

SENATE BILL 1025

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5lr3623
CF HB 1407

By: **Senator Mautz**

Introduced and read first time: February 6, 2025

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Commercial Law – Voice and Visual Likeness – Digital Replication Rights**
3 **(Nurture Originals, Foster Art, and Keep Entertainment Safe Act – NO FAKES**
4 **Act)**

5 FOR the purpose of establishing that each individual and a certain right holder have the
6 right to authorize the use of the voice or visual likeness of the individual in a digital
7 replica; providing that the right does not expire on the death of the individual and is
8 transferable or licensable in a certain manner; providing that the right terminates
9 after a certain period of time; requiring an online service to designate an agent to
10 receive a certain notification alleging a violation of this Act; requiring the Secretary
11 of State to maintain and make available certain information that the Secretary of
12 State receives from certain parties; providing that a person shall be civilly liable for
13 engaging in certain conduct in violation of this Act; providing that a person may not
14 be held civilly liable under certain circumstances; providing that an online service
15 may restore removed material under certain circumstances; and generally relating
16 to a right to the use of an individual's voice or visual likeness in a digital replica.

17 BY adding to
18 Article – Commercial Law
19 Section 11–1701 through 11–1707 to be under the new subtitle “Subtitle 17. Rights
20 in Digital Replicas”
21 Annotated Code of Maryland
22 (2013 Replacement Volume and 2024 Supplement)

23 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
24 That the Laws of Maryland read as follows:

25 **Article – Commercial Law**

26 **SUBTITLE 17. RIGHTS IN DIGITAL REPLICAS.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 11-1701.

2 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
3 INDICATED.

4 (B) "DIGITAL REPLICA" MEANS A NEWLY CREATED,
5 COMPUTER-GENERATED, HIGHLY REALISTIC ELECTRONIC REPRESENTATION THAT
6 IS READILY IDENTIFIABLE AS THE VOICE OR VISUAL LIKENESS OF AN INDIVIDUAL
7 THAT:

8 (1) IS EMBODIED IN A SOUND RECORDING, AN IMAGE, AN
9 AUDIOVISUAL WORK, INCLUDING AN AUDIOVISUAL WORK THAT DOES NOT HAVE ANY
10 ACCOMPANYING SOUNDS, OR A TRANSMISSION:

11 (I) IN WHICH THE ACTUAL INDIVIDUAL DID NOT ACTUALLY
12 PERFORM OR APPEAR; OR

13 (II) THAT IS A VERSION OF A SOUND RECORDING, AN IMAGE, AN
14 AUDIOVISUAL WORK, OR A TRANSMISSION IN WHICH THE ACTUAL INDIVIDUAL DID
15 PERFORM OR APPEAR, BUT THE FUNDAMENTAL CHARACTER OF THE PERFORMANCE
16 OR APPEARANCE HAS BEEN MATERIALLY ALTERED; AND

17 (2) DOES NOT INCLUDE, WHEN AUTHORIZED BY THE COPYRIGHT
18 HOLDER:

19 (I) THE ELECTRONIC REPRODUCTION OF A SOUND RECORDING
20 OR AN AUDIOVISUAL WORK;

21 (II) THE USE OF A SAMPLE OF ONE SOUND RECORDING OR
22 AUDIOVISUAL WORK WITHIN ANOTHER SOUND RECORDING OR AUDIOVISUAL WORK;
23 OR

24 (III) THE REMIXING, MASTERING, OR DIGITAL REMASTERING OF
25 A SOUND RECORDING OR AN AUDIOVISUAL WORK.

26 (C) "INDIVIDUAL" MEANS A HUMAN BEING, LIVING OR DEAD.

27 (D) (1) "ONLINE SERVICE" MEANS:

28 (I) A PUBLIC-FACING WEBSITE, AN ONLINE APPLICATION, A
29 MOBILE APPLICATION, OR A VIRTUAL REALITY ENVIRONMENT THAT
30 PREDOMINANTLY PROVIDES A COMMUNITY FORUM FOR USER-GENERATED

CONTENT, SUCH AS SHARING VIDEOS, IMAGES, GAMES, AUDIO FILES, OR OTHER MATERIAL; OR

(II) A DIGITAL MUSIC PROVIDER, AS DEFINED IN 17 U.S.C. § 115(E).

(2) "ONLINE SERVICE" INCLUDES A SOCIAL MEDIA SERVICE, A SOCIAL NETWORK, OR AN APPLICATION STORE.

(3) "ONLINE SERVICE" DOES NOT INCLUDE A SERVICE BY WIRE OR RADIO THAT PROVIDES THE CAPABILITY TO TRANSMIT DATA TO AND RECEIVE DATA FROM ALL, OR SUBSTANTIALLY ALL, INTERNET ENDPOINTS, INCLUDING ANY CAPABILITIES THAT ARE INCIDENTAL TO ENABLE THE OPERATION OF THE COMMUNICATIONS SERVICE OF:

(I) A PROVIDER OF ONLINE SERVICES OR NETWORK ACCESS;
OR

(II) THE OPERATOR OF FACILITIES FOR THE SERVICE.

(E) "PRODUCTION" MEANS THE CREATION OF A DIGITAL REPLICA.

(F) "RIGHT HOLDER" MEANS THE INDIVIDUAL WHOSE VOICE OR VISUAL LIKENESS IS AT ISSUE WITH RESPECT TO A DIGITAL REPLICA OR ANY PERSON WHO HAS ACQUIRED, THROUGH A LICENSE, INHERITANCE, OR OTHERWISE, THE RIGHT TO AUTHORIZE THE USE OF THE VOICE OR VISUAL LIKENESS IN A DIGITAL REPLICA.

(G) "SOUND RECORDING ARTIST" MEANS AN INDIVIDUAL WHO CREATES OR PERFORMS IN SOUND RECORDINGS FOR ECONOMIC GAIN OR FOR THE LIVELIHOOD OF THE INDIVIDUAL.

11-1702.

(A) (1) SUBJECT TO THE LIMITATIONS OF THIS SUBTITLE, EACH INDIVIDUAL OR RIGHT HOLDER SHALL HAVE THE RIGHT TO AUTHORIZE THE USE OF THE VOICE OR VISUAL LIKENESS OF THE INDIVIDUAL IN A DIGITAL REPLICA.

(2) THE RIGHT IS:

(I) A PROPERTY RIGHT;

(II) NOT ASSIGNABLE DURING THE LIFE OF THE INDIVIDUAL;

AND

(III) LICENSABLE, IN WHOLE OR IN PART, EXCLUSIVELY OR NONEXCLUSIVELY, BY THE RIGHT HOLDER.

(3) THE RIGHT DOES NOT EXPIRE ON THE DEATH OF THE INDIVIDUAL REGARDLESS OF WHETHER THE RIGHT IS COMMERCIALY EXPLOITED BY THE INDIVIDUAL DURING THE INDIVIDUAL'S LIFETIME.

(B) ON THE DEATH OF AN INDIVIDUAL:

(1) THE RIGHT PROVIDED UNDER THIS SECTION MAY BE TRANSFERRED AND LICENSED, IN WHOLE OR IN PART, BY THE EXECUTORS, HEIRS, ASSIGNS, LICENSEES, OR DEVISEES OF THE INDIVIDUAL; AND

(2) OWNERSHIP OF THE RIGHT MAY BE:

(I) TRANSFERRED, IN WHOLE OR IN PART, BY ANY MEANS OF CONVEYANCE OR BY OPERATION OF LAW; OR

(II) BEQUEATHED BY WILL OR PASS AS PERSONAL PROPERTY BY THE APPLICABLE LAWS OF INTESTATE SUCCESSION.

(C) (1) THE RIGHT PROVIDED UNDER THIS SECTION IS EXCLUSIVE TO:

(I) SUBJECT TO THE LICENSING OF THE RIGHT DURING THE LIFETIME OF THE INDIVIDUAL IN ACCORDANCE WITH § 11-1703 OF THIS SUBTITLE, THE INDIVIDUAL; AND

(II) THE RIGHT HOLDER:

1. FOR A PERIOD OF 10 YEARS AFTER THE DEATH OF THE INDIVIDUAL; AND

2. IF THE RIGHT HOLDER DEMONSTRATES ACTIVE AND AUTHORIZED PUBLIC USE OF THE VOICE OR VISUAL LIKENESS OF THE INDIVIDUAL DURING THE 2-YEAR PERIOD IMMEDIATELY PRECEDING THE EXPIRATION OF THE 10-YEAR PERIOD DESCRIBED IN ITEM 1 OF THIS ITEM, SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, FOR AN ADDITIONAL 5-YEAR PERIOD.

(2) THE RIGHT HOLDER DESCRIBED UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION MAY CONTINUE TO RENEW THE RIGHT FOR ADDITIONAL 5-YEAR INCREMENTS IF THE RIGHT HOLDER CAN DEMONSTRATE AUTHORIZED PUBLIC USE OF THE VOICE OR VISUAL LIKENESS OF THE INDIVIDUAL DURING THE 2-YEAR

1 PERIOD IMMEDIATELY PRECEDING THE EXPIRATION OF EACH ADDITIONAL 5-YEAR
2 PERIOD.

3 (D) THE RIGHT PROVIDED UNDER THIS SECTION SHALL TERMINATE ON THE
4 DATE THAT IS THE EARLIER OF:

5 (1) THE DATE ON WHICH THE 10-YEAR PERIOD OR ADDITIONAL
6 5-YEAR PERIOD DESCRIBED IN SUBSECTION (C) OF THIS SECTION TERMINATES
7 WITHOUT RENEWAL; OR

8 (2) THE DATE THAT IS 70 YEARS AFTER THE DEATH OF THE
9 INDIVIDUAL DESCRIBED IN SUBSECTION (B) OF THIS SECTION.

10 11-1703.

11 (A) A LICENSE DESCRIBED IN § 11-1702(A)(2)(III) OF THIS SUBTITLE SHALL
12 BE VALID:

13 (1) WHILE THE INDIVIDUAL DESCRIBED IN § 11-1702(A) OF THIS
14 SUBTITLE IS LIVING AND ONLY TO THE EXTENT THAT THE LICENSE DURATION DOES
15 NOT EXCEED 10 YEARS; AND

16 (2) ONLY IF THE LICENSE AGREEMENT:

17 (I) IS IN WRITING AND SIGNED BY THE INDIVIDUAL OR AN
18 AUTHORIZED REPRESENTATIVE OF THE INDIVIDUAL; AND

19 (II) INCLUDES A REASONABLY SPECIFIC DESCRIPTION OF THE
20 INTENDED USES OF THE APPLICABLE DIGITAL REPLICA.

21 (B) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A LICENSE
22 DESCRIBED IN § 11-1702(A)(2)(III) OF THIS SUBTITLE INVOLVING A LIVING MINOR
23 IS VALID ONLY IF:

24 (I) THE LICENSE DURATION DOES NOT EXCEED 5 YEARS;

25 (II) THE LICENSE AGREEMENT:

26 1. IS IN WRITING AND SIGNED BY THE INDIVIDUAL OR AN
27 AUTHORIZED REPRESENTATIVE OF THE INDIVIDUAL; AND

28 2. INCLUDES A REASONABLY SPECIFIC DESCRIPTION OF
29 THE INTENDED USES OF THE DIGITAL REPLICA; AND

1 (III) A COURT APPROVES THE LICENSE IN ANY MANNER
2 REQUIRED BY LAW, AS APPLICABLE.

3 (2) NOTWITHSTANDING PARAGRAPH (1) OF THIS SUBSECTION, A
4 LICENSE FOR A MINOR SHALL TERMINATE WHEN THE INDIVIDUAL REACHES 18
5 YEARS OF AGE.

6 (C) THE PROVISIONS OF SUBSECTIONS (A) AND (B) OF THIS SECTION MAY
7 NOT BE CONSTRUED TO:

8 (1) APPLY IF A LICENSE IS GOVERNED BY A COLLECTIVE BARGAINING
9 AGREEMENT THAT ADDRESSES DIGITAL REPLICAS;

10 (2) AFFECT THE TERMS AND CONDITIONS OF A LICENSE OR RELATED
11 CONTRACT OTHER THAN THOSE DESCRIBED UNDER THIS SECTION; OR

12 (3) AFFECT A FUTURE INTEREST IN A LICENSE OR RELATED
13 CONTRACT AFTER THE LICENSE HAS EXPIRED.

14 (D) A POSTMORTEM TRANSFER OR LICENSE AS DESCRIBED IN §
15 11-1702(B) OF THIS SUBTITLE SHALL BE VALID ONLY IF THE TRANSFER AGREEMENT
16 OR LICENSE AGREEMENT IS IN WRITING AND SIGNED BY THE RIGHT HOLDER OR AN
17 AUTHORIZED REPRESENTATIVE OF THE RIGHT HOLDER.

18 (E) A DIGITAL REPLICA MAY CONTINUE TO BE UTILIZED IN A MANNER
19 CONSISTENT WITH THE TERMS OF A LICENSE AFTER THE EXPIRATION OR
20 TERMINATION OF THE LICENSE IF:

21 (1) THE DIGITAL REPLICA IS EMBODIED IN A SOUND RECORDING, AN
22 IMAGE, AN AUDIOVISUAL WORK, INCLUDING AN AUDIOVISUAL WORK THAT DOES NOT
23 HAVE ANY ACCOMPANYING SOUNDS, OR A TRANSMISSION; AND

24 (2) THE DIGITAL REPLICA IS AUTHORIZED UNDER THE TERMS OF THE
25 LICENSE TO CONTINUE TO BE USED AFTER THE LICENSE EXPIRES OR TERMINATES.

26 11-1704.

27 (A) THE RENEWAL OF A POSTMORTEM RIGHT UNDER § 11-1702(B)(2)(II) OF
28 THIS SUBTITLE SHALL BE EFFECTIVE IF, DURING THE APPLICABLE 2-YEAR
29 RENEWAL PERIOD SPECIFIED UNDER § 11-1702(C) OF THIS SUBTITLE, THE RIGHT
30 HOLDER FILES A NOTICE WITH THE SECRETARY OF STATE THAT COMPLIES WITH

1 THE REQUIREMENTS REGARDING FORM AND FILING PROCEDURES AS THE
2 SECRETARY OF STATE MAY PRESCRIBE BY REGULATION AND THAT CONTAINS:

3 (1) THE NAME OF THE DECEASED INDIVIDUAL;

4 (2) A STATEMENT, UNDER PENALTY OF PERJURY, THAT THE RIGHT
5 HOLDER HAS ENGAGED IN ACTIVE AND AUTHORIZED USE OF THE VOICE OR VISUAL
6 LIKENESS DURING THE APPLICABLE 2-YEAR PERIOD;

7 (3) THE IDENTITY OF AND CONTACT INFORMATION FOR THE RIGHT
8 HOLDER; AND

9 (4) ANY OTHER INFORMATION THE SECRETARY OF STATE REQUIRES.

10 (B) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE
11 SECRETARY OF STATE:

12 (I) SHALL MAINTAIN AN UP-TO-DATE DIRECTORY OF
13 POSTMORTEM DIGITAL REPLICATION RIGHTS REGISTERED UNDER THIS SECTION;

14 (II) SHALL MAKE THE DIRECTORY DESCRIBED IN ITEM (I) OF
15 THIS PARAGRAPH AVAILABLE TO THE PUBLIC FOR INSPECTION ONLINE; AND

16 (III) MAY CHARGE A REASONABLE FILING FEE TO A RIGHT
17 HOLDER WHO FILES IN ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION.

18 (2) THE FILING FEE CHARGED BY THE SECRETARY OF STATE UNDER
19 PARAGRAPH (1)(III) OF THIS SUBSECTION SHALL BE BASED ON THE COSTS OF
20 MAINTAINING THE DIRECTORY.

21 11-1705.

22 (A) A PERSON SHALL BE LIABLE IN AN ACTION BROUGHT UNDER § 11-1707
23 OF THIS SUBTITLE IF THE PERSON:

24 (1) PRODUCES A DIGITAL REPLICA WITHOUT CONSENT OF THE
25 APPLICABLE RIGHT HOLDER; OR

26 (2) PUBLISHES, REPRODUCES, DISPLAYS, DISTRIBUTES, TRANSMITS,
27 OR OTHERWISE MAKES AVAILABLE TO THE PUBLIC A DIGITAL REPLICA WITHOUT
28 CONSENT OF THE APPLICABLE RIGHT HOLDER.

(B) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, TO INCUR LIABILITY UNDER THIS SECTION, A PERSON ENGAGING IN AN ACTIVITY DESCRIBED UNDER SUBSECTION (A) OF THIS SECTION MUST HAVE ACTUAL KNOWLEDGE OR HAVE WILLFULLY ACTED IN A MANNER TO AVOID ANY KNOWLEDGE THAT:

(I) THE APPLICABLE MATERIAL IS A DIGITAL REPLICA; AND

(II) THE DIGITAL REPLICA WAS NOT AUTHORIZED BY THE APPLICABLE RIGHT HOLDER.

(2) FOR PURPOSES OF PARAGRAPH (1) OF THIS SUBSECTION, ACTUAL KNOWLEDGE CAN BE ESTABLISHED THROUGH A NOTIFICATION THAT SATISFIES THE REQUIREMENTS UNDER § 11-1706(F) OF THIS SUBTITLE.

(C) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, IT IS NOT A VIOLATION OF SUBSECTION (A) OF THIS SECTION IF:

(1) (I) THE APPLICABLE DIGITAL REPLICA IS PRODUCED OR USED IN A BONA FIDE NEWS, PUBLIC AFFAIRS, OR SPORTS BROADCAST OR ACCOUNT; AND

(II) THE DIGITAL REPLICA IS THE SUBJECT OF, OR IS MATERIALLY RELEVANT TO, THE SUBJECT OF THE BROADCAST OR ACCOUNT;

(2) THE APPLICABLE DIGITAL REPLICA IS A REPRESENTATION OF THE APPLICABLE INDIVIDUAL AS THE INDIVIDUAL IN A DOCUMENTARY OR IN A HISTORICAL OR BIOGRAPHICAL MANNER, INCLUDING SOME DEGREE OF FICTIONALIZATION, UNLESS:

(I) THE PRODUCTION OR USE OF THE DIGITAL REPLICA CREATES THE FALSE IMPRESSION THE WORK IS AN AUTHENTIC SOUND RECORDING, IMAGE, TRANSMISSION, OR AUDIOVISUAL WORK IN WHICH THE INDIVIDUAL PARTICIPATED; OR

(II) THE DIGITAL REPLICA IS EMBODIED IN A MUSICAL SOUND RECORDING THAT IS SYNCHRONIZED TO ACCOMPANY A MOTION PICTURE OR OTHER AUDIOVISUAL WORK, EXCEPT TO THE EXTENT THAT THE USE OF THAT DIGITAL REPLICA IS PROTECTED BY THE FIRST AMENDMENT TO THE U.S. CONSTITUTION OR ARTICLE 40 OF THE MARYLAND DECLARATION OF RIGHTS;

(3) THE APPLICABLE DIGITAL REPLICA IS PRODUCED OR USED CONSISTENT WITH THE PUBLIC INTEREST IN BONA FIDE COMMENTARY, CRITICISM, SCHOLARSHIP, SATIRE, OR PARODY;

1 (4) THE USE OF THE APPLICABLE DIGITAL REPLICA IS FLEETING OR
2 NEGLIGIBLE; OR

3 (5) THE APPLICABLE DIGITAL REPLICA IS USED IN AN
4 ADVERTISEMENT OR COMMERCIAL ANNOUNCEMENT FOR A PURPOSE DESCRIBED IN
5 ITEMS (1) THROUGH (4) OF THIS SUBSECTION AND THE APPLICABLE DIGITAL
6 REPLICA IS RELEVANT TO THE SUBJECT OF THE WORK BEING ADVERTISED OR
7 ANNOUNCED.

8 (D) SUBSECTION (C) OF THIS SECTION DOES NOT APPLY IF THE APPLICABLE
9 DIGITAL REPLICA IS USED TO DEPICT SEXUALLY EXPLICIT CONDUCT, AS DEFINED IN
10 18 U.S.C. § 2256(2)(A).

11 11-1706.

12 (A) SUBJECT TO SUBSECTION (D) OF THIS SECTION, A PERSON MAY NOT BE
13 SECONDARILY LIABLE FOR A VIOLATION UNDER THIS SUBTITLE FOR
14 MANUFACTURING, IMPORTING, OFFERING TO THE PUBLIC, PROVIDING, OR
15 OTHERWISE DISTRIBUTING A PRODUCT OR SERVICE UNLESS THE PRODUCT OR
16 SERVICE:

17 (1) IS PRIMARILY DESIGNED TO PRODUCE ONE OR MORE
18 UNAUTHORIZED DIGITAL REPLICAS;

19 (2) HAS ONLY LIMITED COMMERCIALLY SIGNIFICANT PURPOSE OR
20 USE OTHER THAN TO PRODUCE AN UNAUTHORIZED DIGITAL REPLICA; OR

21 (3) IS MARKETED, ADVERTISED, OR OTHERWISE PROMOTED BY THAT
22 PERSON OR ANOTHER ACTING IN CONCERT WITH THAT PERSON WITH THAT
23 PERSON'S KNOWLEDGE FOR USE IN PRODUCING AN UNAUTHORIZED DIGITAL
24 REPLICA.

25 (B) SUBJECT TO SUBSECTION (D) OF THIS SECTION, AN ONLINE SERVICE
26 MAY NOT BE HELD LIABLE FOR A VIOLATION UNDER THIS SUBTITLE FOR REFERRING
27 OR LINKING A USER TO AN UNAUTHORIZED DIGITAL REPLICA, OR BY CARRYING OUT
28 AN ACTIVITY DESCRIBED IN SUBSECTION (F) OF THIS SECTION, IF THE ONLINE
29 SERVICE REMOVES OR DISABLES ACCESS TO THE MATERIAL THAT IS CLAIMED TO BE
30 AN UNAUTHORIZED DIGITAL REPLICA AS SOON AS IS TECHNICALLY AND
31 PRACTICALLY FEASIBLE FOR THE ONLINE SERVICE.

32 (C) SUBJECT TO SUBSECTION (D) OF THIS SECTION, AN ONLINE SERVICE
33 MAY NOT BE HELD LIABLE FOR A VIOLATION UNDER THIS SUBTITLE FOR STORING
34 THIRD-PARTY-PROVIDED MATERIAL THAT RESIDES ON A SYSTEM OR NETWORK

1 CONTROLLED OR OPERATED BY OR FOR THE ONLINE SERVICE IF, AFTER RECEIVING
2 A NOTIFICATION THAT SATISFIES SUBSECTION (F) OF THIS SECTION, THE ONLINE
3 SERVICE:

4 (1) REMOVES OR DISABLES ACCESS TO ALL INSTANCES OF THE
5 MATERIAL, OR AN ACTIVITY USING THE MATERIAL, THAT IS CLAIMED TO BE AN
6 UNAUTHORIZED DIGITAL REPLICA AS SOON AS IS TECHNICALLY AND PRACTICALLY
7 FEASIBLE FOR THE ONLINE SERVICE; AND

8 (2) AFTER REMOVING OR DISABLING ACCESS, TAKES REASONABLE
9 STEPS TO PROMPTLY NOTIFY THE THIRD PARTY THAT PROVIDED THE MATERIAL
10 THAT THE ONLINE SERVICE HAS REMOVED OR DISABLED ACCESS TO THE MATERIAL.

11 (D) THE LIMITATIONS ON LIABILITY ESTABLISHED UNDER THIS SECTION
12 APPLY TO AN ONLINE SERVICE ONLY IF THE ONLINE SERVICE:

13 (1) HAS DESIGNATED AN AGENT TO RECEIVE NOTIFICATIONS UNDER
14 SUBSECTION (F) OF THIS SECTION; AND

15 (2) PROVIDES TO THE SECRETARY OF STATE AND MAKES AVAILABLE
16 THROUGH THE ONLINE SERVICE, INCLUDING ON THE WEBSITE OF THE ONLINE
17 SERVICE IN A LOCATION ACCESSIBLE TO THE PUBLIC, THE FOLLOWING
18 INFORMATION:

19 (I) THE NAME, ADDRESS, TELEPHONE NUMBER, AND E-MAIL
20 ADDRESS OF THE AGENT; AND

21 (II) ANY OTHER CONTACT INFORMATION THAT THE SECRETARY
22 OF STATE DETERMINES APPROPRIATE.

23 (E) THE SECRETARY OF STATE:

24 (1) SHALL MAINTAIN A CURRENT DIRECTORY OF DESIGNATED
25 AGENTS FOR THE PURPOSES OF THIS SECTION;

26 (2) SHALL MAKE THE DIRECTORY DESCRIBED IN ITEM (1) OF THIS
27 SUBSECTION AVAILABLE TO THE PUBLIC FOR INSPECTION, INCLUDING THROUGH
28 THE INTERNET; AND

29 (3) MAY REQUIRE PAYMENT OF A REASONABLE FEE BY ONLINE
30 SERVICES TO COVER THE COSTS OF MAINTAINING THE DIRECTORY ESTABLISHED
31 UNDER THIS SUBSECTION.

1 **(F) (1) A NOTIFICATION TO AN ONLINE SERVICE ALLEGING A VIOLATION**
2 **OF THE RIGHT DESCRIBED IN § 11-1702 OF THIS SUBTITLE SHALL BE A WRITTEN**
3 **COMMUNICATION PROVIDED TO THE DESIGNATED AGENT OF AN ONLINE SERVICE**
4 **THAT INCLUDES:**

5 **(I) A PHYSICAL OR ELECTRONIC SIGNATURE OF THE RIGHT**
6 **HOLDER, A PERSON AUTHORIZED TO ACT ON BEHALF OF THE RIGHT HOLDER, OR AN**
7 **ELIGIBLE PLAINTIFF UNDER § 11-1707(B) OF THIS SUBTITLE;**

8 **(II) IDENTIFICATION OF THE INDIVIDUAL WHOSE VOICE OR**
9 **VISUAL LIKENESS IS BEING USED IN AN UNAUTHORIZED DIGITAL REPLICA;**

10 **(III) IDENTIFICATION OF THE MATERIAL CONTAINING AN**
11 **UNAUTHORIZED DIGITAL REPLICA, INCLUDING INFORMATION SUFFICIENT TO**
12 **ALLOW THE ONLINE SERVICE TO LOCATE THE ALLEGEDLY UNAUTHORIZED DIGITAL**
13 **REPLICA;**

14 **(IV) INFORMATION REASONABLY SUFFICIENT TO ENABLE THE**
15 **ONLINE SERVICE TO CONTACT THE NOTIFYING PARTY, SUCH AS AN ADDRESS,**
16 **TELEPHONE NUMBER, AND E-MAIL ADDRESS;**

17 **(V) IF THE NOTIFICATION IS NOT PROVIDED BY THE RIGHT**
18 **HOLDER OR AN ELIGIBLE PLAINTIFF UNDER § 11-1707(B) OF THIS SUBTITLE, A**
19 **STATEMENT THAT THE NOTIFYING PARTY BELIEVES IN GOOD FAITH THAT THE**
20 **MATERIAL IS AN UNAUTHORIZED USE OF A DIGITAL REPLICA; AND**

21 **(VI) FOR PURPOSES OF SUBSECTION (B) OF THIS SECTION,**
22 **INFORMATION SUFFICIENT TO:**

23 **1. IDENTIFY THE REFERENCE OR LINK TO THE**
24 **MATERIAL OR ACTIVITY CLAIMED TO BE AN UNAUTHORIZED DIGITAL REPLICA THAT**
25 **IS TO BE REMOVED OR TO WHICH ACCESS IS TO BE DISABLED; AND**

26 **2. ENABLE THE ONLINE SERVICE TO LOCATE THE**
27 **REFERENCE OR LINK DESCRIBED IN ITEM 1 OF THIS ITEM.**

28 **(2) IN A NOTIFICATION TO A DESIGNATED AGENT UNDER PARAGRAPH**
29 **(1) OF THIS SUBSECTION, A PERSON MAY NOT KNOWINGLY AND MATERIALLY**
30 **MISREPRESENT THAT:**

31 **(I) THE MATERIAL REQUESTED TO BE REMOVED IS AN**
32 **UNAUTHORIZED DIGITAL REPLICA;**

(II) A PERSON HAS THE AUTHORITY TO ACT ON BEHALF OF THE
RIGHT HOLDER; OR

(III) A DIGITAL REPLICA IS NOT AUTHORIZED BY THE RIGHT
HOLDER OR BY OTHER LAW.

(3) A PERSON THAT VIOLATES PARAGRAPH (2) OF THIS SUBSECTION
SHALL BE LIABLE FOR DAMAGES IN AN AMOUNT EQUAL TO THE GREATER OF:

(I) \$5,000; OR

(II) 1. ACTUAL DAMAGES, INCLUDING HARM TO AN ONLINE
SERVICE CAUSED BY THE RELIANCE OF THE ONLINE SERVICE ON THE
MISREPRESENTATION IN REMOVING OR DISABLING ACCESS TO THE MATERIAL OR
ACTIVITY CLAIMED TO BE AN UNAUTHORIZED DIGITAL REPLICA; AND

2. COSTS AND ATTORNEY'S FEES.

11-1707.

(A) IN THIS SECTION, "VIOLATION" MEANS EACH DISPLAY, COPY MADE,
TRANSMISSION, AND INSTANCE OF THE UNAUTHORIZED DIGITAL REPLICA BEING
OTHERWISE MADE AVAILABLE ON AN ONLINE SERVICE, UNLESS THE ONLINE
SERVICE HAS TAKEN REASONABLE STEPS TO REMOVE, OR DISABLE ACCESS TO, THE
UNAUTHORIZED DIGITAL REPLICA AS SOON AS IS TECHNICALLY AND PRACTICALLY
FEASIBLE FOR THE ONLINE SERVICE AFTER ACQUIRING KNOWLEDGE IN
ACCORDANCE WITH § 11-1705(B) OF THIS SUBTITLE.

(B) AN ACTION FOR A VIOLATION OF THIS SUBTITLE MAY BE BROUGHT BY:

(1) A RIGHT HOLDER;

(2) IF THE INDIVIDUAL IS A MINOR, A PARENT OR GUARDIAN OF THE
INDIVIDUAL;

(3) ANY OTHER PERSON THAT OWNS OR CONTROLS THE RIGHT TO
AUTHORIZE THE USE OF THE VOICE OR VISUAL LIKENESS OF A DECEASED
INDIVIDUAL; OR

(4) IN THE CASE OF A DIGITAL REPLICA INVOLVING A SOUND
RECORDING ARTIST, A PERSON THAT HAS, DIRECTLY OR INDIRECTLY, ENTERED
INTO:

1 **(I) A CONTRACT FOR THE EXCLUSIVE PERSONAL SERVICES OF**
2 **THE SOUND RECORDING ARTIST; OR**

3 **(II) AN EXCLUSIVE LICENSE TO DISTRIBUTE OR TRANSMIT ONE**
4 **OR MORE WORKS THAT CAPTURE THE AUDIO PERFORMANCE OF THE SOUND**
5 **RECORDING ARTIST.**

6 **(C) AN ACTION MAY NOT BE BROUGHT UNDER THIS SECTION UNLESS THE**
7 **ACTION IS COMMENCED NOT LATER THAN 3 YEARS AFTER THE DATE ON WHICH THE**
8 **PARTY SEEKING TO BRING THE ACTION DISCOVERED, OR WITH DUE DILIGENCE**
9 **SHOULD HAVE DISCOVERED, THE APPLICABLE VIOLATION.**

10 **(D) IT IS NOT A DEFENSE IN AN ACTION BROUGHT UNDER THIS SECTION**
11 **THAT THE DEFENDANT DISPLAYED OR OTHERWISE COMMUNICATED TO THE PUBLIC**
12 **A DISCLAIMER:**

13 **(1) STATING THAT THE APPLICABLE DIGITAL REPLICA WAS**
14 **UNAUTHORIZED; OR**

15 **(2) DISCLOSING THAT THE DIGITAL REPLICA WAS GENERATED**
16 **THROUGH THE USE OF ARTIFICIAL INTELLIGENCE OR OTHER TECHNOLOGY.**

17 **(E) SUBJECT TO SUBSECTION (G) OF THIS SECTION, IN AN ACTION BROUGHT**
18 **UNDER THIS SECTION:**

19 **(1) AN INDIVIDUAL OR ENTITY THAT ENGAGES IN ACTIVITY**
20 **DESCRIBED IN § 11-1705(A) OF THIS SUBTITLE SHALL BE LIABLE TO THE INJURED**
21 **PARTY IN AN AMOUNT EQUAL TO THE GREATER OF:**

22 **(I) 1. IN THE CASE OF AN INDIVIDUAL, \$5,000 PER WORK**
23 **EMBODYING THE APPLICABLE UNAUTHORIZED DIGITAL REPLICA;**

24 **2. IN THE CASE OF AN ENTITY THAT IS AN ONLINE**
25 **SERVICE, \$5,000 PER VIOLATION; OR**

26 **3. IN THE CASE OF AN ENTITY THAT IS NOT AN ONLINE**
27 **SERVICE, \$25,000 PER WORK EMBODYING THE APPLICABLE UNAUTHORIZED**
28 **DIGITAL REPLICA; OR**

29 **(II) ANY ACTUAL DAMAGES SUFFERED BY THE INJURED PARTY**
30 **AS A RESULT OF THE ACTIVITY, PLUS ANY PROFITS FROM THE UNAUTHORIZED USE**
31 **THAT ARE ATTRIBUTABLE TO THE USE AND NOT TAKEN INTO ACCOUNT IN**
32 **COMPUTING THE ACTUAL DAMAGES;**

1 **(2) THE PLAINTIFF MAY SEEK INJUNCTIVE OR OTHER EQUITABLE**
2 **RELIEF;**

3 **(3) IN THE CASE OF WILLFUL ACTIVITY IN WHICH THE INJURED**
4 **PARTY HAS PROVEN THAT THE DEFENDANT ACTED WITH MALICE, FRAUD,**
5 **KNOWLEDGE, OR RECKLESS DISREGARD OF KNOWLEDGE THAT THE CONDUCT**
6 **VIOLATED THE LAW, THE COURT MAY AWARD TO THE INJURED PARTY PUNITIVE**
7 **DAMAGES; AND**

8 **(4) IF THE PREVAILING PARTY IS:**

9 **(I) THE PARTY BRINGING THE ACTION, THE COURT SHALL**
10 **AWARD REASONABLE ATTORNEY'S FEES; OR**

11 **(II) THE PARTY DEFENDING THE ACTION, THE COURT SHALL**
12 **AWARD REASONABLE ATTORNEY'S FEES IF THE COURT DETERMINES THAT THE**
13 **ACTION WAS NOT BROUGHT IN GOOD FAITH.**

14 **(F) IF AN ONLINE SERVICE HAS AN OBJECTIVELY REASONABLE BELIEF**
15 **THAT MATERIAL THAT IS CLAIMED TO BE AN UNAUTHORIZED DIGITAL REPLICA DOES**
16 **NOT QUALIFY AS A DIGITAL REPLICA AS DEFINED IN § 11-1701 OF THIS SUBTITLE,**
17 **THE ONLINE SERVICE MAY NOT BE HELD LIABLE FOR STATUTORY OR ACTUAL**
18 **DAMAGES EXCEEDING \$1,000,000, REGARDLESS OF WHETHER THE MATERIAL IS**
19 **ULTIMATELY DETERMINED TO BE AN UNAUTHORIZED DIGITAL REPLICA.**

20 **(G) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, IF A THIRD**
21 **PARTY THAT PROVIDED THE MATERIAL THAT IS REMOVED BY THE ONLINE SERVICE,**
22 **OR TO WHICH THE ONLINE SERVICE HAS DISABLED ACCESS, FILES A LAWSUIT**
23 **AGAINST THE SENDER OF A NOTIFICATION UNDER § 11-1706(F) OF THIS SUBTITLE**
24 **CLAIMING THAT THE NOTIFICATION WAS FALSE OR DECEPTIVE AS DESCRIBED IN §**
25 **11-1706(F)(2) OF THIS SUBTITLE, THE ONLINE SERVICE MAY RESTORE THE**
26 **REMOVED MATERIAL TO ITS NETWORK FOR ACCESS BY MEMBERS OF THE PUBLIC**
27 **WITHOUT MONETARY LIABILITY TO EITHER:**

28 **(I) THE NOTICE SENDER; OR**

29 **(II) THE THIRD PARTY THAT PROVIDED THE MATERIAL THAT**
30 **THE ONLINE SERVICE HAD REMOVED OR DISABLED ACCESS TO.**

31 **(2) AN ONLINE SERVICE MAY RESTORE THE REMOVED MATERIAL IN**
32 **ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBSECTION ONLY IF A THIRD PARTY**

1 FILES THE LAWSUIT NOT LATER THAN 14 DAYS AFTER THE THIRD PARTY RECEIVES
2 NOTICE THAT THE ONLINE SERVICE HAS REMOVED THE MATERIAL.

3 SECTION 2. AND BE IT FURTHER ENACTED, That:

4 (1) the right established under § 11-1702(a) of the Commercial Law
5 Article, as enacted by Section 1 of this Act, shall apply to an individual regardless of
6 whether an individual dies before or after the effective date of this Act; but

7 (2) Section 1 of this Act may not be applied or interpreted to establish
8 liability for conduct occurring, or a license or contract executed, before the effective date of
9 this Act.

10 SECTION 3. AND BE IT FURTHER ENACTED, That, if any provision of this Act or
11 the application of any provision of this Act to any person or circumstance is held invalid for
12 any reason in a court of competent jurisdiction, the invalidity does not affect other
13 provisions or any other application of this Act that can be given effect without the invalid
14 provision or application, and for this purpose the provisions of this Act are declared
15 severable.

16 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
17 October 1, 2025.