STATE OF NEW YORK

8721

IN SENATE

January 7, 2026

Introduced by Sen. WEIK -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the civil rights law, in relation to establishing privacy and commercial rights for likenesses altered using artificial intelligence

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The civil rights law is amended by adding a new section 50-h to read as follows:

§ 50-h. Right of publicity; digitization. 1. For purposes of this section:

a. "depicted individual" means an individual whose name, voice, signature, still or video image, or likeness is used on or in products, merchandise, or goods, or for purposes of advertising or selling, or solicitation of purchase of, products, merchandise, goods, or services.

b. "digitization" means the use of software, machine learning, artificial intelligence, or any other computer-generated or technological means, including adapting, modifying, manipulating, or altering a realistic depiction.

c. "individual" means a natural person.

2. a. Any person who uses a depicted individual whose name, voice, signature, still or video image, or likeness has been created or altered by digitization, in any manner, on or in products, merchandise, or goods, or for purposes of advertising or selling, or soliciting purchases of, products, merchandise, goods, or services, without prior consent from the depicted individual shall be liable for any damages sustained by the person or persons injured as a result thereof.

b. In any action brought under this section:

i. the person who violated this section shall be liable to the injured party or parties in an amount equal to the greater of two thousand dollars or the compensatory damages suffered by the injured party or parties, as a result of the unauthorized use, and any profits from the unauthorized use that are attributable to such use and are not taken into account in computing the compensatory damages.

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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ii. in establishing profits under this subdivision, the injured party or parties shall be required to present proof only of the gross revenue attributable to the unauthorized use, and the person who violated this section is required to prove their deductible expenses.

iii. punitive damages may also be awarded to the injured party or parties.

c. For purposes of this subdivision:

i. it shall not be a violation of paragraph a of this subdivision if the work is a play, book, magazine, newspaper, or other literary work; musical work or composition; work of art or other visual work; work of political, public interest, educational or newsworthy value, including comment, criticism, parody or satire; audio or audiovisual work, radio or television program, if it is fictional or nonfictional entertainment; or an advertisement or commercial announcement for any of the foregoing works.

ii. it shall not be a violation of this section if the use of a name, voice, signature, still or video image, or likeness occurs in connection with any news, public affairs, or sports program or account, regardless of format, medium or means of transmission, or any political campaign.

iii. it shall not be a violation of this section if the use is of a name, voice, signature, still or video image, or likeness in a commercial medium solely because the material containing the use is commercially sponsored or contains paid advertising or product placement, or includes within it a use in connection with a product, article of merchandise, good, or service. Rather, it shall be a question of fact whether or not the use of the depicted individual's name, voice, signature, still or video image, or likeness was so directly connected with the commercial sponsorship or with the paid advertising or product placement as to constitute a use for which consent is required under this subdivision.

iv. works identified pursuant to this paragraph shall not violate this section, regardless of the medium or means of transmission.

d. In relation to a violation of paragraph a of this subdivision, if a work that is protected under paragraph c of this subdivision includes within it a use in connection with a product, article of merchandise, good, or service, this use shall not be exempt under paragraph c of this subdivision, notwithstanding the unprotected use's inclusion in a work otherwise exempt under paragraph c of this subdivision, if the claimant proves that this use is so directly connected with a product, article of merchandise, good, or service as to constitute an act of advertising, selling, or soliciting purchases of that product, article of merchandise, good, or service by the depicted individual without prior consent for the use under paragraph a of this subdivision from the person or persons specified in subdivision four of this section.

3. The rights recognized under this section are property rights, freely transferable or descendible, in whole or in part, by contract, license, gift, or by means of any trust or any other testamentary instrument. In the absence of an express transfer in a testamentary instrument of the depicted individual's rights in their name, voice, signature, still or video image, or likeness, a provision in the testamentary instrument that provides for the disposition of the residue of the depicted individual's assets shall be effective to transfer the rights recognized under this section in accordance with the terms of that provision. The rights established by this section shall also be freely transferable or descendible by contract, license, gift, trust, or any other testamentary instrument by any subsequent owner of the

depicted individual's rights as recognized by this section. Nothing in this section shall be construed to render invalid or unenforceable any contract entered into by a depicted individual during their lifetime by which the depicted individual assigned the rights, in whole or in part, to use their name, voice, signature, still or video image, or likeness.

4. The consent required by this section shall be exercisable by the person or persons to whom the right of consent, or portion thereof, has been transferred in accordance with subdivision three of this section, or if no transfer has occurred, then by the person or persons to whom the right of consent, or portion thereof, has passed in accordance with subdivision five of this section.

5. Subject to subdivisions three and four of this section, the rights under this section of an individual dying intestate shall be distributed under the laws of intestate succession, and the rights and remedies of this article may be exercised and enforced by a person or persons who possess at least a fifty-one percent interest of the individual's rights under this section. Such persons shall make a proportional accounting to, and shall act at all times in good faith with respect to, any other person in whom the rights being enforced have vested.

6. If any depicted individual does not transfer their rights under this section by contract, or by means of a trust or testamentary instrument, and there are no surviving persons as described in subdivision five of this section, then the rights set forth in subdivision two of this section shall terminate.

7. a. Any person claiming to be a successor in interest to the rights of a depicted individual under this section or a licensee thereof may register that claim with the secretary of state on a form prescribed by the secretary of state and upon payment of a fee, which the secretary of state shall set by rule. The form shall be verified and shall include the name and date of death of the depicted individual, the name and address of the claimant, the basis of the claim, and the rights claimed. A successor in interest to the rights of a depicted individual under this section or a licensee thereof shall not have a cause of action for a use prohibited by this section that occurs before the successor in interest or licensee registers a claim of the rights.

b. Upon receipt and after filing of any document under this section, the secretary of state shall post the document along with the entire registry of persons claiming to be a successor in interest to the rights of a depicted individual or a registered licensee under this section upon the secretary of state's internet website.

c. Claims registered under this subdivision shall be public records.

8. An action shall not be brought under this section by reason of any use of a depicted individual whose name, voice, signature, still or video image, or likeness has been created or altered by digitization occurring after the expiration of forty years after the death of such individual.

9. Nothing in this section shall apply to the owners or employees of any medium used for advertising, including, but not limited to, newspapers, magazines, radio and television networks and stations, cable television systems, billboards, and transit advertisements, by whom any advertisement or solicitation in violation of this section is published or disseminated, unless it is established that the owners or employees had actual knowledge by prior notification of the unauthorized use of the depicted individual's name, voice, signature, still or video image, or likeness as prohibited by this section.

10. Nothing in this section shall apply to a person that offers a service that displays, offers for sale or license, sells or licenses a work of art or other visual work, or audiovisual work, to a user, provided the terms of such sale or license do not authorize such user to engage in acts that constitute a violation of this section.

11. The provisions of this section are in addition to, but shall not supersede, any other rights or remedies available in law or equity.

12. This section shall apply to the adjudication of liability and the imposition of any damages or other remedies in cases in which the liability, damages, and other remedies arise from acts occurring directly in this state. For purposes of this section, acts giving rise to liability shall be limited to the use, on or in products, merchandise, goods, or services, or the advertising or selling, or soliciting purchases of, products, merchandise, goods, or services prohibited by this section.

13. Nothing in this section shall be construed to limit, or to enlarge, the protections that 47 U.S.C. § 230 confers on an interactive computer service for content provided by another information content provider, as such terms are defined in 47 U.S.C. § 230.

§ 2. The civil rights law is amended by adding a new section 52-e to read as follows:

§ 52-e. Private right of action for unlawful dissemination or publication of an image created by digitization. 1. Any person depicted in still or video image created or altered by digitization, regardless of whether or not the original still or video image was consensually obtained, shall have a cause of action against an individual who, for the purpose of harassing, annoying or alarming such person, disseminated or published, or threatened to disseminate or publish, such still or video image, where such image:

a. was taken when such person had a reasonable expectation that the image would remain private; and

b. was disseminated or published, or threatened to be disseminated or published, without the consent of such person.

2. In any action commenced pursuant to subdivision one of this section, the finder of fact, in its discretion, may award injunctive relief, punitive damages, compensatory damages and reasonable court costs and attorneys' fees.

3. This section shall not apply to the following:

a. the reporting of unlawful conduct;

b. dissemination or publication of an image made during lawful and common practices of law enforcement, legal proceedings or medical treatment;

c. images involving voluntary exposure in a public or commercial setting; or

d. dissemination or publication of an image made for a legitimate public purpose.

4. Any person depicted in a still video or image created or altered by digitization which is disseminated or published without the consent of such person and where such person had a reasonable expectation that the image would remain private, may maintain an action or special proceeding for a court order to require any website that is subject to personal jurisdiction under subdivision five of this section to permanently remove such still or video image; any such court order granted pursuant to this subdivision may direct removal only as to images that are reasonably within such website's control.

5. a. Any website that hosts or transmits a still or video image created or altered by digitization, viewable in this state, taken under circumstances where the person depicted had a reasonable expectation that the image would remain private shall; and

b. Such still or video image is hosted or transmitted without the consent of such resident of this state, shall be subject to personal jurisdiction in a civil action in this state to the maximum extent permitted under the United States constitution and federal law.

6. A cause of action or special proceeding under this section shall be commenced the later of either:

a. three years after the dissemination or publication of an image; or

b. one year from the date a person discovers, or reasonably should have discovered, the dissemination or publication of such image.

7. Nothing herein shall be read to require a prior criminal complaint, prosecution or conviction to establish the elements of the cause of action provided for by this section.

8. The provisions of this section are in addition to, but shall not supersede, any other rights or remedies available in law or equity.

9. If any provision of this section or its application to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this section which can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.

10. Nothing in this section shall be construed to limit, or to enlarge, the protections that 47 U.S.C. § 230 confers on an interactive computer service for content provided by another information content provider, as such terms are defined in 47 U.S.C. § 230.

11. For purposes of this section, "digitization" means the use of software, machine learning, artificial intelligence, or any other computer-generated or technological means, including adapting, modifying, manipulating, or altering a realistic depiction.

§ 3. This act shall take effect on the ninetieth day after it shall have become a law.