

SENATE BILL REPORT

HB 1580

As Reported By Senate Committee On:
Judiciary, February 27, 2004

Title: An act relating to personality rights.

Brief Description: Revising provisions of the personality rights act.

Sponsors: Representatives Lantz, Carrell, Flannigan, Campbell, Morris and Pettigrew.

Brief History:

Committee Activity: Judiciary: 4/3/03, 4/4/03 [DP]; 2/27/04 [DP].

SENATE COMMITTEE ON JUDICIARY

Majority Report: Do pass.

Signed by Senators McCaslin, Chair; Esser, Vice Chair; Brandland, Haugen, Johnson, Kline, Roach and Thibaudeau.

Staff: Lidia Mori (786-7755)

Background: In 1998 the Legislature enacted the Personality Rights Act, which established that every person has a property right in the use of his or her name, voice, signature, photograph, or likeness.

The property right is exclusive to the individual or personality during his or her lifetime. It may be assigned or licensed while the individual or personality is alive, or may descend through a will or under the laws governing distribution of property if there is no will. The property right exists whether or not an individual or personality made commercial use of it while alive.

The extent of the property right depends upon whether the person's name, voice, signature, photograph, or likeness has commercial value. If it has commercial value, he or she is considered a "personality." For personalities, the property right exists for 75 years after death. For individuals, the property right continues for ten years after the individual dies.

Any person who uses an individual's or personality's name, voice, signature, photograph, or likeness without prior consent infringes on this property right and is liable in an action for damages for the greater of \$1,500 or actual damages, plus any profits attributable to the infringement.

The act provides several exceptions to the use of a person's name, voice, signature, photograph, or likeness. For example, it is not an infringement if the use is:

- in connection with matters of cultural, historical, political, religious, educational, newsworthy, or public interest;
- for purposes of commentary, criticism, satire, or parody;

- in single original works of fine art that are not published in more than five copies;
- in literary, theatrical, or musical work and any advertisements for those works;
- in a film, radio, television, or online program, or magazines articles; or
- an insignificant or incidental use.

When the act was first introduced in the Legislature, it contained a provision specifying how a person may sue when the person was photographed as part of a "definable group," such as a crowd at a sporting event. The provision was eventually removed from the bill, but the term "definable group" remains in the definitions.

Summary of Bill: The definition of "definable group" is removed. A parent of a minor child may exercise the minor child's individual or personality rights granted under the act.

The act does not apply to the distribution, promotion, transfer, or license of a photograph or other material containing a person's name, voice, signature, photograph, or likeness to a third party for use in a manner that is lawful, and to the third party's further distribution, promotion, transfer, or license for a use that is lawful.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: None.

Testimony Against: None.

Testified: No one.