

Amendment No. 1 to HB2091

Vaughan  
Signature of Sponsor

**AMEND Senate Bill No. 2096**

**House Bill No. 2091\***

by deleting all language after the enacting clause and substituting the following:

SECTION 1. Tennessee Code Annotated, Section 47-25-1101, is amended by deleting "Personal Rights Protection Act of 1984" and substituting "Ensuring Likeness, Voice, and Image Security Act of 2024".

SECTION 2. Tennessee Code Annotated, Section 47-25-1102(4), is amended by inserting "individual," before "firm,".

SECTION 3. Tennessee Code Annotated, Section 47-25-1102, is amended by adding the following as a new subdivision:

( ) "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 4. Tennessee Code Annotated, Section 47-25-1103, is amended by deleting subsection (a) and substituting:

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

SECTION 5. Tennessee Code Annotated, Section 47-25-1104, is amended by deleting subdivision (b)(2) and substituting:

(2)

(A) The exclusive right to commercial exploitation of the property rights is terminated by proof of the non-use 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.

(B) For purposes of subdivision (b)(2)(A), "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 6. Tennessee Code Annotated, Section 47-25-1105, is amended by deleting subsection (a) and substituting:

(a)

(1) 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.

(2) 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.

(3) 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, the primary purpose or function of such 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.

SECTION 7. Tennessee Code Annotated, Section 47-25-1106(a), is amended by deleting "photograph, or likeness" and substituting "photograph, voice, or likeness".

SECTION 8. Tennessee Code Annotated, Section 47-25-1106, is amended by inserting the following as a new subsection:

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

SECTION 9. Tennessee Code Annotated, Section 47-25-1107, is amended by deleting "photograph, or likeness" wherever it appears and substituting "photograph, voice, or likeness".

SECTION 10. Tennessee Code Annotated, Section 47-25-1107, is amended by deleting subsection (a) and substituting:

(a) To the extent such use is protected by the First Amendment to the United States Constitution, it is deemed a fair use and not a violation of an individual's right, for purposes of this part, if the use of a name, photograph, voice, or likeness is:

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

(2) For purposes of comment, criticism, scholarship, satire, or parody;

(3) A representation of the individual as the individual's self in an audiovisual work, as defined under 17 U.S.C. § 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;

(4) Fleeting or incidental; or

(5) In an advertisement or commercial announcement for a work described in this subsection (a).

SECTION 11. Tennessee Code Annotated, Section 47-25-1107(c), is amended by deleting "had knowledge of the unauthorized use" and substituting "had knowledge or reasonably should have known of the unauthorized use".

SECTION 12. Tennessee Code Annotated, Section 39-14-152(g), is amended by deleting "Personal Rights Protection Act of 1984" and substituting "Ensuring Likeness, Voice, and Image Security Act of 2024".

SECTION 13. This act takes effect July 1, 2024, the public welfare requiring it.