

By: Senator(s) Williams

To: Judiciary, Division B

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2796

1 AN ACT TO ENACT THE "ENSURING LIKENESS, VOICE AND IMAGE
2 SECURITY ACT OF 2025"; TO DEFINE TERMS; TO STIPULATE THAT EVERY
3 INDIVIDUAL HAS A PROPERTY RIGHT IN THE USE OF THAT INDIVIDUAL'S
4 NAME, PHOTOGRAPH, VOICE OR LIKENESS; TO STIPULATE THAT PROPERTY
5 RIGHTS PROVIDED IN THIS ACT ARE EXCLUSIVE TO THE INDIVIDUAL; TO
6 IMPLEMENT COMMERCIAL EXPLOITATION GUIDELINES; TO CREATE A CIVIL
7 ACTION UPON VIOLATION OF THIS ACT; TO STIPULATE THAT VIOLATION OF
8 THIS ACT IS A CLASS A MISDEMEANOR; TO DESCRIBE THE ABILITIES OF
9 THE COURT IN CASES CONCERNING THIS ACT; TO ALLOW THE COURT TO
10 GRANT INJUNCTIONS; TO DESCRIBE REMEDIES AVAILABLE UNDER THIS ACT;
11 TO DESCRIBE FAIR USE EXCEPTIONS TO THIS ACT; AND FOR RELATED
12 PURPOSES.

13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

14 **SECTION 1.** This act shall be known and may be cited as
15 "Ensuring Likeness, Voice and Image Security Act of 2025."

16 **SECTION 2.** As used in this chapter, the following terms have
17 the meaning herein ascribed unless the context clearly requires
18 otherwise:

19 (a) "Definable group" means an assemblage of
20 individuals existing or brought together with or without
21 interrelation, orderly form, or arrangement, including, but not
22 limited to, a crowd at any sporting event, a crowd in any street



or public building, the audience at any theatrical or stage production, a glee club or a baseball team;

(b) "Individual" means human being, living or dead;

(c) "Likeness" means the use of an image of an individual for commercial purposes;

(d) "Person" means any individual, firm, association, partnership, corporation, joint-stock company, syndicate, receiver, common law trust, conservator, statutory trust or any other concern by whatever name known or however organized, formed or created, and includes not-for-profit corporations, associations, educational and religious institutions, political parties, community, civic or other organizations;

(e) "Photograph" means any photograph or photographic reproduction, still or moving, or any videotape or live television transmission, of any individual that is readily identifiable; and

(f) "Voice" means a sound in a medium that is readily identifiable and attributable to a particular individual, regardless of whether the sound contains the actual voice or a simulation of the voice of the individual.

SECTION 3. (1) Every individual has a property right in the use of that individual's name, photograph, voice or likeness in any medium in any manner.

(2) The individual rights provided for in subsection (1) of this section constitute property rights and are freely assignable and licensable, and do not expire upon the death of the individual



so protected, whether or not such rights were commercially exploited by the individual during the individual's lifetime, but shall be descendible to the executors, assigns, heirs or devisees of the individual so protected by this act.

SECTION 4. (1) The rights provided for in this act shall be deemed exclusive to the individual, subject to the assignment or licensing of such rights as provided in Section 3 of this act, during such individual's lifetime and to the executors, heirs, assigns or devisees for a period of ten (10) years after the death of the individual.

(2) (a) Commercial exploitation of the property right by any executor, assignee, heir or devisee if the individual is deceased shall maintain the right as the exclusive property of the executor, assignee, heir or devisee until such right is terminated as provided in this subsection (2).

(b) (i) The exclusive right to commercial exploitation of the property rights is terminated by proof of the nonuse of the name, photograph, voice or likeness of an individual for commercial purposes by an executor, assignee, heir or devisee to the use for a period of two (2) years subsequent to the initial period of ten (10) years following the individual's death.

(ii) For the purposes of subparagraph (i) of this paragraph (b), "use" includes the commercial availability of a sound recording or audiovisual work in which the individual's name, photograph, voice or likeness is readily identifiable.



SECTION 5.

(1) (a) Any person who knowingly uses or infringes upon the use of an individual's name, photograph, voice or likeness in any medium, in any manner directed to any person other than such individual, for purposes of advertising products, merchandise, goods or services, or for purposes of fundraising, solicitation of donations, purchases of products, merchandise, goods or services, without such individual's prior consent, or, in the case of a minor, the prior consent of such minor's parent or legal guardian, or in the case of a deceased individual, the consent of the executor or administrator, heirs or devisees of such deceased individual, is liable to a civil action.

(b) A person is liable to a civil action if the person publishes, performs, distributes, transmits or otherwise makes available to the public an individual's voice or likeness, with knowledge that use of the voice or likeness was not authorized by the individual or, in the case of a minor, the minor's parent or legal guardian, or in the case of a deceased individual, the executor or administrator, heirs or devisees of such deceased individual.

(c) A person is liable to a civil action if the person distributes, transmits or otherwise makes available an algorithm, software, tool or other technology, service or device, is the production of a particular, identifiable individual's photograph, voice or likeness, with knowledge that distributing, transmitting or otherwise making available the photograph, voice or likeness



was not authorized by the individual or, in the case of a minor, the minor's parent or legal guardian, or in the case of a deceased individual, the executor or administrator, heirs or devisees of such deceased individual.

(2) In addition to the civil action authorized by this section and the remedies set out in Section 6 of this act, any person who commits unauthorized use as defined in subsection (1) of this section commits a Class A misdemeanor.

(3) It is no defense to the unauthorized use defined in subsection (1) of this section that the photograph includes more than one (1) individual so identifiable; provided, that the individual or individuals complaining of the use shall be represented as individuals per se rather than solely as members of a definable group represented in the photograph.

(4) If an unauthorized use as defined in subsection (1) of this section is by means of products, merchandise, goods or other tangible personal property, all such property, including all instrumentalities used in connection with the unauthorized use by the person violating this section, is declared contraband and subject to seizure by, and forfeiture to, the state in the same manner as is provided by law for the seizure and forfeiture of other contraband items.

SECTION 6. (1) The chancery and circuit court having jurisdiction for any action arising pursuant to this act may grant injunctions on such terms as it may deem reasonable to prevent or



restrain the unauthorized use of an individual's name, photograph, voice or likeness. As part of such injunction, the court may authorize the confiscation of all unauthorized items and seize all instrumentalities used in connection with the violation of the individual's rights. All instrumentalities seized pursuant to enforcing an injunction under this subsection (1) shall be liquidated and used to satisfy statutory damages, if damages are recovered by the rights holder.

(2) At any time while an action under this section is pending, the court may order the impounding, on such terms as it may deem reasonable, of all materials or any part thereof claimed to have been made or used in violation of the individual's rights, and such court may enjoin the use of all plates, molds, matrices, masters, tapes, film negatives or other articles by means of which such materials may be reproduced.

(3) As part of a final judgment or decree, the court may order the destruction or other reasonable disposition of all materials found to have been made or used in violation of the individual's rights, and of all plates, molds, matrices, masters, tapes, film negatives or other articles by means of which such materials may be reproduced.

(4) (a) An individual is entitled to recover the actual damages suffered as a result of the knowing use or infringement of such individual's rights and any profits that are attributable to such use or infringement which are not taken into account in



148 computing the actual damages. Profit or lack thereof by the
149 unauthorized use or infringement of an individual's rights shall
150 to be a criteria of determining liability.

151 (b) An individual is entitled to recover three (3)
152 times the amount to which the individual is entitled under
153 paragraph (a) of this subsection (4), plus reasonable attorney
154 fees, if a person knowingly uses or infringes the rights of a
155 member of the armed forces in violation of this act. As used in
156 this paragraph (b) "member of the Armed Forces" means a member of
157 the United States Armed Forces or a member of a reserve or
158 Mississippi National Guard unit who is in, or was called into,
159 active service or active military service of the United States.

160 (5) The remedies provided for in this section are cumulative
161 and shall be in addition to any others provided for by law.

162 (6) Where a person has entered into a contract for an
163 individual's exclusive personal services as a recording artist or
164 an exclusive license to distribute sound recordings that capture
165 an individual's audio performances, an action to enforce the
166 rights set forth in this section may be brought by the person or
167 the individual.

168 **SECTION 7.** (1) To the extent such use is protected by the
169 First Amendment to the United States Constitution, it is deemed a
170 fair use and not a violation of an individual's right, for
171 purposes of this section, if the use of a name, photograph, voice
172 or likeness is:



(a) In connection with any news, public affairs or sports broadcast or account;

(b) For purpose of comment, criticism, scholarship, satire or parody;

(c) A representation of the individual as the individual's self in an audiovisual work, as defined under 17 U.S.C. Section 101, unless the audiovisual work containing the use is intended to create, and does create, the false impression that the work is an authentic recording in which the individual participated;

(d) Fleeting or incidental; or

(e) An advertisement or commercial announcement for a work described in this subsection (1).

(2) The use of a name, photograph, voice or likeness in a commercial medium does not constitute a use for purposes of advertising or solicitation solely because the material containing such use is commercially sponsored or contains paid advertising. Rather it shall be a question of fact whether or not the use of the complainant individual's name, photograph, voice or likeness was so directly connected with the commercial sponsorship or with the paid advertising as to constitute a use for purposes of advertising or solicitation.

(3) Nothing in this section applies to the owners or employees of any medium used for advertising, including, but not limited to, newspapers, magazines, radio and television stations,



198 cable providers, producers, or programmers, streaming platforms,
199 mobile applications, billboards and transit ads, who are paid to
200 publish or disseminate any advertisement or solicitation in
201 violation of this section.

202 **SECTION 8.** This act shall take effect and be in force from
203 and after July 1, 2025, and shall stand repealed on June 30, 2025.

