
Civil Rights & Judiciary Committee

SSB 5886

Brief Description: Concerning personality rights.

Sponsors: Senate Committee on Law & Justice (originally sponsored by Senators Boehnke, Dozier, Nobles, Valdez and Wilson, J.).

Brief Summary of Substitute Bill

- Expands personality rights to include an individual's or personality's forged digital likeness.
- Modifies civil penalty and liabilities for infringement of personality rights.

Hearing Date: 2/20/26

Staff: Yelena Baker (786-7301).

Background:

Under the Personality Rights Act, every individual has a property right in the use of his or her name, voice, signature, photograph, or likeness. "Likeness" includes an image, painting, diagram, or any other clear representation, other than a photograph, of an individual's face, body, distinctive appearance, gestures, or mannerisms.

If an individual's name, voice, signature, photograph, or likeness has commercial value, the individual is considered a "personality." The property right exists whether or not an individual or personality made commercial use of it during the individual's or personality's lifetime.

The property right is exclusive to the individual or personality and may be freely transferred, assigned, or licensed, in whole or in part. The right does not expire upon death, regardless of

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whether the law of the individual's or personality's domicile at the time of death recognizes a similar property right, and may descend through a will, another testamentary transfer, or under the laws governing intestate succession. The property right of any individual who has died since 1988 continues to exist for 10 years after death. The property right of any personality who has died since 1948 continues to exist for 75 years after death.

A person infringes on personality rights if the person uses a living or deceased individual's or personality's name, voice, signature, photograph, or likeness without consent:

- on or in goods, merchandise, or products entered into commerce in Washington;
- for purposes of advertising products or services in Washington;
- for purposes of fund-raising or solicitation of donations; or
- by publishing or disseminating infringing advertisements in Washington.

An infringement may occur regardless of whether the use is for profit or not for profit.

An individual's or personality's consent is not required if the use is connected with matters of cultural, historical, political, religious, educational, newsworthy, or public interest, including commentary, criticism, satire, and parody. Several uses of an individual's or personality's name, voice, signature, photograph, or likeness are exempt from the Personality Rights Act, including the use in literary, musical, cinematographic, or other artistic work and in advertisements related to exempt uses.

A person who infringes on personality rights is liable for the greater of \$1,500 or actual damages, as well as any profits attributable to the infringement. A court may grant an injunction to prevent or restrain the unauthorized use of the rights in a living or deceased individual's or personality's name, voice, signature, photograph, or likeness.

Summary of Bill:

The Personality Rights Act is expanded to include the use of an individual's or personality's forged digital likeness.

"Forged digital likeness" means a visual representation which is either persistent or transmitted in real time of an actual and identifiable individual, or an audio recording which is either persistent or transmitted in real time of an actual and identifiable individual's voice, which:

- has been digitally created, adapted, altered, or modified to be indistinguishable from a genuine visual representation or audio recording of the individual;
- misrepresents the appearance, speech, or conduct of the individual; and
- is likely to deceive a reasonable person into believing that the visual representation or audio recording is genuine.

Unauthorized use of an individual's or personality's forged digital likeness is an infringement on the individual's or personality's personality rights.

The civil penalty for infringement of personality rights is increased to \$3,000. A person who infringes on personality rights is liable for both the civil penalty and actual damages, rather than only for the greater of the two.

If the infringement is of a living or deceased individual's or personality's forged digital likeness, the infringing party is liable for noneconomic damages sustained as a result of the infringement, regardless of whether or not the infringement resulted in any profit.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.