

# SB3325



## 103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB3325

Introduced 2/7/2024, by Sen. Mary Edly-Allen

### SYNOPSIS AS INTRODUCED:

765 ILCS 1075/5  
765 ILCS 1075/20  
765 ILCS 1075/30

Amends the Right of Publicity Act. Grants additional enforcement rights and remedies to recording artists. Provides for the liability of any person who materially contributes to, induces, or otherwise facilitates a violation of a specified provision of the Act by another party after having reason to know that the other party is in violation. Defines "artificial intelligence" and "generative artificial intelligence". Changes the definition of "commercial purpose" and "identity".

LRB103 38764 JRC 68901 b

A BILL FOR

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Right of Publicity Act is amended by  
5 changing Sections 5, 20, and 30 as follows:

6 (765 ILCS 1075/5)

7 Sec. 5. Definitions. As used in this Act:

8 "Artificial intelligence" means a machine-based system  
9 that can make predictions, recommendations, or decisions  
10 influencing real or virtual environments for a given set of  
11 human-defined objectives. "Artificial intelligence" includes  
12 generative artificial intelligence.

13 "Commercial purpose" means the public use or holding out  
14 of an individual's identity (i) on or in connection with the  
15 offering for sale or sale of a product, merchandise, goods, or  
16 services; (ii) for purposes of advertising or promoting  
17 products, merchandise, goods, or services; ~~or~~ (iii) for the  
18 purpose of fundraising; or (iv) for the purposes of  
19 distributing, transmitting, or otherwise making available a  
20 sound recording or audiovisual work that contains a simulated  
21 or artificially created version of an individual's identity,  
22 as a substitute for, in place of, or in a competitive fashion  
23 with, a sound recording or audiovisual work the individual

1 would otherwise have personally created using the individual's  
2 identity.

3 "Generative artificial intelligence" means an automated  
4 computing system that, when prompted with human prompts,  
5 descriptions, or queries, can produce outputs that simulate  
6 human-produced content, including, but not limited to, the  
7 following:

8 (1) textual outputs, such as short answers, essays,  
9 poetry, or longer compositions or answers;

10 (2) image outputs, such as fine art, photographs,  
11 conceptual art, diagrams, and other images;

12 (3) multimedia outputs, such as audio or video in the  
13 form of compositions, songs, or short-form or long-form  
14 audio or video; and

15 (4) other content that would be otherwise produced by  
16 human means.

17 "Identity" means any attribute of an individual that  
18 occurs in any medium, that is readily identifiable and  
19 attributable to a particular individual, regardless of whether  
20 the attribute contains the actual attribute of an individual,  
21 a simulation of the attribute of an individual, or is created  
22 through the use of artificial intelligence, and that serves to  
23 identify that individual to an ordinary, reasonable viewer or  
24 listener, including but not limited to, (i) name, (ii)  
25 signature, (iii) photograph, (iv) image, (v) likeness, or (vi)  
26 voice.

1 "Individual" means a living or deceased natural person,  
2 regardless of whether the identity of that individual has been  
3 used for a commercial purpose during the individual's  
4 lifetime.

5 "Juristic person" means a partnership, trust, estate,  
6 corporation, unincorporated association, or other organization  
7 capable of suing and being sued in a court of law.

8 "Name" means the actual name or other name by which an  
9 individual is known that is intended to identify that  
10 individual.

11 "Person" means a natural or juristic person.

12 "Work of Fine Art" means (i) a visual rendition including,  
13 but not limited to, a painting, drawing, sculpture, mosaic,  
14 videotape, or photograph; (ii) a work of calligraphy; (iii) a  
15 work of graphic art including, but not limited to, an etching,  
16 lithograph, serigraph, or offset print; (iv) a craft work in  
17 materials including, but not limited to, clay, textile, fiber,  
18 wood, metal, plastic, or glass; or (v) a work in mixed media  
19 including, but not limited to, a collage, assemblage, or work  
20 consisting of any combination of items (i) through (iv).

21 (Source: P.A. 90-747, eff. 1-1-99.)

22 (765 ILCS 1075/20)

23 Sec. 20. Enforcement of rights and remedies.

24 (a) The rights and remedies set forth in this Act may be  
25 exercised and enforced by:

1 (1) an individual or his or her authorized  
2 representative;

3 (2) a person to whom the recognized rights have been  
4 transferred by written transfer under Section 15 of this  
5 Act; or

6 (3) after the death of an individual who has not  
7 transferred the recognized rights by written transfer  
8 under this Act, any person or persons who possesses an  
9 interest in those rights.

10 (a-5) In addition to the exercise and enforcement of  
11 rights and remedies in subsection (a), the rights and remedies  
12 set forth in this Act may, in the case of an individual who is  
13 a recording artist, be exercised and enforced by:

14 (1) the individual who is the recording artist; or

15 (2) a person who has entered into a contract for the  
16 individual's exclusive personal services as a recording  
17 artist or who has entered into a contract for an exclusive  
18 license to distribute sound recordings that capture the  
19 recording artist's audio performances.

20 (b) Each person described in paragraph (3) of subsection  
21 (a) shall make a proportional accounting to, and shall act at  
22 all times in good faith with respect to, any other person in  
23 whom the rights being enforced have vested.

24 (Source: P.A. 90-747, eff. 1-1-99.)

25 (765 ILCS 1075/30)

1           Sec. 30. Limitations regarding use of an individual's  
2 identity.

3           (a) A person may not use an individual's identity for  
4 commercial purposes during the individual's lifetime without  
5 having obtained previous written consent from the appropriate  
6 person or persons specified in Section 20 of this Act or their  
7 authorized representative.

8           (b) If an individual's death occurs after the effective  
9 date of this Act, a person may not use that individual's  
10 identity for commercial purposes for 50 years after the date  
11 of the individual's death without having obtained previous  
12 written consent from the appropriate person or persons  
13 specified in Section 20 of this Act.

14           (c) Any person who materially contributes to, induces, or  
15 otherwise facilitates a violation of this Section by another  
16 person after having obtained knowledge or having reason to  
17 know that the other person is infringing upon an individual's  
18 rights under this Section may be found liable for the  
19 violation. This subsection (c) includes distributing,  
20 transmitting or otherwise making available an algorithm,  
21 software, tool, or other technology, service, or device the  
22 primary purpose or function of which is to produce the  
23 identity of particular, identified individuals.

24           (Source: P.A. 90-747, eff. 1-1-99.)