Chair
JENNIFER STOTTER

Commissioners
EDIE IGNACIO NEUMILLER | STACEY MONIZ
ROSE MEDINA KEMNA | MELISSA SOTELO

Executive Director
LLASMIN CHAINE

March 2, 2026

Position: **SUPPORT** of **HB2137 HD2**, Relating to Artificial Intelligence

**To:** Representative David A. Tarnas, Chair
Representative Mahina Poepoe, Vice Chair
Members of the House Committee on Judiciary & Hawaiian Affairs

**From:** Llasmin Chaine, LSW, Executive Director, Hawaii State Commission on the Status of Women

**Re:** Testimony in SUPPORT of HB2137 HD2, Relating to Artificial Intelligence

Hearing: Tuesday, March 3, 2026, 2:00 p.m.
Conference Room 325, State Capitol

The Hawaii State Commission on the Status of Women is committed to advancing the rights, safety, and dignity of women and girls across the state. The Commission **supports HB2137 HD2**, as it **addresses the growing risks posed by artificial intelligence-generated digital imitations, which can be used to harm, exploit, or misrepresent individuals, especially women, without their consent**.

The proliferation of AI technologies capable of creating highly realistic digital imitations raises significant concerns regarding privacy, consent, and the potential for reputational harm. Women and girls are disproportionately targeted by nonconsensual digital imitations, including deepfakes and synthetic media, which can lead to harassment, defamation, emotional distress, sextortion, and assault. By prohibiting harmful uses of these technologies and mandating clear disclosure, **this bill provides critical safeguards, enabling and empowering individuals to seek remedies when their likeness is misused**.

Requiring disclosure of synthetic performers in advertising further promotes transparency and helps prevent deceptive practices that can undermine public trust. **By establishing civil remedies for individuals harmed by unauthorized digital imitations, HB2137 HD2 provides an essential legal avenue for recourse**, which is especially important given the documented use of AI technologies to target and exploit women online. This aligns with best practices recommended by advocates for digital rights and gender equity, who emphasize the need for clear standards and accountability in the use of emerging technologies.

The Commission respectfully encourages ongoing review of these protections as AI technologies evolve, to ensure that the law remains effective in addressing new threats to privacy, dignity, safety, and well-being. We respectfully urge this Committee to **pass HB2137 HD2**.

Thank you for this opportunity to submit testimony.

MARCH 3, 2026

# HOUSE BILL 2137 HD2

CURRENT REFERRAL: JHA

808-679-7454
kris@imuaalliance.org
www.imuaalliance.org
@imuaalliance

Kris Coffield,
*President*

David Negaard,
*Director*

Mireille Ellsworth,
*Director*

Justin Salisbury,
*Director*

Eileen Roco,
*Director*

Beatrice DeRego,
*Director*

Corey Rosenlee,
*Director*

Amy Zhao,
*Policy and Partnerships Strategist*

## POSITION: SUPPORT

Imua Alliance supports HB 2137 HD2, relating to artificial intelligence, which prohibits certain harmful uses of and mandates disclosure for realistic digital imitations generated by artificial intelligence; provides for civil actions and civil remedies for individuals injured by unauthorized AI-generated realistic digital imitations; and requires the disclosure of the use of synthetic performers in advertising.

Imua Alliance is a Hawai'i-based organization dedicated to ending all forms of exploitation, including digital gender violence. As a service provider for survivors of image-based sexual abuse, we know that these harms are no longer theoretical; they are happening now, and they are accelerating. Survivors increasingly report cases where perpetrators create or threaten to create synthetic sexual images, audio, or video to harass, extort, or control victims, even when no original images exist. The ability to fabricate a person's likeness removes the last barrier to exploitation and dramatically expands the pool of potential victims.

This measure addresses this emerging threat in three critical ways. First, it establishes clear guardrails around the use of AI-generated likenesses. The bill makes it unlawful to knowingly create or distribute a realistic digital imitation of an identifiable individual without consent when it is used for commercial purposes, to cause harm, to falsely imply endorsement, or to facilitate unlawful conduct such as harassment or fraud. This directly targets the most harmful uses of synthetic media while preserving space for legitimate expression, parody, and journalism.

Second, it requires transparency in synthetic media. The proposal mandates clear and conspicuous disclosure when realistic AI-generated depictions are distributed publicly. This is a critical consumer protection measure that helps prevent deception, protects democratic processes, and allows the public to distinguish authentic content from manipulated media.

Third, it creates meaningful remedies for victims. The bill allows individuals whose likeness is used without consent to seek injunctive relief, damages, and removal of harmful content, with enforcement authority also available to the Attorney General in cases of widespread harm. These remedies are essential for survivors, who often face ongoing, repeated harm once synthetic content is released.

From a public health and safety perspective, this bill is urgently needed. Technology-facilitated abuse—including deepfake sexual imagery—has been linked to severe psychological harm, reputational damage, financial exploitation, and social isolation. Hawai‘i has already taken important steps to address image-based sexual abuse; the measure ensures that our laws remain effective as technology evolves.

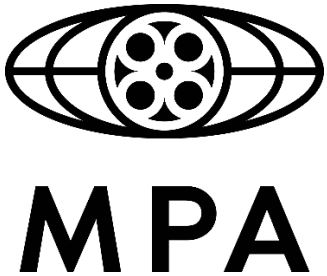
The proposal also balances free expression and constitutional protections, explicitly recognizing exemptions for parody, satire, journalism, and clearly disclosed artistic or educational uses. This careful tailoring strengthens the bill’s legal durability while ensuring that it targets only harmful, deceptive, and nonconsensual uses.

This is a commonsense consumer protection and civil rights measure that protects Hawai‘i residents from identity-based harm, supports survivors of digital abuse, promotes transparency in emerging technologies, and helps ensure that innovation develops in a way that is ethical, and accountable.

With aloha,

*Kris Coffield*

President, Imua Alliance



**House Bill 2187 – Oppose Unless Amended**

**House Committee on Judiciary & Hawaiian Affairs**

**March 3, 2026**

This testimony is submitted on behalf of the Motion Picture Association, Inc. ("MPA"), Recording Industry Association of America, Inc. ("RIAA), and Screen Actors Guild - American Federation of Television and Radio Artists ("SAG-AFTRA") regarding House Bill 2137 ("HB 2137" or the "Bill"). Part I of HB 2137 would prohibit the unauthorized creation and dissemination of a "digital imitation" of an individual and impose disclosure obligations on uses of such imitations. For the reasons described below, we respectfully request that you consider an alternative approach to this issue that would be more likely to achieve consensus.

MPA, RIAA, and SAG-AFTRA share your concerns about the unauthorized replication of individuals' likenesses and voice, particularly to replace performances by actors and recording artists. To that end, our organizations have engaged in several years of negotiations seeking consensus on legislation that would prohibit abusive practices with regard to digital replicas, while safeguarding the First Amendment rights of filmmakers and others to use such replicas in ways protected by the First Amendment. We, and other stakeholders with an interest in this subject, including YouTube, OpenAI, IBM, the Recording Academy, and the National Association of Broadcasters, have achieved that consensus, which is embodied in the federal NO FAKES Act, a bill with bipartisan, bicameral co-sponsors that would establish a new federal intellectual property right in one's likeness and voice, with robust safeguards for First Amendment-protected speech. [1] NO FAKES would govern the use of digital replicas in expressive works and establish a single, nationwide legal standard, ensuring consistent

[1] *See Press Release*, "Blackburn, Coons, Salazar, Dean, Colleagues Introduce 'NO FAKES Act' to Protect Individuals and Creators from Digital Replicas" (April 9, 2025), *available at* https://www.blackburn.senate.gov/2025/4/technology/blackburn-coons-salazar-dean-colleagues-introduce-no-fakes-act-to-protect-individuals-and-creators-from-digital-replicas.

rights, obligations, and protections across the country. A copy of the NO FAKES bill is attached as Appendix 1.

While we appreciate the intent of the Bill, it departs in significant respects from the carefully negotiated compromises reflected in the NO FAKES Act, in particular the definition of "digital imitation," the scope of the prohibited acts, the disclosure requirements, and the exemptions, among other things. Our first preference would be for the Hawai'i Legislature to pause action on the Bill as efforts to pass the NO FAKES Act advance in Congress. However, if the Legislature wishes to proceed at this time, we respectfully the opportunity to work with you to modify the federal bill so that it would comport and be consistent with Hawai'I's statutes.

Thank you for your consideration.

## Appendix 1

119TH CONGRESS
1ST SESSION

# S. 1367

To protect intellectual property rights in the voice and visual likeness of individuals, and for other purposes.

---

IN THE SENATE OF THE UNITED STATES
APRIL 9, 2025

Mr. COONS (for himself, Mrs. BLACKBURN, Ms. KLOBUCHAR, and Mr. TILLIS) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

---

# A BILL

To protect intellectual property rights in the voice and visual likeness of individuals, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Nurture Originals, Foster Art, and Keep Entertainment Safe Act of 2025" or the "NO FAKES Act of 2025".

**SEC. 2. VOICE AND VISUAL LIKENESS RIGHTS.**

(a) DEFINITIONS.—In this section:

(1) DIGITAL FINGERPRINT.—The term "digital fingerprint" means an electronic label or identifier created by a cryptographic hash function (or similar function), or any other digital process, tool, or technique selected by the provider of an online service, that

is unique to a specific piece of material such that it is effectively certain that such piece of material will not be misidentified as a match for a different piece of material.

(2) DIGITAL REPLICA.—The term "digital replica"—

(A) means a newly created, computer-generated, highly realistic electronic representation that is readily identifiable as the voice or visual likeness of an individual that—

(i) is embodied in a sound recording, image, audiovisual work, including an audiovisual work that does not have any accompanying sounds, or transmission—

(I) in which the actual individual did not actually perform or appear; or

(II) that is a version of a sound recording, image, or audiovisual work in which the actual individual did perform or appear, in which the fundamental character of the performance or appearance has been materially altered; and

(B) does not include the electronic reproduction, use of a sample of one sound recording or audiovisual work into another, remixing, mastering, or digital remastering of a sound recording or audiovisual work authorized by the copyright holder.

(3) INDIVIDUAL.—The term "individual" means a human being, living or dead.

(4) INTERACTIVE COMPUTER SERVICE.—The term "interactive computer service" means any information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including specifically—

(A) a service or system that provides access to the internet; and

(B) such systems operated, or services offered, by libraries or educational institutions.

(5) ONLINE SERVICE.—The term "online service"—

(A) means—

(i) any website, online application, mobile application, or virtual reality environment that predominantly provides public access to user uploaded material;

(ii) any digital music provider to which section 115 of title 17, United States Code, applies that provides public access to user uploaded material if that digital music provider is not covered under clause (i); and

(iii) any online application, mobile application, virtual reality environment, application store, search engine (including any feature that provides web search results), advertising service or network, online shopping service or platform, electronic commerce provider, mapping service, cloud storage service, or website hosting service or any other interactive computer service that is not covered under clause (i) and that provides public access to user uploaded material, but only if the provider of that interactive computer service has registered a designated agent with the Copyright Office under subsection (d)(2); and

(B) does not include any website, online application, mobile application, virtual reality environment, application store, search engine, or cloud storage service that predominantly provides public access to user uploaded products or services, the primary function of which is to distribute, import, transmit, or otherwise make available to the public a product or service described in subsection (c)(2)(B).

(6) RIGHT HOLDER.—The term "right holder" means—

(A) the individual, the voice or visual likeness of whom is at issue with respect to a digital replica or a product or service described in subsection (c)(2)(B); and

(B) any other individual or entity that has acquired, through a license, inheritance, or otherwise, the right to authorize the use of the voice or visual likeness described in subparagraph (A).

(7) SOUND RECORDING ARTIST.—The term "sound recording artist" means an individual who creates or performs in sound recordings for economic gain or for the livelihood of the individual.

(8) USER UPLOADED MATERIAL.—

(A) IN GENERAL.—The term "user uploaded material" means material, such as a video, image, game, audio file, or other material, that is placed on a service directly by or at the direction of an end user of a service.

(B) SCOPE OF END USER.—For the purposes of subparagraph (A), an end user, with respect to an online service, does not include—

(i) a third-party commercial provider of sound recordings to a digital music provider; or

(ii) an employee or agent of the online service acting on behalf of the provider of the online service.

(b) DIGITAL REPLICATION RIGHT.—

(1) IN GENERAL.—Subject to the other provisions of this section, each individual or right holder shall have the right to authorize the use of the voice or visual likeness of the individual—

(A) in a digital replica; or

(B) in connection with a product or service for which authorization of the individual or right holder is required to avoid liability with respect to an activity described in subsection (c)(2)(B).

(2) NATURE OF RIGHT.—

(A) IN GENERAL.—The right described in paragraph (1) shall have the following characteristics:

(i) The right is—

(I) a property right;

(II) not assignable during the life of the individual; and

(III) licensable, in whole or in part, exclusively or non-exclusively, by the right holder.

(ii) The right shall not expire upon the death of the individual, without regard to whether the right is commercially exploited by the individual during the lifetime of the individual.

(iii) Upon the death of the individual—

(I) the right is transferable and licensable, in whole or in part, by the executors, heirs, assignees, licensees, or devisees of the individual; and

(II) ownership of the right may be—

(aa) transferred, in whole or in part, by any means of conveyance or by operation of law; and

(bb) bequeathed by will or pass as personal property by the applicable laws of intestate succession.

(iv) The right shall be exclusive to—

(I) the individual, subject to the licensing of the right during the lifetime of that individual under subparagraph (B); and

(II) the right holder—

(aa) for a period of 10 years after the death of the individual; and

(bb) if the right holder demonstrates active and authorized public use of the voice or visual likeness of the individual during the 2-year period preceding the expiration of the 10-year period described in item (aa), for an additional 5-year period, subject to renewal for additional 5-year periods, provided the right holder can demonstrate authorized public use of the voice or visual likeness of the individual during the 2-year period preceding the expiration of each additional 5-year period.

(v) The right shall terminate on the date that is the earlier of—

(I) the date on which the 10-year period or 5-year period described in clause (iv)(II) terminates without renewal; or

(II) the date that is 70 years after the death of the individual.

(B) REQUIREMENTS FOR LICENSE.—

(i) IN GENERAL.—A license described in subparagraph (A)(i)(III)—

(I) while the individual is living, is valid only to the extent that the license duration does not exceed 10 years; and

(II) shall be valid only if the license agreement—

(aa) is in writing and signed by the individual or an authorized representative of the individual; and

(bb) includes a reasonably specific description of the intended uses of the applicable digital replica.

(ii) LICENSES INVOLVING A MINOR.—A license described in subparagraph (A)(i)(III) involving a living individual who is younger than 18 years of age—

(I) is valid only to the extent that the license duration does not exceed 5 years, but in any case terminates when the individual reaches 18 years of age; and

(II) shall be valid only if the license agreement—

(aa) is in writing and signed by the individual or an authorized representative of the individual;

(bb) includes a reasonably specific description of the intended uses of the digital replica; and

(cc) is approved by a court in accordance with applicable State law.

(iii) COLLECTIVE BARGAINING AGREEMENTS.—The provisions of clauses (i) and (ii) shall not apply with respect to a license if the license is governed by a collective bargaining agreement that addresses digital replicas.

(iv) LIMITATION.—The provisions of clauses (i) and (ii) shall not affect terms and conditions of a license or related contract other than those described in this subparagraph, and the expiration of that license shall not affect the remainder of the license or related contract.

(C) REQUIREMENTS FOR POST-MORTEM TRANSFER.—A post-mortem transfer or license described in subparagraph (A)(iii)(I) shall be valid only if the transfer agreement or license agreement is in writing and signed by the right holder or an authorized representative of the right holder.

(D) REGISTRATION FOR POST-MORTEM RENEWAL.—

(i) IN GENERAL.—The renewal of a post-mortem right under subparagraph (A)(iv)(II)(bb) shall be effective if, during the applicable 2-year renewal period described in that subparagraph, the right holder files a notice with the Register of Copyrights that complies with such requirements regarding form and filing procedures as the Register of Copyrights may prescribe by regulation, which shall include—

(I) the name of the deceased individual;

(II) a statement, under penalty of perjury, that the right holder has engaged in active and authorized public use of the voice or visual likeness during the applicable 2-year period;

(III) the identity of and contact information for the right holder; and

(IV) such other information as the Register of Copyrights may prescribe by regulation.

(ii) DIRECTORY.—The Register of Copyrights—

(I) shall—

(aa) maintain a current directory of post-mortem digital replication rights registered under this subparagraph; and

(bb) make the directory described in item (aa) available to the public for inspection online; and

(II) may require payment of a reasonable filing fee by the right holder filing notice under clause (i), which may take into consideration the costs of maintaining the directory described in subclause (I) of this clause.

(iii) VOLUNTARY INITIAL REGISTRATION.—

(I) IN GENERAL.—A right holder may voluntarily register the post-mortem right under subparagraph (A)(iv)(II)(aa) by filing a notice with the Register of Copyrights that complies with such requirements regarding form, content, and filing procedures as the Register of Copyrights may prescribe by regulation.

(II) AUTHORITY OF REGISTER OF COPYRIGHTS.—The Register of Copyrights may—

(aa) include a voluntary registration of the post-mortem right under subparagraph (A)(iv)(II)(aa) in the directory maintained under clause (ii)(I)(aa) of this subparagraph; and

(bb) require payment of a reasonable filing fee by a right holder registering a right under this clause, which may take into consideration the costs of maintaining the directory.

(iv) AUTHORITY OF REGISTER OF COPYRIGHTS.—The Register of Copyrights may make such interpretations and resolve such ambiguities as may be appropriate to carry out this subparagraph.

(E) POST-EXPIRATION OR TERMINATION UTILIZATION OF AUTHORIZED USES.—A digital replica that is embodied in a sound recording, image, audiovisual work, including an audiovisual work that does not have any accompanying sounds, or transmission, and the use of which is authorized pursuant to the terms of a license, may continue to be utilized in a manner consistent with the terms of that license after the expiration or termination of the license.

(c) LIABILITY.—

(1) IN GENERAL.—Any individual or entity that, in a manner affecting interstate commerce (or using any means or facility of interstate commerce), engages in an activity described in paragraph (2) shall be liable in a civil action brought under subsection (e).

(2) ACTIVITIES DESCRIBED.—An activity described in this paragraph is either of the following:

(A) The public display, distribution, transmission, or communication of, or the act of otherwise making available to the public, a digital replica without authorization by the applicable right holder.

(B) Distributing, importing, transmitting, or otherwise making available to the public a product or service that—

(i) is primarily designed to produce 1 or more digital replicas of a specifically identified individual or individuals without the authorization of—

(I) such individual or individuals;

(II) the applicable right holder; or

(III) the law;

(ii) has only limited commercially significant purpose or use other than to produce a digital replica of a specifically identified individual or individuals without the authorization of—

(I) such individual or individuals;

(II) the applicable right holder; or

(III) the law; or

(iii) is marketed, advertised, or otherwise promoted by the individual or entity described in paragraph (1), or another individual or entity acting in concert with the individual or entity described in paragraph (1) with the knowledge of the individual described in paragraph (1), as a product or service designed to produce a digital replica of a specifically identified individual or individuals without the authorization of—

(I) such individual or individuals;

(II) the applicable right holder; or

(III) the law.

(3) NOTICE OR KNOWLEDGE REQUIRED.—To incur liability under this subsection—

(A) with respect to an activity carried out under paragraph (2) by the provider of an online service, the provider must have received a notification that satisfies the requirements under subsection (d)(3), or a court order stating (or must have willfully avoided receipt of such a notification or court order), that the applicable material is—

(i) a digital replica that was not authorized by the applicable right holder; or

(ii) a product or service described in paragraph (2)(B); and

(B) with respect to an activity carried out under paragraph (2) by an individual or entity that is not a provider of an online service, the individual or entity must have actual knowledge, or must willfully avoid having such knowledge, that the applicable material is—

(i) a digital replica that was not authorized by the applicable right holder; or

(ii) a product or service described in paragraph (2)(B).

(4) EXCLUSIONS.—Liability under this subsection shall not extend to—

(A) a service by wire or radio that provides the capability to transmit data to and receive data from all, or substantially all, internet endpoints, including any capabilities that are incidental to enable the operation of the communications service of a provider of online services or network access, or the operator of facilities for such service; or

(B) a provider of an online service alleged to have undertaken an activity described in paragraph (2) if—

(i) it is not technologically feasible for that provider to disable access to the offending material, or disable the reference or link to that material, at the specific location identified in the applicable notification sent under subsection (d)(3); or

(ii) disabling access to the offending material is prohibited by law.

(5) ADDITIONAL EXCLUSIONS.—

(A) IN GENERAL.—An activity shall not be considered to be an activity described in paragraph (2) if—

(i) the applicable digital replica is produced or used in a bona fide news, public affairs, or sports broadcast or account, provided that the digital replica is the subject of, or is materially relevant to, the subject of that broadcast or account;

(ii) the applicable digital replica is a representation of the applicable individual as the individual in a documentary or in a historical or biographical manner, including some degree of fictionalization, unless—

(I) the production or use of that digital replica creates the false impression that the work is an authentic sound recording, image, transmission, or audiovisual work in which the individual participated; or

(II) the digital replica is embodied in a musical sound recording that is synchronized to accompany a motion picture or other audiovisual work, except to the extent that the use of that digital replica is protected by the First Amendment to the Constitution of the United States;

(iii) the applicable digital replica is produced or used consistent with the public interest in bona fide commentary, criticism, scholarship, satire, or parody;

(iv) the use of the applicable digital replica is fleeting or negligible; or

(v) the applicable digital replica is used in an advertisement or commercial announcement for a purpose described in any of clauses (i) through (iv) and the applicable digital replica is relevant to the subject of the work so advertised or announced.

(B) APPLICABILITY.—Subparagraph (A) shall not apply where the applicable digital replica is used to depict sexually explicit conduct, as defined in section 2256(2)(A) of title 18, United States Code.

(d) SAFE HARBORS.—

(1) IN GENERAL.—

(A) PRODUCTS AND SERVICES CAPABLE OF PRODUCING DIGITAL REPLICAS.—No individual or entity shall be directly or secondarily liable under this section for an activity described in subsection (c)(2)(A) by virtue of distributing, importing, transmitting, or otherwise making available to the public a product or service unless the product or service is a product or service described in subsection (c)(2)(B).

(B) ONLINE SERVICES.—The provider of an online service shall not be liable for referring or linking to, or violating subsection (c) with respect to, user uploaded material if—

(i) for the provider of an online service described in subsection (a)(5)(A)(iii) (other than a search engine or a search component of a service), the provider has adopted and reasonably implemented, and has informed users of the online service of, a policy that provides for the termination in appropriate circumstances of account holders of the online service that are repeat violators of subsection (c)(2), provided that the failure to terminate a particular account holder in accordance with that policy shall subject the provider of the online service to potential liability only with respect to violating content posted by that account holder; and

(ii) upon receiving a notification that satisfies the requirements under paragraph (3), the provider—

(I) removes or disables access to the work embodying the claimed unauthorized digital replica or the product or service specifically identified in a notice sent under that paragraph, or, as applicable, the link or reference to the unauthorized digital replica or product or service, as soon as is technically and practically feasible for that provider;

(II) for the provider of an online service described in clause (i) or (ii) of subsection (a)(5)(A), as soon as is technically and practically feasible for that provider, removes or disables access to all other publicly available instances of the work embodying the claimed unauthorized digital replica that—

(aa) match the digital fingerprint of an unauthorized digital replica specifically identified in a notification sent under paragraph (3); and

(bb) are uploaded after valid, applicable notice was submitted to, and processed by, the provider; and

(III) takes reasonable steps to promptly notify the right holder, and the end user that uploaded the material, that the online service removed or disabled access to the material.

(2) DESIGNATED AGENT.—

(A) DESIGNATION.—

(i) IN GENERAL.—A provider of an online service described in clause (i) or (ii) of subsection (a)(5)(A) shall register a designated agent in accordance with this paragraph.

(ii) CONTENTS.—To designate an agent under clause (i), the provider of an online service shall make available through the online service, including on the website of the online service in a location accessible to the public, and provide to the Copyright Office, substantially the following information:

(I) The name, address, telephone number, and electronic mail address of the agent.

(II) Other contact information that the Register of Copyrights may determine appropriate.

(B) DIRECTORY.—The Register of Copyrights—

(i) shall—

(I) maintain a current directory of designated agents for the purposes of this paragraph; and

(II) make the directory described in subclause (I) available to the public for inspection, including through the internet; and

(ii) may require payment of a fee by the provider of an online service to cover the costs of maintaining the directory described in clause (i)(I).

(C) EFFECT OF FAILURE TO DESIGNATE.—The failure of a provider of an online service described in subparagraph (A)(i) to register a designated agent under this

paragraph shall establish that the provider has not undertaken a good faith effort to comply with this subsection.

(3) ELEMENTS OF NOTIFICATION.—To be effective under this subsection, a notification of a claimed violation of the right described in subsection (b) shall be a written communication provided to the designated agent of the provider of an online service that includes the following:

(A) A physical or electronic signature of the right holder, an individual or entity authorized to act on behalf of the right holder, or an eligible plaintiff under subsection (e)(1).

(B) Identification of the individual, the voice or visual likeness of whom is at issue with respect to an unauthorized digital replica or a product or service described in subsection (c)(2)(B).

(C) Identification of the material containing an unauthorized digital replica or a product or service described in subsection (c)(2)(B), including information sufficient to allow the provider to locate the identified material.

(D) Information reasonably sufficient to permit the provider to contact the notifying party, such as an address, telephone number, and email address.

(E) A statement that the notifying party believes in good faith that the material is an unauthorized use of a digital replica or a product or service described in subsection (c)(2)(B).

(F) If not the right holder or an eligible plaintiff under subsection (e)(1), a statement that the notifying party has the authority to act on behalf of the right holder.

(G) For the purposes of paragraph (1)(B), information reasonably sufficient to—

(i) identify the reference or link to the material or activity claimed to be an unauthorized digital replica, or a product or service described in subsection (c)(2)(B), that is to be removed or to which access is to be disabled; and

(ii) permit the provider to locate the reference or link described in clause (i).

(4) PENALTIES FOR FALSE OR DECEPTIVE NOTICE.—

(A) KNOWING MATERIAL REPRESENTATIONS.—

(i) IN GENERAL.—It shall be unlawful to knowingly materially misrepresent under paragraph (3)—

(I) that the material requested to be removed is an unauthorized digital replica;

(II) that an individual or entity has the authority to act on behalf of the right holder; or

(III) that a digital replica or a product or service described in subsection (c)(2)(B) is not authorized by the right holder or by other law.

(ii) FAILURE TO PERFORM GOOD FAITH REVIEW.—The failure to undertake a good faith review to determine whether material with respect to which notice is provided under paragraph (3) qualifies as a digital replica shall constitute a knowing material misrepresentation under this subparagraph.

(B) PENALTIES.—In addition to a cause of action that is available under subsection (e), any individual or entity that violates subparagraph (A) of this paragraph shall be liable to the alleged violator that uploaded the applicable material, or the provider of an online service injured by the misrepresentation, for an amount equal to the greater of—

(i) $25,000 per notification sent under paragraph (3) that contains a misrepresentation described in subparagraph (A) of this paragraph; or

(ii) any actual damages, including costs and attorney's fees, incurred by the alleged violator, as well as by any provider of an online service injured by the reliance of the provider on the misrepresentation in removing or disabling access to the material or activity claimed to be an unauthorized digital replica.

(e) CIVIL ACTION.—

(1) ELIGIBLE PLAINTIFFS.—A civil action against an individual or entity that, in a manner affecting interstate commerce (or using any means or facility of interstate commerce), engages in an activity described in subsection (c)(2) may be brought by—

(A) the applicable right holder;

(B) if the applicable right holder is an individual who is younger than 18 years of age, a parent or guardian of that individual; or

(C) in the case of a digital replica involving a sound recording artist, any individual or entity that has, directly or indirectly, entered into—

(i) a contract for the exclusive personal services of the sound recording artist as a sound recording artist; or

(ii) an exclusive license to distribute or transmit 1 or more works that capture the audio performance of the sound recording artist.

(2) LIMITATIONS PERIOD.—A civil action may not be brought under this subsection unless the civil action is commenced not later than 3 years after the date on which the party seeking to bring the civil action discovered, or with due diligence should have discovered, the applicable violation.

(3) DEFENSE NOT PERMITTED.—It shall not be a defense in a civil action brought under this subsection that the defendant displayed or otherwise communicated to the public a disclaimer stating that the applicable digital replica, or the applicable product or service described in subsection (c)(2)(B), was unauthorized or disclosed that the digital replica, product, or service was generated through the use of artificial intelligence or other technology.

(4) REMEDIES.—

(A) IN GENERAL.—In any civil action brought under this subsection—

(i) an individual or entity that engages in an activity described in subsection (c)(2)(A) shall be liable to the injured party in an amount equal to the greater of—

(I) (aa) in the case of an individual, $5,000 per work embodying the applicable unauthorized digital replica;

(bb) in the case of a provider of an online service that has undertaken a good faith effort to comply with subsection (d), $25,000 per work embodying the applicable unauthorized digital replica;

(cc) in the case of a provider of an online service that has not undertaken a good faith effort to comply with subsection (d), $5,000 per display, copy made, transmission, and instance of the unauthorized digital replica being made available on the online service in a sum of not more than $750,000 per work embodying the applicable unauthorized digital replica; and

(dd) in the case of an entity that is not a provider of an online service, $25,000 per work embodying the applicable unauthorized digital replica; or

(II) any actual damages suffered by the injured party as a result of the activity, plus any profits from the unauthorized use that are attributable to such use and are not taken into account in computing the actual damages;

(ii) an individual or entity that engages in an activity described in subsection (c)(2)(B) shall be liable to the injured party in an amount equal to the greater of—

(I) (aa) in the case of an individual, $5,000 per product or service;

(bb) in the case of a provider of an online service that has undertaken a good faith effort to comply with subsection (d), $25,000 per product or service;

(cc) in the case of a provider of an online service that has not undertaken a good faith effort to comply with subsection (d), $750,000 per product or service; or

(dd) in the case of an entity that is not a provider of an online service, $25,000 per product or service; or

(II) any actual damages suffered by the injured party as a result of the activity, plus any profits from the unauthorized use that are attributable to such use and are not taken into account in computing the actual damages;

(iii) the plaintiff may seek injunctive or other equitable relief;

(iv) in the case of willful activity in which the injured party has proven that the defendant acted with malice, fraud, knowledge, or willful avoidance of knowledge that the conduct violated the law, the court may award to the injured party punitive damages; and

(v) if the prevailing party is—

(I) the party bringing the action, the court shall award reasonable attorney's fees; or

(II) the party defending the action, the court shall award reasonable attorney's fees if the court determines that the action was not brought in good faith.

(B) OBJECTIVELY REASONABLE BELIEF.—A provider of an online service that has designated an agent under subsection (d)(2) and has an objectively reasonable belief that material that is claimed to be an unauthorized digital replica does not qualify as a digital replica shall be liable only for actual damages under subparagraph (A) if the material is ultimately determined to be an unauthorized digital replica.

(C) REPLACEMENT OF REMOVED MATERIAL.—If the end user that uploaded the material that the provider of an online service has removed, or to which the provider of an online service has disabled access, brings an action in a court of the United States against the sender of a notification under subsection (d)(3) claiming that such notification was false or deceptive, as described in subsection (d)(4), the provider may, if the action is brought not later than 14 days after the end user receives notice that the provider has removed or disabled access to the material, restore the removed material to the network of the provider for access by members of the public without monetary liability therefor to either the notice sender or the end user that uploaded the material to which the provider had removed or disabled access.

(f) SUBPOENA TO IDENTIFY VIOLATOR.—

(1) REQUEST.—A right holder, an individual or entity authorized to act on behalf of a right holder, or an eligible plaintiff under subsection (e)(1) may request the clerk of any district court of the United States to issue a subpoena to a provider of an online

service for identification of an alleged violator of this section in accordance with this subsection.

(2) CONTENTS OF REQUEST.—A request under paragraph (1) may be made by filing with the clerk—

(A) a copy of a notification described in subsection (d)(3);

(B) a proposed subpoena; and

(C) a sworn declaration to the effect that—

(i) the purpose of the subpoena is to obtain the identity of an individual or entity alleged to be liable under subsection (c); and

(ii) the information described in clause (i) will only be used for the purpose of protecting rights under this section.

(3) CONTENTS OF SUBPOENA.—A subpoena issued under this subsection shall authorize and order the provider of the applicable online service to expeditiously disclose to the party that sought the subpoena information sufficient to identify the alleged violator by virtue of the activity described in the notification to the extent that information is available to the provider of the online service.

(4) BASIS FOR GRANTING SUBPOENA.—If a proposed subpoena under this subsection is in proper form, the applicable notification filed satisfies the requirements under subsection (d)(3), and the accompanying declaration is properly executed, the clerk shall expeditiously issue and sign the proposed subpoena and return the subpoena to the requester for delivery to the provider of the applicable online service.

(g) PREEMPTION.—

(1) IN GENERAL.—The rights established under this Act shall preempt any cause of action under State law for the protection of an individual's voice and visual likeness rights in connection with a digital replica, as defined in this Act, in an expressive work.

(2) RULE OF CONSTRUCTION.—Notwithstanding paragraph (1), nothing in this Act may be construed to preempt—

(A) causes of action under State statutes or common law in existence, as of January 2, 2025, regarding a digital replica;

(B) causes of action under State statutes specifically regulating a digital replica depicting sexually explicit conduct, as defined in section 2256(2)(A) of title 18, United States Code, or an election-related digital replica; or

(C) causes of action under State statutes or common law in existence, as of January 2, 2025, for the distributing, importing, transmitting, or otherwise making available to the public a product or service capable of producing 1 or more digital replicas.

(h) RULES OF CONSTRUCTION.—

(1) LAWS PERTAINING TO INTELLECTUAL PROPERTY.—This section shall be considered to be a law pertaining to intellectual property for the purposes of section 230(e)(2) of the Communications Act of 1934 (47 U.S.C. 230(e)(2)).

(2) NO DUTY TO MONITOR.—Except as expressly provided in subsection (d)(1)(B)(ii), nothing in this section may be construed to require the provider of an online service to—

(A) monitor the online service for, or affirmatively seek facts about, any digital replica; or

(B) gain access to material.

(i) SEVERABILITY.—If any provision of this section, or the application of a provision of this section, is held to be invalid, the validity of the remainder of this section, and the application of that provision to other individuals, entities, and circumstances, shall not be affected by that holding.

(j) RETROACTIVE EFFECT.—

(1) LIABILITIES.—Liability under this section shall apply only to—

(A) conduct occurring after the date of enactment of this Act; and

(B) in the case of conduct covered by a license or contract, a license or contract that is executed after the date of enactment of this Act.

(2) DIGITAL REPLICATION RIGHT.—The right granted under subsection (b)—

(A) shall apply to any individual, regardless of whether the individual dies before or after the date of enactment of this Act; and

(B) in the case of a right holder who has died before the date of enactment of this Act, shall vest in the executors, heirs, assignees, or devisees of the right holder.

(k) EFFECTIVE DATE.—This Act shall take effect on the date that is 180 days after the date of enactment of this Act.

The House Committee on Judiciary & Hawaiian Affairs
March 3, 2026
Room 325
2:00 PM

RE: **HB 2137 HD2, Relating to Artificial Intelligence**

Attention: Chair David A. Tarnas, Vice Chair Mahina Poepoe, Members of the Committee

The University of Hawaii Professional Assembly (UHPA), the exclusive bargaining representative for all University of Hawaiʻi faculty members across Hawaiʻi's statewide 10-campus system, **supports the intent of HB 2137 HD2, but respectfully requests amendments to reinstate protections for educational activities.**

As public educators and subject matter experts, our faculty members are increasingly vulnerable to having their likenesses or voices used in unauthorized "deepfakes" to manufacture false endorsements, spread misinformation, or damage their professional reputations. We strongly agree that the state must establish clear prohibitions and penalties for the malicious distribution of these realistic digital imitations. This measure provides necessary protection for individuals by creating a civil cause of action and establishing statutory damages for violations.

**Concern Regarding the Removal of the "Educational Use" Exemption.** While we support the overarching goal of this bill, UHPA is concerned that the HD2 draft stripped out a critical exemption for higher education. The prior drafts of this bill included a provision in Section -4 that specifically exempted "artistic or educational use, where the content is clearly labeled and no harm is intended or reasonably foreseeable." The current HD2 draft has completely deleted this educational exemption.

Removing this protection poses a direct threat to the university environment. Faculty members who teach media literacy, digital arts, communications, and computer science may utilize, generate, and alter synthetic media as part of legitimate pedagogical activities to help students understand and combat these emerging technologies. Without an explicit exemption for educational use, this measure will inadvertently chill academic freedom and expose faculty to significant legal liability for simply doing their jobs.

To ensure our laws keep pace with technology while respecting the fundamental role of education and research, we strongly urge the Committee to amend Section -4 to reinstate the educational exemption from the original and HD1 draft: *An artistic or educational use, where the content is clearly labeled and no harm is intended or reasonably foreseeable.*

**With this amendment, UHPA supports the passage of HB 2137 HD2.**

University of Hawaii
Professional Assembly
1017 Palm Drive ✦ Honolulu, Hawaii 96814-1928
Telephone: (808) 593-2157 ✦ Facsimile: (808) 593-2160
Website: www.uhpa.org

Respectfully submitted,

Christian L. Fern
Executive Director
University of Hawaii Professional Assembly

University of Hawaii
Professional Assembly
1017 Palm Drive ✦ Honolulu, Hawaii 96814-1928
Telephone: (808) 593-2157 ✦ Facsimile: (808) 593-2160
Website: www.uhpa.org

HOUSE COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS
HB2137 HD2 Relating to Artificial Intelligence
March 3, 2026, at 2:00 PM, State Capitol CR 325 and Videoconference

Aloha Chair Tarnas, Vice Chair Poepoe and Members of the Committee,

Thank you for allowing me to testify in OPPOSITION HB2137 HD2.

While I support the bill's intent to protect individuals, I oppose HB2137 HD2 as it violates First Amendment rights. The Hawaii Attorney General's testimony on HB2137 also details these concerns.

For these reasons, please vote NO on HB 2137 HD2. Thank you for the opportunity to testify.

Respectfully submitted,
Jamie Detwiler, President
Hawaiian Islands Republican Women

**HB-2137-HD-2**
Submitted on: 2/27/2026 12:53:51 PM
Testimony for JHA on 3/3/2026 2:00:00 PM

| Submitted By | Organization | Testifier Position | Testify |
|---|---|---|---|
| Corinne Solomon | Individual | Oppose | Written Testimony Only |

Comments:

Oppose. This bill clearly violates our First Amendment, just read the testimony from the AG!

**HB-2137-HD-2**
Submitted on: 3/1/2026 11:54:12 AM
Testimony for JHA on 3/3/2026 2:00:00 PM

| Submitted By | Organization | Testifier Position | Testify |
|---|---|---|---|
| William Caron | Individual | Support | Written Testimony Only |

Comments:

Aloha Chair, Vice Chair, and Members of the Committee,

I am writing in **strong support** of HB2137, a crucial and timely measure that addresses the rapidly evolving challenges posed by artificial intelligence. This bill establishes necessary protections for individuals whose likenesses can now be realistically replicated by AI, and it ensures transparency when synthetic performers are used in advertising.

**Why Is This Important?**

Artificial intelligence has advanced at a breathtaking pace, and with it comes the capacity to create "realistic digital imitations"—convincing depictions of real people doing or saying things they never actually did or said. While this technology may have some limited creative potential, it also opens the door to significant harm. Without clear legal protections, any individual—whether a public figure or a private citizen—could have their face, voice, or likeness used without consent in ways that cause reputational, emotional, or financial injury.

HB2137 addresses this gap head-on. Part I of the bill prohibits the most harmful uses of unauthorized AI-generated digital imitations, providing civil remedies for individuals who have been injured by such exploitative practices. It establishes that your likeness belongs to you, not to whoever has the most sophisticated AI software. The bill also includes important exemptions—such as for bona fide news reporting or public interest broadcasts—ensuring that the law targets harmful conduct without stifling legitimate speech or creativity.

Equally important is Part II, which requires disclosure when synthetic performers are used in advertising. Consumers have a right to know whether the person they see endorsing a product, delivering a message, or appearing in a commercial is real or AI-generated. This is not just about honesty; it is about preserving trust in the marketplace. When a viewer cannot tell whether a performer is human or synthetic, the line between reality and fabrication blurs, and the potential for deception grows. By requiring clear disclosure, HB2137 empowers consumers to make informed judgments about the media they consume.

**A Balanced Approach**

This bill is carefully constructed. It does not ban AI technology, nor does it stifle innovation. Instead, it sets basic, common-sense guardrails: you cannot use someone's likeness without their

permission in ways that cause harm, and you must be transparent when you use AI-generated performers in advertising. These are modest, reasonable requirements that bring AI into alignment with existing privacy and consumer protection principles.

Other states are already moving in this direction, recognizing that the law must evolve alongside technology. Hawaiʻi has the opportunity to join them in getting ahead of this issue before harmful practices become entrenched. By passing HB2137, we send a clear message: in Hawaiʻi, we value individual autonomy, consumer trust, and transparency over unchecked technological exploitation.

**A Matter of Dignity and Transparency**

When a person's face or voice is used without their consent to create content they never agreed to, it is a violation of their fundamental dignity. When consumers are shown an advertisement featuring a synthetic performer with no disclosure, it is a violation of their right to know what—and who—they are seeing. HB2137 addresses both harms in a single, thoughtful piece of legislation.

I urge this committee to pass HB2137 and provide Hawaiʻi residents with the protections they need and deserve in the age of AI.

Mahalo for the opportunity to testify.

**HB-2137-HD-2**
Submitted on: 3/2/2026 12:34:31 PM
Testimony for JHA on 3/3/2026 2:00:00 PM

| Submitted By | Organization | Testifier Position | Testify |
|---|---|---|---|
| Caroline Azelski | Individual | Support | Written Testimony Only |

Comments:

In support of.  Thank you.