislature further found 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. Act 59 protected the privacy of a person's likeness by prohibiting the unauthorized use of deep fake technology. Conference Committee Report No. 70.

Therefore, while the Department supports the intent of this bill, we do not believe this bill is necessary because section 711-1110.9(1)(c), HRS, already established a crime to cover the improper use of deepfake technology.

Thank you for the opportunity to provide our comments.



LATE

February 6, 2025

Comments regarding SB1156, Relating to Deepfakes

To: Senator Henry J.C. Aquino, Chair
Senator Chris Lee, Vice Chair
Members of the Senate Committee on Labor and Technology

From: Llasmin Chaîne, LSW, Executive Director, Hawai'i State Commission on the Status of Women

Re: Comments regarding SB1156, Relating to Deepfakes

Hearing: Friday, February 7, 2025, 3:00 p.m.
Conference Room 224, State Capitol

On behalf of the Hawai'i State Commission on the Status of Women, I would like to thank the committee for hearing this bill. I appreciate the bill's intent, defer to the Department of the Attorney General, and offer the following comments.

Girls and women experience a disproportionate number of incidents of digital sexual violence, which include online grooming, harassment, doxing, stalking, sextortion, and the non-consensual dissemination of real or deepfake intimate images or videos. Last year, Thorn reported that **"roughly 1 in 10 minors report that they know of cases where their friends and classmates have created synthetic non-consensual intimate images (or "deepfake nudes") of other kids using generative AI tools."**¹

The bill, as currently drafted, does not address section 711-1110.9 (c), HRS, which:

- states a person commits the offense of **violation of privacy in the first degree** if "the person creates or discloses or threatens to disclose an image or video of a composite fictitious person depicted in the nude as defined in section 712-1210 or engaged in sexual conduct as defined in section 712-1210",
- is a **class C felony**, and
- states, "Act 59, Session Laws 2021, amended this section to add the intentional creation, disclosure, or threat of disclosure of certain types of **deep fake images or videos** to the offense of violation of privacy in the first degree."

Greater protections from digital sexual violence are needed, as are **additional mechanisms to hold offenders accountable**. If the Committee chooses to pass this bill, amendments may need to be incorporated into this bill to achieve the Legislature's intent. Thank you for this opportunity to comment.

Llasmin Chaîne, LSW, Executive Director, Hawai'i State Commission on the Status of Women

¹ Deepfake Nudes and Other Trends in Youth Behavior Online in 2023: New Research From Thorn. (August 14, 2004). <https://www.thorn.org/blog/deepfake-nudes-and-other-trends-in-youth-behavior-online-in-2023/>

SB-1156

Submitted on: 2/5/2025 9:03:00 PM

Testimony for LBT on 2/7/2025 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Jacob Wiencek	Individual	Support	Written Testimony Only

Comments:

Aloha Committee Members,

Deepfakes are one of the most serious challenges to ensuring a healthy information ecosystem. In a world flooded with ever increasing volumes of misinformation and disinformation, the evolution of deepfakes is one of our foremost challenges. Distributing sexually explicit content to harm or degrade individuals is a frightening event that poses serious harms. It's a challenge we already face and deepfakes can only turbo charge this threat.

I *strongly* **URGE** this Committee to **SUPPORT** this bill to protect the rights and dignities of all.