

The House Committee on Creative Arts and Entertainment offers the following substitute to HB 566:

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to selling
2 and other trade practices, so as to enact the "NO FAKES Act of 2025"; to protect intellectual
3 property rights in the voice and visual likeness of individuals; to provide for the
4 characteristics of a right to use the voice or visual likeness in a digital replica; to provide for
5 licensing and transferability of a right; to require the Secretary of State to maintain a
6 directory of certain post-mortem digital replication rights and a directory of designated
7 agents; to authorize the Secretary of State to make interpretations and resolve ambiguities
8 in carrying out provisions of this article; to provide for rules and regulations; to provide for
9 civil liability for the unauthorized use of a digital replica; to provide for penalties; to bar
10 liability arising from retroactive application of this Act; to provide for definitions; to provide
11 for an effective date; to repeal conflicting laws; and for other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 **SECTION 1.**

14 This Act shall be known and may be cited as the "Nurture Originals, Foster Art, and Keep
15 Entertainment Safe Act of 2025" or the "NO FAKES Act of 2025."

H. B. 566 (SUB)

40 (B) May include a social media service, social network, or application store; provided,
41 however, that such term does not include a service by wire or radio that provides the
42 capability to transmit data to and receive data from all, or substantially all, internet
43 endpoints, including any capabilities that are incidental to enabling the operation of the
44 communications service of a provider of online services or network access, or the
45 operator of facilities for such service.

46 (4) 'Production' means the creation of a digital replica.

47 (5) 'Right holder' means the individual whose voice or visual likeness is at issue with
48 respect to a digital replica and any other person that has acquired, through a license,
49 inheritance, or otherwise, the right to authorize the use of such voice or visual likeness
50 in a digital replica.

51 (6) 'Sound recording artist' means an individual who creates or performs in sound
52 recordings for economic gain or for the livelihood of the individual.

53 10-1-951.

54 (a) Subject to the other provisions of this Code section, each individual or right holder
55 shall have the right to authorize the use of the voice or visual likeness of such individual
56 in a digital replica.

57 (b) The right described in subsection (a) of this Code section shall have the following
58 characteristics:

59 (1) The right is:

60 (A) A property right;

61 (B) Not assignable during the life of the individual; and

62 (C) Licensable, in whole or in part, exclusively or non-exclusively, by the right holder;

63 (2) The right shall not expire upon the death of the individual, without regard to whether
64 such right is commercially exploited by the individual during the individual's lifetime;

65 (3) Upon the death of the individual:

66 (A) The right is transferable, licensable, in whole or in part, by the executors, heirs,
 67 assigns, licensees, or devisees of the individual; and

68 (B) Ownership of the right may be:

69 (i) Transferred, in whole or in part, by any means of conveyance or by operation of
 70 law; and

71 (ii) Bequeathed by will or passed as personal property by the applicable laws of
 72 intestate succession;

73 (4) The right shall be exclusive to:

74 (A) The individual, subject to the licensing of the right during the lifetime of such
 75 individual under subsection (a) of Code Section 10-1-952; and

76 (B) The right holder:

77 (i) For a period of ten years after the death of the individual; and

78 (ii) If the right holder demonstrates active and authorized public use of the voice or
 79 visual likeness of the individual during the two-year period preceding the expiration
 80 of the ten-year period described in division (i) of this paragraph, for an additional
 81 five-year period, subject to renewal for additional five-year periods, provided that the
 82 right holder can demonstrate authorized public use of the voice or visual likeness of
 83 the individual during the two-year period preceding the expiration of each additional
 84 five-year period; and

85 (5) The right shall terminate on the date that is the earlier of:

86 (A) The date on which the ten-year period or five-year period described in
 87 division (b)(4)(B)(ii) of this Code section terminates without renewal; or

88 (B) The date that is 70 years after the death of the individual.

89 10-1-952.

90 (a) A license described in subparagraph (b)(4)(A) of Code Section 10-1-951:

- 91 (1) While the individual is living, is valid only to the extent that the license duration does
92 not exceed ten years; and
- 93 (2) Shall be valid only if the license agreement:
- 94 (i) Is in writing and signed by the individual or an authorized representative of the
95 individual; and
- 96 (ii) Includes a reasonably specific description of the intended uses of the applicable
97 digital replica.
- 98 (b) A license as described in subparagraph (b)(1)(C) of Code Section 10-1-951 involving
99 a living individual who is younger than 18 years of age:
- 100 (1) Is valid only to the extent that the license duration does not exceed five years, but in
101 any case terminates when the individual reaches 18 years of age;
- 102 (2) Shall be valid only if the license agreement:
- 103 (A) Is in writing and signed by the individual or an authorized representative of the
104 individual; and
- 105 (B) Includes a reasonably specific description of the intended uses of the digital
106 replica; and
- 107 (3) The license is approved by a court in accordance with the law of this state.
- 108 (c) The provisions of subsections (a) and (b) of this Code section shall not apply if the
109 license is governed by a collective bargaining agreement that addresses digital replicas.
- 110 (d) The provisions of subsections (a) and (b) of this Code section shall not affect terms and
111 conditions of a license or related contract other than those described in this Code section,
112 and the expiration of such license does not affect the remainder of the license or related
113 contract.

114 10-1-953.

115 (a) A post-mortem transfer or license as provided in subparagraph (b)(3)(A) of Code
116 Section 10-1-951 shall be valid only if the transfer agreement or license agreement is in
117 writing and signed by the right holder or an authorized representative of the right holder.

118 (b) The renewal of a post-mortem right under division (b)(4)(B)(ii) of Code Section
119 10-1-951 shall be effective if, during the applicable two-year renewal period specified in
120 said division, the right holder files a notice with the Secretary of State which shall include:

121 (1) The name of the deceased individual;

122 (2) A statement, under penalty of perjury, that the right holder has engaged in active and
123 authorized public use of the voice or visual likeness during the applicable two-year
124 period;

125 (3) The identity of and contact information for the right holder; and

126 (4) Such other information as the Secretary of State may prescribe by regulation.

127 (c) The Secretary of State shall maintain a current directory of post-mortem digital
128 replication rights registered under this Code section. Such directory may include voluntary
129 registrations of the post-mortem right provided in division (b)(4)(b)(i) of Code Section
130 10-1-951. Such directory shall be posted on the appropriate public website and available
131 to the public for inspection. The Secretary of State may require payment of a reasonable
132 filing fee by the registrant, which may take into consideration the costs of maintaining such
133 directory.

134 (d) The right holder may voluntarily register the post-mortem right under division
135 (b)(4)(B)(i) of Code Section 10-1-951 by filing a notice with the Secretary of State that
136 complies with such requirements regarding form, content, and filing procedures as the
137 Secretary of State may prescribe by regulation.

138 (e) The Secretary of State may make such interpretations and resolve such ambiguities as
139 may be appropriate to carry out this article.

140 (f) The Secretary of State shall promulgate rules and regulations necessary to implement
141 and administer the provisions of this article.

142 10-1-954.

143 A digital replica that is embodied in a sound recording, image, audiovisual work, including
144 an audiovisual work that does not have any accompanying sounds, or transmission, and the
145 use of which is authorized pursuant to the terms of a license, may continue to be utilized
146 in a manner consistent with the terms of that license after the expiration or termination of
147 the license.

148 10-1-955.

149 (a) Any person that engages in an activity provided in subsection (b) of this Code section
150 shall be liable in a civil action brought under subsection (e) of this Code section.

151 (b) The following activities shall be prohibited pursuant to this article:

152 (1) The production of a digital replica without consent of the applicable right holder; or
153 (2) The publication, reproduction, display, distribution, transmission of, or otherwise
154 making available to the public a digital replica without consent of the applicable right
155 holder.

156 (c) To incur liability under this Code section, a person engaging in an activity shall have
157 actual knowledge, which could be obtained through a notification that satisfies
158 subsection (k) of this Code section, or shall willfully avoid having such knowledge, that:

159 (1) The applicable material is a digital replica; and
160 (2) The digital replica was not authorized by the applicable right holder.

161 (d) It shall not be a violation of subsection (a) of this Code section if:

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

165 (2) The applicable digital replica is a representation of the applicable individual in a
166 documentary or in a historical or biographical manner, including some degree of
167 fictionalization, unless:

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

171 (B) The digital replica is embodied in a musical sound recording that is synchronized
172 to accompany a motion picture or other audiovisual work, except to the extent that the
173 use of that digital replica is protected by the First Amendment to the Constitution of the
174 United States;

175 (3) The applicable digital replica is produced or used consistent with the public interest
176 in bona fide commentary, criticism, scholarship, satire, or parody;

177 (4) The use of the applicable digital replica is fleeting or negligible; or

178 (5) The applicable digital replica is used in an advertisement or commercial
179 announcement for any purpose described in paragraphs (1) through (4) of this subsection
180 and the applicable digital replica is relevant to the subject of the work so advertised or
181 announced.

182 (e) The exception provided in subsection (d) of this Code section shall not apply where the
183 applicable digital replica is used to depict sexually explicit conduct, as such term is set
184 forth in Code Section 16-12-100.

185 (f) No person shall be secondarily liable for a violation of this Code section for
186 manufacturing, importing, offering to the public, providing, or otherwise distributing a
187 product or service unless the product or service:

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

189 (2) Has only limited commercially significant purpose or use other than to produce an
190 unauthorized digital replica; or

191 (3) Is marketed, advertised, or otherwise promoted by that person or another acting in
192 concert with that person with that person's knowledge for use in producing an
193 unauthorized digital replica.

194 (g) An online service shall not be liable for violating the right described in Code Section
195 10-1-951 by referring or linking a user to an unauthorized digital replica, or by carrying out
196 an activity described in subsection (b) of this Code section, if, upon receiving a notification
197 as provided in subsection (c) of this Code section, the online service removes or disables
198 access to the material that is claimed to be an unauthorized digital replica as soon as is
199 technically and practically feasible for such online service.

200 (h) An online service shall not be liable for violating the right described in Code Section
201 10-1-951 by storing third-party provided material that resides on a system or network
202 controlled or operated by or for the online service if, upon receiving a notification that
203 satisfies subsection (c) of this Code section, the online service:

204 (1) Removes, or disables access to, all instances of the material, or an activity using the
205 material, that is claimed to be an unauthorized digital replica, as soon as is technically
206 and practically feasible for such online service; and

207 (2) Having done so, takes reasonable steps to promptly notify the third party which
208 provided the material that the online service has removed or disabled access to the
209 material.

210 (i) The limitations on liability established under this Code section shall apply to an online
211 service only if the online service has designated an agent to receive notifications under
212 subsection (c) of this Code section by making available through the online service,
213 including on the public website of the online service in a location accessible to the public,
214 and by providing to the Secretary of State, substantially the following information:

215 (1) The name, address, telephone number, and electronic mail address of the agent; and

216 (2) Other contact information that the Secretary of State may determine appropriate.

217 (j) The Secretary of State shall maintain a current directory of designated agents for the
218 purposes of this Code Section. The directory of designated agents shall be available to the
219 public for inspection, including through the internet. The Secretary of State may require
220 payment of a reasonable filing fee by the registrant, which may take into consideration the
221 costs of maintaining the directory of designated agents.

222 (k) To be effective under this Code section, a notification of a claimed violation of the
223 right described in Code Section 10-1-951 shall be a written communication provided to the
224 designated agent of an online service that includes the following:

225 (1) A physical or electronic signature of the right holder, a person authorized to act on
226 behalf of the right holder, or an eligible plaintiff under subsection (n) of this Code
227 section;

228 (2) Identification of the individual, the voice or visual likeness of whom is being used
229 in an unauthorized digital replica;

230 (3) Identification of the material containing an unauthorized digital replica, including
231 information sufficient to allow the online service to locate the allegedly unauthorized
232 digital replica;

233 (4) Information reasonably sufficient to permit the online service to contact the notifying
234 party, such as an address, telephone number, and electronic mail address;

235 (5) A statement that the notifying party believes in good faith that the material is an
236 unauthorized use of a digital replica;

237 (6) If not the right holder or an eligible plaintiff under subsection (n) of this Code
238 section, a statement that the notifying party has the authority to act on behalf of the right
239 holder;

240 (7) For the purposes of subsection (g) of this Code section, information reasonably
241 sufficient to:

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

245 (B) Permit the online service to locate the reference or link described in
246 subparagraph (A) of this paragraph.

247 (l) It shall be unlawful to knowingly materially misrepresent under subsection (k) of this
248 Code section:

249 (1) That the material requested to be removed is an unauthorized digital replica;

250 (2) That a person has the authority to act on behalf of the right holder; or

251 (3) That a digital replica is not authorized by the right holder or by other law.

252 (m) Any person that violates subsection (l) of this Code section shall be liable for an
253 amount equal to the greater of \$5,000.00 or any actual damages, including costs and
254 attorney's fees, incurred by the alleged violator, as well as by any online service injured by
255 the reliance of the online service on the misrepresentation in removing or disabling access
256 to the material or activity claimed to be an unauthorized digital replica.

257 (n) A civil action for a violation of this Code section may be brought by:

258 (1) A right holder;

259 (2) If the individual is younger than 18 years of age, a parent or guardian of the
260 individual;

261 (3) Any other person that controls, including by virtue of a license, the right to authorize
262 the use of the voice or visual likeness of the right holder;

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

265 (5) In the case of a digital replica involving a sound recording artist, any person that has,
266 directly or indirectly, entered into:

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

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

271 (o) A civil action may not be brought under this Code section unless the action is
272 commenced not later than three years after the date on which the party seeking to bring the
273 civil action discovered, or with due diligence should have discovered, the applicable
274 violation.

275 (p) It shall not be a defense in a civil action brought under this Code section that the
276 defendant displayed or otherwise communicated to the public a disclaimer stating that the
277 applicable digital replica was unauthorized or disclosing that the digital replica was
278 generated through the use of artificial intelligence or other technology.

279 (q) In any civil action brought under this Code section:

280 (1) An individual or entity that engages in an activity described in subsection (b) of Code
281 Section 10-1-955 shall be liable to the injured party in an amount equal to the greater of:

282 (A)(i) In the case of an individual, \$5,000.00 per work embodying the applicable
283 unauthorized digital replica;

284 (ii) In the case of an entity that is an online service, \$5,000.00 per violation; and

285 (iii) In the case of an entity that is not an online service, \$25,000.00 per work
286 embodying the applicable unauthorized digital replica; or

287 (B) Any actual damages suffered by the injured party as a result of the activity, plus
288 any profits from the unauthorized use that are attributable to such use and are not taken
289 into account in computing the actual damages.

290 (2) The plaintiff may seek injunctive or other equitable relief;

291 (3) In the case of willful activity in which the injured party has proven that the defendant
292 acted with malice, fraud, knowledge, or willful avoidance of knowledge that the conduct
293 violated the law, the court may award to the injured party punitive damages;

294 (4) If the party bringing the action prevails, the court shall award reasonable attorney's
295 fees. If the party defending the action prevails, the court shall award reasonable
296 attorney's fees if the court determines that the action was not brought in good faith;

297 (5) For purposes of this subsection, the term 'violation' means each display, copy,
298 transmission, and each instance of the unauthorized digital replica being otherwise made
299 available on the online service, unless the online service has taken reasonable steps to
300 remove, or disable access to, the unauthorized digital replica as soon as is technically and
301 practically feasible for the online service upon acquiring knowledge as set forth in
302 subsection (c)(3) of Code Section 10-1-955;

303 (6) An online service that has an objectively reasonable belief that material that is
304 claimed to be an unauthorized digital replica does not qualify as a digital replica under
305 paragraph (1) of Code Section 10-1-950 shall not be liable for statutory or actual damages
306 exceeding \$1 million regardless of whether the material is ultimately determined to be
307 an unauthorized digital replica; and

308 (7) In the event that the third party that provided the material that the online service has
309 removed or to which the online service has disabled access files a lawsuit against the
310 sender of a notice under subsection (k) of this Code section claiming that such notice was
311 false or deceptive as provided in subsection (l) of this Code section, the online service
312 may, provided that the lawsuit was filed not later than 14 days after the user receives
313 notice that the online service has removed or disabled access to the material, restore the
314 removed material to its network for access by members of the public without monetary
315 liability therefor to either the notice sender or the third party that provided the material
316 that the online service had removed or disabled access.

317 10-1-956.

318 (a) Nothing in this article shall be construed to abrogate causes of action under the
319 common law.

320 (b) Liability under this article shall apply only to:

321 (1) Conduct occurring after the date of enactment of this Act; and

322 (2) In the case of conduct covered by a license or contract, a license or contract that is
323 executed after the date of enactment of this Act.

324 (c) The right granted under subsection (b) of Code Section 10-1-951:

325 (1) Shall apply to any individual, regardless of whether the individual dies before or after
326 the date of enactment of this article; and

327 (2) In the case of a right holder who has died before the date of enactment of this article,
328 shall vest in the executors, heirs, assigns, or devisees of the right holder."

329 **SECTION 3.**

330 This Act shall become effective 180 days after its approval by the Governor or 180 days after
331 its becoming law without such approval.

332 **SECTION 4.**

333 All laws and parts of laws in conflict with this Act are repealed.