CONFERENCE COMMITTEE REP. NO. -

Honolulu, Hawaii

APR 2 2 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



CONFERENCE COMMITTEE REP. NO. 70

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

AARON LINE SOHANSON Co-Chair

MARK M. NAKASHIMA Co-Chair 2021-2779 SCCR SMA.doc

ON THE PART OF THE SENATE

KARL RHOADS Chair

Hawai'i State Legislature

CCR 70

Record of Votes of a Conference Committee

Bill / Concurrent Resolution No.: SB 309, SD 1, HD 2					Date/Time: 4/22/21 3:51 pm				
The recommendation of the House and Senate managers is to pass with amendments (CD).									
The Committee is reconsidering its previous decision.									
The recommendation of the Senate Manager(s) is to AGREE to the House amendments made to the Senate Measure					The recommendation of the House Manager(s) is to AGREE to the Senate amendments made to the House Measure.				
Senate Managers	Α	WR	N	E	House Managers	A	WR	N	E
RHOADS, Karl, Chr.	\checkmark				JOHANSON, Aaron Ling, Co-Chr.				
KIM, Donna Mercado		1			NAKASHIMA, Mark M., Co-Chr.	/			
FEVELLA, Kurt	\bigtriangledown	1			MATSUMOTO, Lauren		[
		 							<u> </u>
			<u> </u>	<u> </u>				†	
		<u> </u>	ļ						
		 						<u> </u>	
		<u> </u>	 	<u> </u>				+	+
		+						<u> </u>	
		+	<u> </u>						+
	<u></u>			+				<u> </u>	
		╀────				╉──┤		<u> </u>	
			<u>† </u>						
	 								
	\vdash			├ ──-		┠──┤		 	+
			<u> </u>	<u> </u>				<u> </u>	
	 '	<u> </u>				 		+	
	┟──┘	╀────							┨───
	┨───┤	┼───	<u> </u>						+
TOTAL	3	0	0	0	TOTAL	3	0	0	0
	-	e with	Reser	vation	$\mathbf{N} = \mathbf{N}\mathbf{a}\mathbf{y}$ \mathbf{E}	= Exci		-	<u> </u>
A = AyeWR = Aye with ReservationSenate Recommendation is:					House Recommendation is:				
Adopted Not Adopted					Adopted Not Adopted				
Senate Lead Chair's or Designee's Signature:					House Lead Chair's or Designee's Signature:				
Distribution:OriginalFile with Conference Committee ReportHou					YellowPinkGoldenrodouse Clerk's OfficeSenate Clerk's OfficeDrafting Agency				