

FINAL BILL REPORT

SHB 2727

C 62 L 08

Synopsis as Enacted

Brief Description: Extending personality rights to deceased persons.

Sponsors: By House Committee on Judiciary (originally sponsored by Representatives Lantz, Pedersen, Rodne, Goodman, Williams and Green).

House Committee on Judiciary
Senate Committee on Judiciary

Background:

In 1998 the Legislature enacted the Personality Rights Act establishing 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 person during his or her lifetime, and may be assigned or licensed while the person is alive. The property right does not expire when the person dies. It may descend in a will or other testamentary transfer or, if none is available, by the laws of intestate succession. The right exists whether or not it was commercially exploited during the person's lifetime.

The duration 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," and the property right exists for 75 years after death. Deceased personalities include all such persons who have died since 1948. For deceased individuals not considered personalities, the property right continues for 10 years after the individual dies.

Any person who uses the name, voice, signature, photograph, or likeness of a personality or an individual 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.

There are several uses of a person's name, voice, signature, photograph, or likeness excepted from the general prohibition. 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 works, and any advertisements for those works;
- in a film, radio, television, or online program, or magazine articles; or
- an insignificant or incidental use.

Summary:

Personality rights exist for all individuals or personalities deceased before, on, or after June 11, 1998.

When Applicable.

The act applies to all causes of action commenced on or after June 11, 1998, regardless of when the cause of action arose. It applies to all individuals and personalities, living and deceased, regardless of place of domicile or place of domicile at time of death.

Determination of Rights.

Personality rights are deemed to have existed before June 11, 1998, for purposes of determining who is entitled to the rights recognized under the Personality Rights Act.

Transferability of Rights.

An individual or personality, or any subsequent owner of that individual or personality's personality rights, may freely transfer his or her interest through any valid and permissible inter vivos or testamentary instrument, regardless of when the transferring instrument was entered or executed.

Personality rights do not expire and are owned and enforceable by those designated in a testamentary instrument or by intestate succession upon the death of the person, regardless of whether the law of the deceased person's domicile, residence, or citizenship recognizes a comparable property right.

A "deceased individual" is any individual, regardless of the individual's place of domicile, residence, or citizenship at the time of death, who has died since 1988.

The definition of "deceased personality" is modified to include the phrase, "regardless of the personality's place of domicile, residence, or citizenship at the time of death or otherwise."

Votes on Final Passage:

House	94	0
Senate	46	0

Effective: June 12, 2008