STATE OF NEW YORK

8138--B

R. R. 532

2023-2024 Regular Sessions

IN ASSEMBLY

October 13, 2023

Introduced by M. of A. WEINSTEIN, L. ROSENTHAL, BRONSON, BORES -- read once and referred to the Committee on Judiciary -- recommitted to the Committee on Judiciary in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported and referred to the Committee on Ways and Means -- reported and referred to the Committee on Rules -- ordered to a third reading -- amended on the special order of third reading, ordered reprinted as amended, retaining its place on the special order of third reading

AN ACT to amend the general obligations law, in relation to contracts for the creation and use of digital replicas

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

Section 1. The general obligations law is amended by adding a new section 5-302 to read as follows:

§ 5-302. 1. Contracts for the creation and use of digital replicas. Any provision in an agreement between an individual and any other person or entity for the performance of personal or professional services is contrary to public policy and shall be void and unenforceable as it relates to a new performance by digital replication if the provision meets all of the following conditions:

(a) The provision allows for the creation and use of a digital replica of the individual's voice or likeness in place of work the individual would otherwise have performed in person.

(b) The provision does not include a reasonably specific description of the intended use of the digital replica. Failure to include a reasonably specific description of the intended uses of a digital replica shall not render the provision unenforceable when the uses are consistent with the terms of the contract for the performance of personal or professional services and consistent with the fundamental character of the photography or sound track as recorded or performed.

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

LBD13334-10-4

(c) The individual was not:

(i) represented by legal counsel who negotiated on behalf of the individual licensing the individual's digital replica rights and the licensing terms are not stated clearly and conspicuously in an employment contract that is separately signed or initialed by the individual or in a separate writing that is signed by the individual; or

(ii) represented by a labor organization representing workers who do the proposed work and the terms of their collective bargaining agreement expressly address uses of digital replicas.

2. This section shall not affect provisions of a contract other than a provision that falls under subdivision one of this section.

3. As used in this section, "digital replica" means a digital simulation of the voice or likeness of an individual that so closely resembles the individual's voice or likeness that a layperson would not be able to readily distinguish the digital simulation from the individual's authentic voice or likeness.

§ 2. This act shall take effect January 1, 2025 and shall apply to contracts entered into or modified on or after such effective date.