

1 AN ACT relating to property rights in name, voice, and likeness.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO
4 READ AS FOLLOWS:

5 (1) As used in this section:

6 (a) "Computer-generated image" means any visual depiction, including any
7 photograph, film, video, or picture, where the depiction has been created,
8 adapted, or modified by a computer using digital technology to appear to be
9 an identifiable individual and falsely depicts that individual's appearance or
10 conduct;

11 (b) "Computer-generated voice replica" means a representation of the voice of
12 an individual that has been created, adapted, or modified by a computer
13 using digital technology to falsely depict an individual's voice;

14 (c) "Digital technology" means a technology now known or hereafter created,
15 including computer software, artificial intelligence, machine learning,
16 quantum computing, or other similar technologies or devices;

17 (d) "Individual" means a natural person, living or dead, and includes the estate
18 of a minor or an incompetent or deceased individual;

19 (e) "Likeness" means a physical, digital, or other depiction or representation of
20 an individual that is identifiable or recognizable by the face, outward
21 appearance, likeness, or other distinguishing characteristics;

22 (f) "Person" means any individual, firm, association, partnership, corporation,
23 joint stock company, syndicate, receiver, common law trust, conservator,
24 statutory trust, legal or commercial entity, nonprofit corporation,
25 educational or religious institution, political party, or community or civic
26 entity; and

27 (g) "Voice" means sounds in any medium containing the actual voice or a

1 simulation of the voice of an individual.

2 (2) Every individual shall have property rights in his or her name, voice, and
3 likeness. The rights shall:

4 (a) Be transferable and descendible, in whole or in part;

5 (b) Not expire upon the death of the individual; and

6 (c) Be exclusive to the individual during his or her lifetime, subject to the
7 transfer of rights as provided in paragraph (a) of this subsection, and to the
8 executors, heirs, transferees, or devisees for a period of ten (10) years after
9 the death of the individual unless:

10 1. The name, voice, or likeness of an individual remains in use for
11 commercial purposes by all executors, heirs, transferees, or devisees;
12 or

13 2. All executors, transferees, heirs, or devisees of the individual
14 exercising his or her property rights are deceased.

15 (3) The property rights provided in subsection (2) of this section shall apply whether
16 or not an individual commercially benefited from his or her rights during the
17 individual's lifetime.

18 (4) A person shall be liable for damages as set forth in subsections (5) or (6) of this
19 section if the person, without the consent of the property rights holder:

20 (a) Publishes, displays, distributes, transmits, or otherwise makes available to
21 the public a computer-generated voice replica or computer-generated image
22 with knowledge that the property rights holder did not consent to the
23 computer-generated voice replica or computer-generated image; or

24 (b) Materially contributes to or facilitates any of the conduct set forth in
25 paragraph (a) of this subsection with knowledge that the property rights
26 holder did not consent to the conduct.

27 (5) Any person who violates subsection (4)(a) of this section shall be liable to the

1 injured person for fifty thousand dollars (\$50,000) per violation per person or the
2 actual damages suffered by the person, whichever is greater, plus any profits
3 from the unauthorized use of the individual's name, voice, or likeness.

4 (6) Any person who violates subsection (4)(b) of this section shall be liable to the
5 injured person for five thousand dollars (\$5,000) per violation per person or the
6 actual damages suffered by the person, whichever is greater, plus any profits
7 from the unauthorized use of the individual's name, voice, or likeness.

8 (7) (a) In establishing profits under subsection (5) or (6) of this section, the injured
9 party shall be required only to present proof of the gross revenue that is
10 directly or indirectly attributable to the unauthorized use.

11 (b) Any person who violates this section shall be required to prove his or her
12 expenses deductible therefrom.

13 (c) Punitive damages and reasonable attorney's fees may be awarded to the
14 injured party.

15 (8) It shall not be a defense to an alleged violation of subsection (4) of this section
16 that the unauthorized user displayed or otherwise communicated to the public a
17 disclaimer stating that the use was unauthorized or that the computer-generated
18 image or computer-generated voice replica was generated through digital
19 technology.

20 (9) An action to enforce this section may be brought by:

21 (a) The individual whose name, voice, or likeness is at issue; or

22 (b) Any other person to which the individual has assigned, bequeathed,
23 transferred, or exclusively licensed the individual's name, voice, or likeness
24 rights.

25 (10) It shall not be a violation of this section if the use is:

26 (a) By a news-gathering organization as defined in KRS 189.635(9)(b);

27 (b) In connection with any news reporting, public affairs, or sports broadcast;

1 (c) Consistent with public interest in comment, criticism, or scholarship;

2 (d) Satire or parody; or

3 (e) By an interactive computer service as defined in 47 U.S.C. sec. 230.

4 (11) A civil action brought under this section shall commence within four (4) years
5 after the injured party discovers or should have reasonably discovered the
6 violation.

7 (12) Nothing in this section shall limit rights a person has under KRS 164.6901 to
8 164.6935, 391.170, or any other statutory or common law providing protections
9 against the unauthorized use of an individual's name, voice, or likeness.