

HB327 INTRODUCED



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



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4 SYNOPSIS:

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

8 This bill would provide exceptions.

9 This bill would authorize the licensing of a
10 digital replica.

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

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17 A BILL

18 TO BE ENTITLED

19 AN ACT

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

26 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

27 Section 1. For the purposes of this act, the following
28 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 that 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, visual work, or transmission in which either:

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

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

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



57 action under this act.

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

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

62 (7) ONLINE SERVICE. Any of the following:

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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



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

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

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

118 b. Subject to Section 6, if the right holder
119 demonstrates active and authorized public use of the voice or
120 visual likeness of the individual in interstate or foreign
121 commerce during the two-year period preceding the expiration
122 of the 10-year period described in paragraph a., for an
123 additional five-year period, subject to renewal for additional
124 5-year periods, only if the right holder can demonstrate
125 authorized public use of the voice or visual likeness of the
126 individual in interstate or foreign commerce during the
127 two-year period preceding the expiration of each additional
128 five-year period.

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

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

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

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

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

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

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

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

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

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

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

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

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169 the First Amendment of the United States Constitution.

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

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

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

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

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

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

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

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

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

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

206 Section 6. The renewal of a right described by Section
207 2(d)(2) is only effective if, before the two-year period
208 described in Section 2(d)(2)b., the right holder files a
209 notice with the Secretary of State that contains all of the
210 following:

211 (1) The name of the deceased individual.

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

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

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

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

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



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

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

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

234 (1) An exclusive right holder.

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

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

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

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

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

252 b. An exclusive license to distribute or transmit works



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

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

261 (1) Injunctive relief; or
262 (2) Other equitable relief.

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

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

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

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

277 (e) In a cause of action brought under this section, a
278 person that violates Section 3 shall be liable for: (i) the
279 actual damages suffered by the injured party as a result of
280 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.