



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

SYNOPSIS:

This bill would prohibit the use of an individual's voice or visual likeness in a digital replica in certain circumstances.

This bill would provide exceptions.

This bill would authorize the licensing of a digital replica.

This bill would also authorize private rights of action for violations of a digital replica license, or for producing a digital replica without consent.

A BILL  
TO BE ENTITLED  
AN ACT

Relating to consumer protection; to establish procedures related to digital replicas; to authorize the licensing of digital replicas; and to authorize private rights of action for violations of digital replica licenses or producing a digital replica without consent.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. For the purposes of this act, the following terms have the following meanings:



29 (1) COMMERCIAL USE. The use of the name, voice, or  
30 likeness of an individual on or in any product, merchandise,  
31 or good with the intent of advertising, marketing, selling, or  
32 soliciting the purchase of any product, merchandise, good, or  
33 service.

34 (2) DIGITAL REPLICA. A newly created,  
35 computer-generated, highly realistic electronic representation  
36 that is made for commercial use and is readily identifiable as  
37 the voice or visual likeness of an individual which meets all  
38 of the following criteria:

39 a. Is nearly indistinguishable from the actual voice or  
40 visual likeness of the individual such that a reasonable  
41 person would believe that the electronic representation is  
42 only of that particular, actual individual.

43 b. Is embodied in a sound recording, image, audiovisual  
44 work, including an audiovisual work that does not have any  
45 accompanying sounds, or transmission in which either:

46 1. The actual individual described in paragraph a. did  
47 not actually perform or appear; or

48 2. That is a version of a sound recording, image, or  
49 audiovisual work in which the actual individual described in  
50 paragraph a. did perform or appear but in which the  
51 fundamental character of the performance or appearance has  
52 been materially altered.

53 c. Does not include the electronic reproduction, use of  
54 a sample of one sound recording or audiovisual work into  
55 another, remixing, mastering, or digital remastering of a  
56 sound recording or audiovisual work authorized by the



57 copyright holder.

58 (3) DIGITAL REPLICATION RIGHT. The right established by  
59 this act.

60 (4) ELIGIBLE PLAINTIFF. A person authorized to bring an  
61 action under this act.

62 (5) INDIVIDUAL. A natural or deceased person.

63 (6) MINOR. An individual younger than 18 years of age  
64 who: (i) has never been married; and (ii) has not had the  
65 disabilities of minority removed for general purposes.

66 (7) ONLINE SERVICE. a. Either of the following:

67 1. Any publicly accessible Internet website, online  
68 service, online application, mobile application, virtual  
69 reality environment, or cloud service provider.

70 2. A service engaged in the transmission of digital  
71 audio transmissions as defined in 17 U.S.C. § 114(j)(5).

72 b. The term may include a social service, social  
73 network, or application store.

74 c. The term does not include a service by wire or radio  
75 which provides the replica, and, if applicable, any person  
76 other than the depicted individual described in paragraph  
77 (2)a. that acquires, through a license, inheritance, or  
78 capability to transmit data to and receive data from all, or  
79 substantially all, Internet endpoints, including any  
80 capabilities that are incidental to enabling the operation of  
81 the communications service of a provider of online services or  
82 network access, or the operator of facilities for the service.

83 (8) ONLINE SERVICE PROVIDER. The owner of an online  
84 service.



85 (9) PRODUCTION. The creation of a digital replica.

86 (10) RIGHT HOLDER. The individual whose voice or visual  
87 likeness is simulated or otherwise copied in or as a digital  
88 replica, or, if applicable, any person other than the depicted  
89 individual that acquires, through a license, inheritance, or  
90 otherwise, the right to authorize the use of the individual's  
91 voice or visual likeness in a digital replica.

92 (11) SOUND RECORDING ARTIST. An individual who creates  
93 or performs in sound recordings for economic gain or for the  
94 livelihood of the individual.

95 Section 2. (a) A right holder may authorize the use of  
96 the voice or visual likeness of the individual in a digital  
97 replica. That right is both:

98 (1) Descendible and licensable, wholly or partly,  
99 exclusively or nonexclusively, by the right holder, subject to  
100 the terms of a contract, including a licensing agreement, or  
101 testamentary instrument conveying digital replication rights  
102 to a right holder; and

103 (2) Not assignable during the life of the individual to  
104 whom the right applies.

105 (b) A digital replication right does not expire on the  
106 death of the individual to whom the right applies, regardless  
107 of whether the right is used commercially by the individual  
108 during the individual's lifetime.

109 (c) On the death of an individual to whom the right  
110 applies:

111 (1) The individual's digital replication right is  
112 transferable and licensable, wholly or partly, by the



113 executors, heirs, assigns, licensees, or devisees of the  
114 individual; and

115 (2) Ownership of the right may be transferred, wholly  
116 or partly, by operation of law, will, or intestate succession.

117 (d) A digital replication right is exclusive to both of  
118 the following:

119 (1) The individual to whom the right applies, subject  
120 to the licensing of the right during the lifetime of the  
121 individual.

122 (2) The right holder for both of the following periods:

123 a. For a period of 10 years after the death of the  
124 individual to whom the right applies.

125 b. Subject to Section 6, if the right holder  
126 demonstrates active and authorized public use of the voice or  
127 visual likeness of the individual in interstate or foreign  
128 commerce during the two-year period preceding the expiration  
129 of the 10-year period described in paragraph a., for an  
130 additional five-year period, subject to renewal for additional  
131 five-year periods, only if the right holder can demonstrate  
132 authorized public use of the voice or visual likeness of the  
133 individual in interstate or foreign commerce during the  
134 two-year period preceding the expiration of each additional  
135 five-year period.

136 (e) A digital replication right terminates on the  
137 earlier of either of the following:

138 (1) The date on which the 10-year period or five-year  
139 period, as applicable, described in subsection (d) expires  
140 without renewal.



141 (2) The date that is the earlier of 50 years after the  
142 death of the individual or the date upon which the existing  
143 common law right of publicity as recognized by the courts of  
144 this state would terminate.

145 (f) If a right holder dies before October 1, 2026, the  
146 right holder's digital replication rights vest in the  
147 executors, heirs, assigns, or devisees of the right holder.

148 Section 3. (a) Except as provided by Section 4 and  
149 subject to Section 4, a person may not intentionally publish,  
150 display, distribute, or otherwise make available to the public  
151 a digital replica without the written consent of the right  
152 holder.

153 (b) It shall not be considered a violation of this  
154 section for a person to manufacture, import, offer to the  
155 public, provide, or otherwise distribute a product or service  
156 unless the person directed the production of the digital  
157 replica.

158 (c) This section shall not apply to a provider of  
159 broadband Internet access services, as described in 47 C.F.R.  
160 § 8.1, or its affiliate or subsidiary, or an information  
161 service, system, or access software provider that provides or  
162 enables computer access by multiple users to a computer  
163 service, including specifically a service or system that  
164 provides access to the Internet and systems operated or  
165 services offered by libraries or educational institutions as  
166 well as online service providers.

167 Section 4. (a) Except as provided by subsection (b), a  
168 person may use a digital replica without the right holder's



169 consent if, regardless of the degree of fictionalization, the  
170 digital replica meets any of the following criteria:

171 (1) Is used in a news, public affairs, informational  
172 television, or sports television or radio broadcast or  
173 account, so long as the digital replica is the subject of, or  
174 is relevant to, the subject of the broadcast or account, or is  
175 a representation of the individual in a documentary,  
176 docudrama, or in a biographical or historical manner.

177 (2) Is produced or used in commentary, criticism,  
178 scholarship, satire, or parody.

179 (3) Is used in a fleeting or negligible manner.

180 (4) Is used in a publication that reproduces or  
181 distributes a digital replica provided to the publication by a  
182 third party, provided the publication has no knowledge that  
183 the digital replica violates this act.

184 (5) Is used in an advertisement or commercial  
185 announcement for a purpose described in subdivisions (1)  
186 through (4) and the digital replica is relevant to the subject  
187 of the advertisement or announcement.

188 (6) Is used in a manner that is subject to and  
189 protected by any rights, obligations, or immunities created by  
190 the federal Communications Act of 1934, the rules and policies  
191 of the Federal Communications Commission, other federal law,  
192 or otherwise protected by the First Amendment of the United  
193 States Constitution.

194 (b) Subsection (a) does not apply to a digital replica  
195 used to depict sexually explicit conduct, as defined in 18  
196 U.S.C. § 2256.



197           Section 5. (a) Except as provided in subsection (c), an  
198 individual, during the individual's lifetime, may license the  
199 individual's digital replication right. A license under this  
200 subsection is valid only if the license agreement meets both  
201 of the following criteria:

202           (1) Is in writing and signed by the individual or an  
203 authorized representative of the individual.

204           (2) Includes a reasonably specific description of the  
205 intended uses of the digital replica.

206           (b) Subsection (a) shall not affect the terms and  
207 conditions of a license or contract other than those described  
208 in this act, and the expiration of the license does not affect  
209 the remainder of the license or related contract.

210           (c) Subsection (a) does not apply if the license is  
211 governed by a collective bargaining agreement that addresses  
212 digital replicas.

213           (d) A postmortem transfer or license of a digital  
214 replication right is valid only if the testamentary instrument  
215 transferring the right or the license agreement is in writing  
216 and signed by the right holder or an authorized representative  
217 of the right holder.

218           (e) A digital replica that is embodied in a sound  
219 recording, image, audiovisual work, including an audiovisual  
220 work that does not have any accompanying sounds, or  
221 transmission where the use is authorized under the terms of a  
222 license agreement may continue to be used in a manner  
223 consistent with the terms of the license after the expiration  
224 or termination of the license agreement.



225 (f) Subject to Section 2(f) and to the terms of a  
226 contract, including a license agreement, or testamentary  
227 instrument entered into before October 1, 2026, if a right  
228 holder dies before October 1, 2026, the right holder's digital  
229 replication rights vest in the executors, heirs, assigns, or  
230 devisees of the right holder.

231 Section 6. The renewal of a right described by Section  
232 2(d)(2) is only effective if, before the two-year period  
233 described in Section 2(d)(2)b., the right holder files a  
234 notice with the Secretary of State that contains all of the  
235 following:

236 (1) The name of the deceased individual.

237 (2) A statement, under penalty of perjury, that the  
238 right holder has engaged in active and authorized public use  
239 of the voice or visual likeness during the applicable two-year  
240 period.

241 (3) The identity of and contact information for the  
242 right holder.

243 (4) Any other information the Secretary of State deems  
244 necessary.

245 Section 7. (a) The Secretary of State shall maintain  
246 and make available to the public a directory of postmortem  
247 digital replication rights registered under Section 6.

248 (b) A right holder may voluntarily apply to the  
249 Secretary of State for inclusion in the directory described in  
250 subsection (a) by filing a notice with the Secretary of State  
251 that complies with the form, content, and filing procedures  
252 prescribed, by rule, by the Secretary of State.



253 (c) The Secretary of State may impose a filing fee on a  
254 right holder for inclusion in the directory described in  
255 subsection (a) in amounts necessary to cover the cost of  
256 administering the directory.

257 Section 8. An action under Section 9 or 10 may only be  
258 brought by one or more of the following parties:

259 (1) An exclusive right holder.

260 (2) If the individual described in subdivision (1) is a  
261 minor, the parent or guardian of the exclusive right holder.

262 (3) Any other person that exclusively controls,  
263 including through a license, the right to authorize the use of  
264 the voice or visual likeness of the individual described in  
265 subdivision (1).

266 (4) Any other person that owns or controls the right to  
267 authorize the use or visual likeness of a deceased individual  
268 described in subdivision (1).

269 (5) In the case of a digital replica of an individual  
270 who is a sound recording artist, provided that the sound  
271 recording artist has given a person express written  
272 authorization to commence such a civil action on the  
273 individual's behalf, any person that has entered into either  
274 of the following:

275 a. A contract for the exclusive personal services of  
276 the sound recording artist as a sound recording artist.

277 b. An exclusive license to distribute or transmit works  
278 that capture the audio performance of the sound recording  
279 artist, provided that the sound recording artist is an  
280 individual and has given the person express written



281 authorization to commence such a civil action on his or her  
282 behalf.

283 Section 9. An eligible plaintiff may bring a private  
284 cause of action against a person who violates or threatens to  
285 violate this act to obtain:

286 (1) Injunctive relief; or

287 (2) Other equitable relief.

288 Section 10. (a) For the purposes of this section, the  
289 term "knowingly" means having actual knowledge of or acting  
290 with deliberate ignorance of the prohibition involved.

291 (b) An eligible plaintiff may bring a cause of action  
292 against another person who knowingly violates Section 3.

293 (c) For the purposes of subsection (a), a person may be  
294 presumed to have acted knowingly if the person willingly  
295 avoided having knowledge that: (i) the applicable material is  
296 a digital replica; and (ii) the digital replica was not  
297 authorized by a right holder.

298 (d) A cause of action brought pursuant to this section  
299 must commence within three years after the date on which the  
300 person discovered, or with due diligence should have  
301 discovered, the violation.

302 (e) In a cause of action brought under this section, a  
303 person that violates Section 3 shall be liable for: (i) the  
304 actual damages suffered by the injured party as a result of  
305 the violation; (ii) disgorgement of any profits attributable  
306 to the unauthorized use; and (iii) punitive damages if the  
307 violator is found to have acted with wantonness, fraud, or  
308 knowledge.



309 (f) An online service provider that has acted  
310 reasonably with regard to material claimed to be an  
311 unauthorized digital replica may not be liable for statutory  
312 or actual damages regardless of whether the material is  
313 ultimately determined to be an unauthorized digital replica.

314 Section 11. This act shall only apply to an individual  
315 who either: (i) is a resident of this state; or (ii) was a  
316 resident of this state on the date the individual died.

317 Section 12. This act shall become effective on October  
318 1, 2026.