**South Carolina General Assembly**

125th Session, 2023-2024

**H. 5374**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Henegan, Williams, Rivers and Kirby

Companion/Similar bill(s): 5393

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Introduced in the House on April 9, 2024

Currently residing in the House Committee on **Judiciary**

Summary: Ensuring Likeness, Voice, and Image Security Act

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 4/9/2024 House Introduced and read first time (House Journal‑page 15)

 4/9/2024 House Referred to Committee on **Judiciary** (House Journal‑page 15)

View the latest  [legislative information](https://www.scstatehouse.gov/billsearch.php?billnumbers=5374&session=125&summary=B)  at the website

**VERSIONS OF THIS BILL**

[04/09/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/5374_20240409.docx)

A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 39‑5‑190 SO AS TO PROVIDE THAT EVERY INDIVIDUAL HAS A PROPERTY RIGHT IN THE USE OF THAT INDIVIDUAL’S NAME, PHOTOGRAPH, VOICE, OR LIKENESS IN ANY MEDIUM IN ANY MANNER AND TO PROVIDE PENALTIES.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Article 1, Chapter 5, Title 39 of the S.C. Code is amended by adding:

 Section 39‑5‑190. (A) For purposes of this section:

 (1) “Use” includes the commercial availability of a sound recording or audiovisual work in which the individual’s name, photograph, voice, or likeness is readily identifiable.

 (2) “Voice” means a sound in a medium that is readily identifiable and attributable to a particular individual, regardless of whether the sound contains the actual voice or a simulation of the voice of the individual.

 (B) Every individual has a property right in the use of that individual's name, photograph, voice, or likeness in any medium in any manner.

 (C)(1) The exclusive right to commercial exploitation of the property rights is terminated by proof of the nonuse of the name, photograph, voice, or likeness of an individual for commercial purposes by an executor, assignee, heir, or devisee to the use for a period of two years subsequent to the initial period of ten years following the individual’s death.

 (D)(1) Any person who knowingly uses or infringes upon the use of an individual’s name, photograph, voice, or likeness in any medium, in any manner directed to any person other than such individual, for purposes of advertising products, merchandise, goods, or services, or for purposes of fundraising, solicitation of donations, purchases of products, merchandise, goods, or services, without the individual’s prior consent, or, in the case of a minor, the prior consent of the minor’s parent or legal guardian, or in the case of a deceased individual, the consent of the executor or administrator, heirs, or devisees of the deceased individual, is liable to a civil action.

 (2) A person is liable to a civil action if the person publishes, performs, distributes, transmits, or otherwise makes available to the public an individual’s voice or likeness, with knowledge that use of the voice or likeness was not authorized by the individual or, in the case of a minor, the minor’s parent or legal guardian, or in the case of a deceased individual, the executor or administrator, heirs, or devisees of such deceased individual.

 (3) A person is liable to a civil action if the person distributes, transmits, or otherwise makes available an algorithm, software, tool, or other technology, service, or device, the primary purpose or function of which is the production of an individual’s photograph, voice, or likeness without authorization from the individual or, in the case of a minor, the minor’s parent or legal guardian, or in the case of a deceased individual, the executor or administrator, heirs, or devisees of such deceased individual.

 (E) Where a person has entered into a contract for an individual’s exclusive personal services as a recording artist or an exclusive license to distribute sound recordings that capture an individual’s audio performances, an action to enforce the rights set forth in this section may be brought by the person or the individual.

SECTION 2. This act takes effect upon approval by the Governor.

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