



Right of Publicity of A Personality's Unclothed Body

Section 1

- (a) This chapter applies to an act or event that occurs within the State of [X], regardless of a personality's domicile, residence, or citizenship.
- (b) This chapter does not affect rights and privileges recognized under any other law that apply to a news reporting or an entertainment medium.
- (c) This chapter does not apply to the following:
1. The use of a personality's unclothed body in any of the following:
 - (A) Literary works, theatrical works, musical compositions, film, radio, or television programs.
 - (B) Material that has political or newsworthy value.
 - (C) Original works of fine art.
 - (D) Promotional material or an advertisement for a news reporting or an entertainment medium that:
 - (i) uses all or part of a past edition of the medium's own broadcast or publication; and
 - (ii) does not convey or reasonably suggest that a personality endorses the news reporting or entertainment medium.
 - (E) An advertisement or commercial announcement for a use described in this subdivision.
 2. The use of a personality's unclothed body in connection with the broadcast or reporting of an event or a topic of general or public interest.

Section 2

As used in this chapter, "commercial purpose" means the use of an aspect of a personality's right of publicity as follows

1. On or in connection with a product, merchandise, goods, services, or commercial activities
2. For advertising or soliciting purchases of products, merchandise, goods, services, or for promoting commercial activities
3. For the purpose of fundraising
4. For promoting the use of any commercial internet content provider or interactive computer service

Section 3

As used in this chapter, "internet content provider" and "interactive computer service" shall have the meanings as set forth in 47 U.S.C. § 230(f).

Section 4

As used in this chapter, “unclothed body” shall refer to the images of an individual that reveals, in the case of women, the naked breast, buttocks, or genitalia, or, in the case of men, naked genitalia or buttocks.

Section 5

As used in this chapter, “news reporting or an entertainment medium” means a medium that publishes, broadcasts, or disseminates advertising in the normal course of its business, including the following

1. Newspapers
2. Magazines
3. Radio and television networks and stations
4. Cable television systems
5. Internet

Section 6

As used in this chapter, “person” means a natural person, a partnership, a firm, a corporation, or an unincorporated association

Section 7

As used in this chapter, “personality” means a living or deceased natural person whose unclothed body has commercial value, whether or not the person uses or authorizes the use of the person’s rights of publicity for a commercial purpose during the person’s lifetime

Section 8

As used in this chapter, “right of publicity” means a personality’s property interest in the personality’s unclothed body.

Section 9

(a) A person may not use an aspect of a personality’s right of publicity for a commercial purpose during the personality’s lifetime or for ten (10) years after the date of the personality’s death without having obtained previous written consent from a person specified in section 17 of this chapter.

(b) No consent under this Chapter shall be valid for more than one (1) year.

Section 10

A person who

1. engages in conduct within the State of X that is prohibited under section 9 of this chapter
2. creates or causes to be created within the State of [X] goods, merchandise, or other materials prohibited under section 9 of this chapter

3. transports or causes to be transported into the State of [X] goods, merchandise, or other materials created or used in violation of section 9 of this chapter; or
4. knowingly causes advertising or promotional material created or used in violation of section 9 of this chapter to be published, distributed, exhibited, or disseminated within the State of [X]

submits to the jurisdiction of the State of [X] courts

Section 11

A person who violates section 9 of this chapter may be liable for any of the following

1. Damages in the amount of
 - (A) one ten thousand dollars (\$10,000) per use in violation of section 9 ; or
 - (B) actual damages, including profits derived from the unauthorized use and emotional injury, whichever is greater
2. Treble or punitive damages, as the injured party may elect, if the violation under section 9 of this chapter is knowing, willful, or intentional.

Section 12

In establishing the amount of the profits under section 11(1)(B) of this chapter

1. the plaintiff is required to prove the gross revenue attributable to the unauthorized use; and
2. the defendant is required to prove properly deductible expenses.

Section 13

In addition to any damages awarded under section 11 of this chapter, the court

1. shall award to the plaintiff reasonable attorney's fees, costs, and expenses relating to an action under this chapter; and
2. may order temporary or permanent injunctive relief, except as provided by section 14 of this chapter.

Section 14

Injunctive relief is not enforceable against a news reporting or an entertainment medium that has

1. contracted with a person for the publication or broadcast of an advertisement; and
2. incorporated the advertisement in tangible form into material that has been prepared for broadcast or publication.

Section 15

(a) This Chapter does not apply to a news reporting or an entertainment medium

(b) During any period that an action under this chapter is pending, a court may order the impoundment of

1. goods, merchandise, or other materials claimed to have been made or used in violation of section 9 of this chapter; and
2. plates, molds, matrices, masters, tapes, negatives, or other items from which goods, merchandise, or other materials described in subdivision (1) may be manufactured or reproduced.

(c) The court may order impoundment under subsection (b) upon terms that the court considers reasonable.

Section 16

(a) This section does not apply to a news reporting or an entertainment medium

(b) As part of a final judgment or decree, a court may order the destruction or other reasonable disposition of items described in section 15(b) of this chapter

Section 17

The rights recognized under this chapter are property rights, freely transferable and descendible, subject to restrictions in Section 9, in whole or in part, by the following

1. Contract
2. License
3. Gift
4. Trust
5. Testamentary document
6. Operation of the laws of intestate succession applicable to the state administering the estate and property of an intestate deceased personality, regardless of whether the state recognizes the property rights set forth under this chapter

Section 18

(a) The written consent required by section 9 of this chapter and the rights and remedies set forth in this chapter may be exercised and enforced by

1. a personality; or
2. a person to whom the recognized rights of a personality have been transferred under section 17 of this chapter

Section 19.

(a) Subject to sections 9, 17 and 18 of this chapter, after the death of an intestate personality, the rights and remedies of this chapter may be exercised and enforced by a person who possesses a total of not less than one-half (1/2) interest of the personality's recognized rights

(b) A person described in subsection (a) shall account to any other person in whom the personality's recognized rights have vested to the extent that the other person's interest may appear

Section 20.

If

1. a deceased personality's recognized rights under this chapter were not transferred by
 - (A) contract
 - (B) license
 - (C) gift
 - (D) trust; or
 - (E) testamentary document; and

2. there are no surviving persons as described in section 17 of this chapter to whom the deceased personality's recognized rights pass by intestate succession

the deceased personality's rights set forth in this chapter terminate

Section 21.

The rights and remedies provided for in this chapter are supplemental to any other rights and remedies provided by law.