

1-1 By: Schwertner S.B. No. 1960  
1-2 (In the Senate - Filed March 5, 2025; March 17, 2025, read  
1-3 first time and referred to Committee on Business & Commerce;  
1-4 April 9, 2025, reported favorably by the following vote: Yeas 10,  
1-5 Nays 0; April 9, 2025, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	Schwertner	X		
1-9	King		X	
1-10	Blanco	X		
1-11	Campbell	X		
1-12	Creighton	X		
1-13	Johnson	X		
1-14	Kolkhorst	X		
1-15	Menéndez	X		
1-16	Middleton	X		
1-17	Nichols	X		
1-18	Zaffirini	X		

1-19 A BILL TO BE ENTITLED  
1-20 AN ACT

1-21 relating to digital replication rights in the voice and visual  
1-22 likeness of individuals; providing private causes of action;  
1-23 authorizing a fee.

1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-25 SECTION 1. The Business & Commerce Code is amended by adding  
1-26 Title 14A to read as follows:

1-27 TITLE 14A. DIGITAL REPLICAS

1-28 SUBTITLE A. DIGITAL REPLICATION RIGHTS

1-29 CHAPTER 651. VOICE OR VISUAL LIKENESS

1-30 SUBCHAPTER A. GENERAL PROVISIONS

1-31 Sec. 651.001. DEFINITIONS. In this chapter:

1-32 (1) "Digital replica" means a newly created,  
1-33 computer-generated, highly realistic electronic representation  
1-34 that is readily identifiable as the voice or visual likeness of an  
1-35 individual that:

1-36 (A) is embodied in a sound recording, image,  
1-37 audiovisual work, including an audiovisual work that does not have  
1-38 any accompanying sounds, or transmission:

1-39 (i) in which the individual did not  
1-40 actually perform or appear; or

1-41 (ii) that is a version of a sound recording,  
1-42 image, or audiovisual work in which the individual did perform or  
1-43 appear, but in which the fundamental character of the performance  
1-44 or appearance has been materially altered; and

1-45 (B) does not include the electronic  
1-46 reproduction, use of a sample of one sound recording or audiovisual  
1-47 work into another, remixing, mastering, or digital remastering of a  
1-48 sound recording or audiovisual work authorized by the copyright  
1-49 holder.

1-50 (2) "Digital replication right" means the right  
1-51 established under Subchapter B.

1-52 (3) "Eligible plaintiff" means a person authorized to  
1-53 bring an action under Section 651.201.

1-54 (4) "Individual" means a natural or deceased person.

1-55 (5) "Minor" means a person younger than 18 years of age  
1-56 who:

1-57 (A) has never been married; and

1-58 (B) has not had the disabilities of minority  
1-59 removed for general purposes.

1-60 (6) "Online service" means:

1-61 (A) any publicly accessible Internet website,

online application, mobile application, or virtual reality environment, including a social media service, social media network, or online application store, that predominantly provides a community forum for user-generated content, including the sharing of videos, images, games, audio files, or other material; and

(B) a digital music provider, as defined by 17 U.S.C. Section 115(e).

(7) "Online service provider" means the owner of an online service.

(8) "Production" means the creation of a digital replica.

(9) "Right holder" means:

(A) the individual whose voice or visual likeness is simulated or otherwise copied in or as a digital replica; and

(B) if applicable, any other person other than the individual described by Paragraph (A) 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.

(10) "Sound recording artist" means an individual who creates or performs in sound recordings for economic gain or for the livelihood of the individual.

Sec. 651.002. APPLICABILITY. This chapter applies only to an individual who:

(1) is a resident of this state; or

(2) was a resident of this state on the date the individual died.

#### SUBCHAPTER B. DIGITAL REPLICATION RIGHTS

Sec. 651.051. DIGITAL REPLICATION RIGHTS; PROPERTY RIGHT ESTABLISHED. An individual or other right holder has the right to authorize the use of the voice or visual likeness of the individual in a digital replica. The right is:

(1) a property right;

(2) 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

(3) not assignable during the life of the individual.

Sec. 651.052. DIGITAL REPLICATION RIGHTS ON DEATH OF INDIVIDUAL. (a) A digital replication right does not expire on the death of an individual, regardless of whether the right is used commercially by the individual during the individual's lifetime.

(b) Subject to Chapter 26, Property Code, and other applicable law, on the death of an individual:

(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.

(c) A digital replication right is exclusive to:

(1) the individual, subject to the licensing of the right during the lifetime of the individual; and

(2) the right holder:

(A) for a period of 10 years after the death of the individual; and

(B) subject to Section 651.151, if the right holder demonstrates active and authorized public use of the voice or visual likeness of the individual during the 2-year period preceding the expiration of the 10-year period described in Paragraph (A), for an additional 5-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 during the 2-year period preceding the expiration of each additional 5-year period.

(d) A digital replication right terminates on the earlier of:

(1) the date on which the 10-year period or 5-year period, as applicable, described by Subsection (c)(2) expires without renewal; or

(2) the date that is 70 years after the death of the individual.

(e) If a right holder died before September 1, 2025, the right holder's digital replication rights vest in the executors, heirs, assigns, or devisees of the right holder.

Sec. 651.053. UNAUTHORIZED USE OF DIGITAL REPLICA. Except as provided by Section 651.054 and subject to Section 651.104, a person may not:

(1) produce a digital replica without the written consent of the right holder; or

(2) publish, reproduce, display, distribute, transmit, or otherwise make available to the public a digital replica without the written consent of the right holder.

Sec. 651.054. PERMITTED USES. (a) Except as provided by Subsection (b), a person may use a digital replica without the right holder's consent if the digital replica is:

(1) produced or used in a bona fide news, public affairs, or sports broadcast or account, provided that the digital replica is the subject of, or is materially relevant to, the subject of the broadcast or account;

(2) a representation of the individual in a documentary, biographical, or historical manner, including some degree of fictionalization, unless:

(A) the production or use of that digital replica creates the false impression that the digital replica is an authentic sound recording, image, transmission, or audiovisual work in which the individual participated; or

(B) 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 United States Constitution;

(3) produced or used consistent with the public interest in bona fide commentary, criticism, scholarship, satire, or parody;

(4) used in a fleeting or negligible manner; or

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

(b) Subsection (a) does not apply to a digital replica used to depict sexual conduct, as defined by Section 21.16, Penal Code.

Sec. 651.055. AUTHORITY TO LICENSE DIGITAL REPLICATION RIGHT. Except as provided by Section 651.056 or 651.057, an individual may, during the individual's lifetime, license the individual's digital replication right. A license under this section is valid only:

(1) to the extent the duration of the license does not extend beyond the 10th anniversary of the date the license agreement is entered into; and

(2) if the license agreement:

(A) is in writing and signed by the individual or an authorized representative of the individual; and

(B) includes a reasonably specific description of the intended uses of the digital replica.

Sec. 651.056. AUTHORITY TO LICENSE DIGITAL REPLICATION RIGHTS OF CERTAIN MINORS. Except as provided by Section 651.057, a license of the digital replication rights of a minor is valid only:

(1) to the extent the duration of the license does not extend beyond the earlier of:

(A) the fifth anniversary of the date the license agreement is entered into; or

(B) the minor's 18th birthday;

(2) if the license agreement:

(A) is in writing and signed by the minor's parents or legal guardians; and

(B) includes a reasonably specific description of the intended uses of the digital replica; and

(3) if the agreement is approved by a court in

accordance with Subchapter B, Chapter 1356, Estates Code.

Sec. 651.057. COLLECTIVE BARGAINING AGREEMENTS. Sections 651.055 and 651.056 do not apply if the license is governed by a collective bargaining agreement that addresses digital replicas.

Sec. 651.058. REQUIREMENTS FOR POSTMORTEM TRANSFER. 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.

Sec. 651.059. CONTINUED USE BY FORMER LICENSEE OF DIGITAL REPLICA. Unless expressly prohibited by the license agreement, a digital replica that is embodied in a sound recording, image, audiovisual work, including an audiovisual work that does not have any accompanying sounds, or transmission, and the use of which is authorized under the terms of a license agreement, may continue to be used in a manner consistent with the terms of that license after the expiration or termination of the license agreement.

Sec. 651.060. VESTING OF CERTAIN DIGITAL REPLICATION RIGHTS. Subject to Section 651.052(d)(2) and to the terms of a contract, including a license agreement, or testamentary instrument entered into before September 1, 2025, if a right holder died before September 1, 2025, the right holder's digital replication rights vest in the executors, heirs, assigns, or devisees of the right holder.

#### SUBCHAPTER C. ONLINE SERVICE PROVIDER DUTIES

Sec. 651.101. DESIGNATION OF ONLINE SERVICE AGENT FOR REPORTING CERTAIN VIOLATIONS; NOTIFICATIONS. (a) An online service provider shall designate an agent to receive notifications of violations of Section 651.053 that are alleged to have occurred on the online service. The online service provider shall post in a conspicuous, publicly accessible location on the online service the name, address, telephone number, and e-mail address of the designated agent.

(b) A notification under Subsection (a) must:

(1) be in writing;

(2) be submitted by and include the physical or electronic signature of:

(A) the right holder or other eligible plaintiff; or

(B) a person authorized to act on behalf of the right holder or other eligible plaintiff;

(3) identify the individual whose voice or visual likeness is being used in the alleged unauthorized digital replica;

(4) identify the material containing the alleged unauthorized digital replica, including information sufficient to allow the online service provider to locate the replica;

(5) include contact information reasonably sufficient to permit the online service provider to contact the notifying party, such as an address, telephone number, or e-mail address;

(6) include a statement that the notifying person believes in good faith that the material is an unauthorized use of a digital replica;

(7) if the notifying party is not the right holder or other eligible plaintiff, include a statement that the notifying party has the authority to act on behalf of the right holder or eligible plaintiff, as applicable; and

(8) for the purposes of Section 651.102, include information reasonably sufficient to:

(A) identify the reference or link to the material or activity claimed to be an unauthorized digital replica that is to be removed or to which access is to be disabled; and

(B) permit the online service provider to locate the reference or link described in Paragraph (A).

Sec. 651.102. REMOVAL OF DIGITAL REPLICA. On receiving a notification under Section 651.101, the online service provider shall:

(1) remove from or disable access to the material that is claimed to be an unauthorized digital replica on the online service as soon as is technically and practically feasible; and

(2) if the online service hosts or otherwise stores third-party provided material on a system or network controlled or operated by or for the online service:

(A) remove or disable access to all instances of the material or an activity using the material that is claimed to be an unauthorized digital replica as soon as is technically and practically feasible for that online service; and

(B) take reasonable steps to promptly notify the third party that provided the material that the online service provider has removed or disabled access to the material.

Sec. 651.103. FALSE OR DECEPTIVE NOTICE PROHIBITED. A person may not submit a notice under Section 651.101 that falsely or deceptively states that:

(1) the material requested to be removed is or embodies an unauthorized digital replica;

(2) the person is authorized to submit the notice under Section 651.101(b)(2); or

(3) use of the digital replica is not authorized by the right holder or by other law.

Sec. 651.104. PRODUCTS AND SERVICES CAPABLE OF PRODUCING DIGITAL REPLICAS; EXCEPTIONS AND VIOLATIONS BY MANUFACTURERS AND DISTRIBUTORS. A person does not violate Section 651.053 by manufacturing, importing, offering to the public, providing, or otherwise distributing a product or service unless the product or service:

(1) is primarily designed to produce one or more unauthorized digital replicas;

(2) has limited commercially significant purpose or use other than to produce an unauthorized digital replica; or

(3) is marketed, advertised, or otherwise promoted for use in producing an unauthorized digital replica by:

(A) that person; or

(B) another:

(i) acting in concert with that person; or

(ii) with that person's knowledge.

#### SUBCHAPTER D. REGISTRATION OF POSTMORTEM RIGHTS

Sec. 651.151. REGISTRATION OF POSTMORTEM RIGHTS. The renewal of a right described by Section 651.052(c)(2) is only effective if, before the two-year period described by that section, the right holder files a notice with the secretary of state that contains:

(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; and

(4) any other information the secretary of state deems necessary.

Sec. 651.152. POSTMORTEM DIGITAL REPLICATION RIGHTS DIRECTORY. (a) The secretary of state shall maintain and make available to the public a directory of postmortem digital replication rights registered under Section 651.151.

(b) A right holder may voluntarily apply to the secretary of state for inclusion on the directory described by this section by filing a notice with the secretary of state that complies with the form, content, and filing procedures prescribed by rule by the secretary of state.

(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.

#### SUBCHAPTER E. ENFORCEMENT

Sec. 651.201. AUTHORITY TO BRING UNAUTHORIZED USE ACTION: ELIGIBLE PLAINTIFF. An action under Section 651.202 or 651.203 may be brought only by:

(1) a right holder;

(2) if the individual who is the subject of a digital replica is a minor, the parent or guardian of the individual;

(3) any other person that controls, including through



a license, the right to authorize the use of the voice or visual likeness of the right holder;

(4) any other person that owns or controls the right to authorize the use of the voice or visual likeness of a deceased individual; or

(5) in the case of a digital replica of an individual who is a sound recording artist, any person that has, directly or indirectly, entered into:

(A) a contract for the exclusive personal services of the sound recording artist as a sound recording artist; or

(B) an exclusive license to distribute or transmit one or more works that capture the audio performance of the sound recording artist.

Sec. 651.202. INJUNCTIVE RELIEF FOR UNAUTHORIZED USE. An eligible plaintiff may bring a private cause of action against a person who violates or threatens to violate this chapter to obtain:

(1) injunctive relief; or

(2) other equitable relief.

Sec. 651.203. PRIVATE CAUSE OF ACTION FOR UNAUTHORIZED USE. (a) In this section, "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 651.053.

(c) For purposes of Subsection (a), a person may be presumed to have acted knowingly if the person:

(1) is an online service provider that received a notification under Section 651.101 and failed to remove or disable access to the material under Section 651.102; or

(2) wilfully avoided having knowledge that:

(A) the applicable material is a digital replica; and  
(B) the digital replica was not authorized by a right holder.

(d) A person must bring a cause of action under this section not later than the third anniversary after the date on which the person discovered, or with due diligence should have discovered, the violation.

(e) It is not a defense in a cause of action brought under this section that the person alleged to have violated Section 651.053 displayed or otherwise communicated to the public a disclaimer stating that the digital replica was unauthorized or disclosing that the digital replica was generated through the use of artificial intelligence or other technology.

(f) In a cause of action brought under this section, a person that violates Section 651.053 is liable to the aggrieved person for:

(1) subject to Subsection (g), the greater of:

(A) statutory damages in the amount of:

(i) \$5,000 per work embodying the unauthorized digital replica, if the violator is an individual;

(ii) \$5,000 per violation, if the violator is an online service provider; and

(iii) \$25,000 per work embodying the unauthorized digital replica, if the violator is an entity other than an online service provider; or

(B) the sum of actual damages and profits attributable to the unauthorized use of the digital replica; and

(2) if a wilful violation is proven under which the violator is found to have acted with malice, fraud, knowledge, or wilful avoidance of knowledge that the conduct violated the law, punitive damages.

(g) An online service provider that has an objectively reasonable belief that material claimed to be an unauthorized digital replica does not qualify as a digital replica may not be liable for statutory or actual damages exceeding \$1 million regardless of whether the material is ultimately determined to be an unauthorized digital replica.

(h) The remedies available under this section and Section

26.013, Property Code, for a violation arising out of the same  
conduct are mutually exclusive.

Sec. 651.204. ATTORNEY'S FEES. If the prevailing party is:  
(1) the party bringing the action, the court shall  
award reasonable attorney's fees; or

(2) the party defending the action, the court shall  
award reasonable attorney's fees if the court determines that the  
action was not brought in good faith.

Sec. 651.205. PRIVATE CAUSE OF ACTION FOR SUBMISSION OF  
CERTAIN FALSE OR DECEPTIVE NOTICE. (a) Except as provided by  
Subsection (b), a person who violates Section 651.103 is liable to  
the online service provider, a third party described by Section  
651.102, or another person aggrieved by the violation for an amount  
equal to the greater of:

(1) \$5,000; or  
(2) actual damages and court costs and reasonable  
attorney's fees, including actual damages arising out of an online  
service provider's reliance on the notice in removing or disabling  
access to the material or activity claimed to be an unauthorized  
digital replica.

(b) If a third party described by Section 651.102 files an  
action under this section, the online service provider may,  
provided the action is filed not later than the 14th day after the  
date a third party receives notice under Section 651.102(2)(B),  
restore the removed material to the online service without  
incurring monetary liability to either the notifying party or the  
third party.

SECTION 2. To the extent of a conflict between Chapter 651,  
Business & Commerce Code, as added by this Act, and a provision of a  
contract, including a license agreement, or testamentary  
instrument entered into or executed before the effective date of  
this Act, the provision of the contract or instrument prevails.

SECTION 3. Subchapter E, Chapter 651, Business & Commerce  
Code, as added by this Act, applies only to conduct occurring on or  
after the effective date of this Act.

SECTION 4. This Act takes effect September 1, 2025.

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