

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Right of Publicity Act is amended by
5 changing Sections 5, 20, 30, and 35 as follows:

6 (765 ILCS 1075/5)

7 Sec. 5. Definitions. As used in this Act:

8 "Artificial intelligence" means a machine-based system
9 that, for explicit or implicit objectives, infers, from the
10 input it receives, how to generate outputs such as
11 predictions, content, recommendations, or decisions that can
12 influence physical or virtual environments. "Artificial
13 intelligence" includes generative artificial intelligence.

14 "Commercial purpose" means the public use or holding out
15 of an individual's identity (i) on or in connection with the
16 offering for sale or sale of a product, merchandise, goods, or
17 services; (ii) for purposes of advertising or promoting
18 products, merchandise, goods, or services; ~~or~~ (iii) for the
19 purpose of fundraising; or (iv) for the purposes of
20 distributing, transmitting, or otherwise making available a
21 sound recording or audiovisual work that contains a digital
22 replica of an individual's identity with knowledge that use of
23 the identity was not authorized by the individual.

1 "Digital replica" means a newly created, electronic
2 representation of the identity of an actual individual created
3 using a computer, algorithm, software, tool, artificial
4 intelligence, or other technology that is fixed in a sound
5 recording or audiovisual work in which that individual did not
6 actually perform or appear.

7 "Generative artificial intelligence" means an automated
8 computing system that, when prompted with human prompts,
9 descriptions, or queries, can produce outputs that simulate
10 human-produced content, including, but not limited to, the
11 following:

12 (1) textual outputs, such as short answers, essays,
13 poetry, or longer compositions or answers;

14 (2) image outputs, such as fine art, photographs,
15 conceptual art, diagrams, and other images;

16 (3) multimedia outputs, such as audio or video in the
17 form of compositions, songs, or short-form or long-form
18 audio or video; and

19 (4) other content that would be otherwise produced by
20 human means.

21 "Identity" means any attribute of an individual that
22 serves to identify that individual to an ordinary, reasonable
23 viewer or listener, including but not limited to, (i) name,
24 (ii) signature, (iii) photograph, (iv) image, (v) likeness, or
25 (vi) voice.

26 "Individual" means a living or deceased natural person,

1 regardless of whether the identity of that individual has been
2 used for a commercial purpose during the individual's
3 lifetime.

4 "Juristic person" means a partnership, trust, estate,
5 corporation, unincorporated association, or other organization
6 capable of suing and being sued in a court of law.

7 "Name" means the actual name or other name by which an
8 individual is known that is intended to identify that
9 individual.

10 "Person" means a natural or juristic person.

11 "Work of Fine Art" means (i) a visual rendition including,
12 but not limited to, a painting, drawing, sculpture, mosaic,
13 videotape, or photograph; (ii) a work of calligraphy; (iii) a
14 work of graphic art including, but not limited to, an etching,
15 lithograph, serigraph, or offset print; (iv) a craft work in
16 materials including, but not limited to, clay, textile, fiber,
17 wood, metal, plastic, or glass; or (v) a work in mixed media
18 including, but not limited to, a collage, assemblage, or work
19 consisting of any combination of items (i) through (iv).

20 (Source: P.A. 90-747, eff. 1-1-99.)

21 (765 ILCS 1075/20)

22 Sec. 20. Enforcement of rights and remedies.

23 (a) The rights and remedies set forth in this Act may be
24 exercised and enforced by:

25 (1) an individual or his or her authorized

1 representative;

2 (2) a person to whom the recognized rights have been
3 transferred by written transfer under Section 15 of this
4 Act; or

5 (3) after the death of an individual who has not
6 transferred the recognized rights by written transfer
7 under this Act, any person or persons who possesses an
8 interest in those rights.

9 (a-5) In addition to the enforcement of rights and
10 remedies in subsection (a), the rights and remedies set forth
11 in this Act may, in the case of an individual who is a
12 recording artist, enforced by:

13 (1) the individual who is the recording artist; or

14 (2) a person who has entered into a contract for the
15 individual's exclusive personal services as a recording
16 artist or who has entered into a contract for an exclusive
17 license to distribute sound recordings that capture the
18 recording artist's audio performances.

19 (b) Each person described in paragraph (3) of subsection
20 (a) shall make a proportional accounting to, and shall act at
21 all times in good faith with respect to, any other person in
22 whom the rights being enforced have vested.

23 (Source: P.A. 90-747, eff. 1-1-99.)

24 (765 ILCS 1075/30)

25 Sec. 30. Limitations regarding use of an individual's

1 identity.

2 (a) A person may not use an individual's identity for
3 commercial purposes during the individual's lifetime without
4 having obtained previous written consent from the appropriate
5 person or persons specified in Section 20 of this Act or their
6 authorized representative.

7 (b) If an individual's death occurs after the effective
8 date of this Act, a person may not use that individual's
9 identity for commercial purposes for 50 years after the date
10 of the individual's death without having obtained previous
11 written consent from the appropriate person or persons
12 specified in Section 20 of this Act.

13 (c) Any person who materially contributes to, induces, or
14 otherwise facilitates a violation of this Section by another
15 person after having obtained knowledge that the other person
16 is infringing upon an individual's rights under this Section
17 may be found liable for the violation. This subsection (c)
18 includes distributing, transmitting, or otherwise making
19 available an algorithm, software, tool, or other technology
20 service or device the primary purpose or function of which is
21 to produce the identity of particular, identified individuals
22 with the knowledge that distributing, transmitting, or
23 otherwise making available that identity was not authorized by
24 the individual.

25 (d) Subsection (c) shall not apply to a person that solely
26 transmits or stores data or software, including any service

1 provider, with respect to any unauthorized digital replica by
2 reason of the storage at the direction of a user of material
3 that resides on a system or network, if the person:

4 (1) (A) does not have actual knowledge that the
5 material or an activity using the material on the system
6 or network is unauthorized;

7 (B) in the absence of such actual knowledge, is not
8 aware of facts or circumstances from which unauthorized
9 activity is apparent; or

10 (C) upon obtaining such knowledge or awareness, acts
11 expeditiously to remove, or disable access to, the
12 material; and

13 (2) does not receive a financial benefit directly
14 attributable to the unauthorized activity, in a case in
15 which the person has the right and ability to control such
16 activity; and

17 (3) upon notification of claimed unauthorized
18 activity, responds expeditiously to remove, or disable
19 access to, the material that is claimed to be infringing
20 or to be the subject of infringing activity.

21 All of the elements of 17 U.S.C. 512 shall be incorporated
22 mutatis mutandis with respect to claims relating to
23 unauthorized digital replicas. This exemption shall apply
24 without regard to whether the unauthorized version infringes
25 copyright.

26 (e) Nothing in this Act shall be construed in a manner

1 inconsistent with 47 U.S.C. 230 or any other federal law.

2 (Source: P.A. 90-747, eff. 1-1-99.)

3 (765 ILCS 1075/35)

4 Sec. 35. Applicability.

5 (a) This Act applies to acts or events that take place
6 after the effective date of this Act.

7 (b) This Act does not apply to the following:

8 (1) use of an individual's identity in an attempt to
9 portray, describe, or impersonate that individual in a
10 live performance, a single and original work of fine art,
11 play, book, article, musical work, film, radio,
12 television, or other audio, visual, or audio-visual work,
13 provided that the performance, work, play, book, article,
14 or film does not constitute in and of itself a commercial
15 purpose ~~advertisement for a product, merchandise, goods,~~
16 ~~or services;~~

17 (2) use of an individual's identity for non-commercial
18 purposes, including any news, public affairs, or sports
19 broadcast or account, or any political campaign;

20 (3) use of an individual's name in truthfully
21 identifying the person as the author of a particular work
22 or program or the performer in a particular performance;

23 (4) promotional materials, advertisements, or
24 commercial announcements for a use described under
25 paragraph (1), (2), or (3) of this subsection; or

1 (5) use of photographs, videotapes, and images by a
2 person, firm, or corporation practicing the profession of
3 photography ("professional photographer") to exhibit in or
4 about the professional photographer's place of business or
5 portfolio, specimens of the professional photographer's
6 work, unless the exhibition is continued by the
7 professional photographer after written notice objecting
8 to the exhibition has been given by the individual
9 portrayed.

10 (Source: P.A. 90-747, eff. 1-1-99.)