

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

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

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

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

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

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

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

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

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



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

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

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

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

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



73 **SECTION 5.** (1) (a) Any person who knowingly uses or
74 infringes upon the use of an individual's name, photograph, voice
75 or likeness in any medium, in any manner directed to any person
76 other than such individual, for purposes of advertising products,
77 merchandise, goods or services, or for purposes of fundraising,
78 solicitation of donations, purchases of products, merchandise,
79 goods or services, without such individual's prior consent, or, in
80 the case of a minor, the prior consent of such minor's parent or
81 legal guardian, or in the case of a deceased individual, the
82 consent of the executor or administrator, heirs or devisees of
83 such deceased individual, is liable to a civil action.

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

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



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

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

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

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

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



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

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

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

144 (4) (a) An individual is entitled to recover the actual
145 damages suffered as a result of the knowing use or infringement of
146 such individual's rights and any profits that are attributable to
147 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:

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

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

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

183 (d) Fleeting or incidental; or

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

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

195 (3) Nothing in this section applies to the owners or
196 employees of any medium used for advertising, including, but not
197 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.

