

## HB327 INTRODUCED



1 HB327  
2 QNWE945-1  
3 By Representative Robbins  
4 RFD: Judiciary  
5 First Read: 22-Jan-26



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 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:



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

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

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

b. Is embodied in a sound recording, image, audiovisual work, visual work, or transmission in which either:

1. The actual individual did not actually perform or appear; or

2. The fundamental character of the performance or appearance has been materially altered.

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

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

(4) ELIGIBLE PLAINTIFF. A person authorized to bring an



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action under this act.

(5) INDIVIDUAL. A natural or deceased person.

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

(7) ONLINE SERVICE. Any of the following:

a. Any publicly accessible Internet website, online service, online application, mobile application, virtual reality environment, or cloud service provider.

b. A service engaged in the transmission of digital audio transmissions.

c. A social service, social network, or application store.

d. A service by wire or radio which provides the capability to transmit data to and receive data from all, or substantially all, Internet endpoints, including any capabilities that are incidental to enabling the operation of the communications service of a provider of online services or network access, or the operator of facilities for the service.

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

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

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



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

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

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

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

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

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

(1) The individual's digital replication right is transferable and licensable, wholly or partly, by the executors, heirs, assigns, licensees, or devisees of the individual; and

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

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

(1) The individual to whom the right applies, subject



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to the licensing of the right during the lifetime of the individual.

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

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

b. Subject to Section 6, if the right holder demonstrates active and authorized public use of the voice or visual likeness of the individual in interstate or foreign commerce during the two-year period preceding the expiration of the 10-year period described in paragraph a., for an additional five-year period, subject to renewal for additional 5-year periods, only if the right holder can demonstrate authorized public use of the voice or visual likeness of the individual in interstate or foreign commerce during the two-year period preceding the expiration of each additional five-year period.

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

(1) The date on which the 10-year period or 5-year period, as applicable, described in subsection (d) expires without renewal.

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

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



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

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

Section 4. (a) Except as provided by subsection (b), a person may use a digital replica without the right holder's consent if, regardless of the degree of fictionalization, the digital replica meets any of the following criteria:

(1) Is intentionally used in a news, public affairs, or sports broadcast or account, so long as the digital replica is the subject of, or is relevant to, the subject of the broadcast or a representation of the individual in a documentary, docudrama, or in a biographical or historical manner.

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

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

(4) Is used in an advertisement or commercial announcement for a purpose described in subdivisions (1) through (3) and the digital replica is relevant to the subject of the advertisement or announcement.

(5) Is used in a manner that is otherwise protected by



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the First Amendment of the United States Constitution.

(b) Subsection (a) does not apply to a digital replica used to depict sexually explicit conduct, as defined in Section 13A-12-190, Code of Alabama 1975.

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

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

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

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

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

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

(e) A digital replica that is embodied in a sound recording, image, audiovisual work, visual work, or transmission, where the use is authorized under the terms of a





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license agreement, may continue to be used in a manner consistent with the terms of the license after the expiration or termination of the license agreement.

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

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

(1) The name of the deceased individual.

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

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

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

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

(b) A right holder may voluntarily apply to the Secretary of State for inclusion in the directory described by



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this section by filing a notice with the secretary that complies with the form, content, and filing procedures prescribed, by rule, by the secretary.

(c) The Secretary of State may impose a filing fee on a right holder for inclusion in the directory described by this section in amounts necessary to cover the cost of administering the directory.

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

(1) An exclusive right holder.

(2) If the individual described in subdivision (1) is a minor, the parent or guardian of the individual.

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

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

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

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

b. An exclusive license to distribute or transmit works



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that capture the audio performance of the sound recording artist, provided that the sound recording artist is an individual and has given the person express written authorization to commence such a civil action on his or her behalf.

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

(1) Injunctive relief; or

(2) Other equitable relief.

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

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

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

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

(e) In a cause of action brought under this section, a person that violates Section 3 shall be liable for: (i) the actual damages suffered by the injured party as a result of the violation; and (ii) punitive damages if the violator is



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281 found to have acted with malice, fraud, or knowledge.

282 (f) An online service provider that has an objectively  
283 reasonable belief that material claimed to be an unauthorized  
284 digital replica does not qualify as a digital replica may not  
285 be liable for statutory or actual damages regardless of  
286 whether the material is ultimately determined to be an  
287 unauthorized digital replica.

288 (g) The court shall award reasonable attorney fees to  
289 the prevailing party in any action brought pursuant to this  
290 act.

291 Section 11. This act shall become effective on October  
292 1, 2026.