STATE OF CALIFORNIA
LEGISLATIVE COUNSEL BUREAU
AUTHENTICATED
ELECTRONIC LEGAL MATERIAL

Senate Bill No. 1111

CHAPTER 862

An act to amend Section 3344 of the Civil Code, and to add Chapter 9 (commencing with Section 540) to Title 13 of Part 1 of the Penal Code, relating to digital replicas.

[Approved by Governor September 30, 2026. Filed with Secretary of State September 30, 2026.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1111, Ashby. Digital replicas.

Existing law creates a civil cause of action against any person who knowingly uses the name, voice, signature, photograph, or likeness of another person, without their consent, for specified purposes. When a photograph or likeness of an employee of the person using the photograph or likeness appearing in an advertisement or other publication is incidental and not essential to the purpose of the publication, existing law establishes a rebuttable presumption affecting the burden of producing evidence that failure to obtain the consent of an employee was not a knowing use of an employee's photograph or likeness.

This bill would clarify that, for purposes of this cause of action, a voice or likeness includes a digital replica, defined to mean a computer-generated, highly realistic electronic representation that is readily identifiable as the voice or visual likeness of an individual in which the actual individual either did not actually perform or appear, or the actual individual did perform or appear, but the fundamental character of the performance or appearance has been materially altered. The bill would also remove the provisions establishing the rebuttable presumption when an employee's likeness or photograph appears in an advertisement or other publication.

Existing law prohibits the false impersonation of another person in either their personal or official capacity with the intent to steal or defraud, as specified.

This bill would clarify that false impersonation includes the use of a digital replica with the intent to impersonate another for purposes of these and other criminal provisions.

The people of the State of California do enact as follows:

SECTION 1. Section 3344 of the Civil Code is amended to read:

3344. (a) (1) Any person who knowingly uses another's name, voice, signature, photograph, or likeness, in any manner, on or in products, merchandise, or goods, or for purposes of advertising or selling, or soliciting

purchases of, products, merchandise, goods, or services, without that person's prior consent, or, in the case of a minor, the prior consent of their parent or legal guardian, shall be liable for any damages sustained by the person or persons injured as a result thereof. In addition, in any action brought under this section, the person who violated the section shall be liable to the injured party or parties in an amount equal to the greater of seven hundred fifty dollars ($750) or the actual damages suffered by them as a result of the unauthorized use, and any profits from the unauthorized use that are attributable to the use and are not taken into account in computing the actual damages. In establishing these profits, the injured party or parties are required to present proof only of the gross revenue attributable to the unauthorized use, and the person who violated this section is required to prove their deductible expenses. Punitive damages may also be awarded to the injured party or parties. The prevailing party in any action under this section shall also be entitled to attorney's fees and costs.

(2) In addition to the remedies available in paragraph (1), a party may seek an injunction or temporary restraining order pursuant to Section 527 of the Code of Civil Procedure. If the court grants the applicant an order under subdivision (c) of Section 527 of the Code of Civil Procedure that requires the respondent to remove, recall, or otherwise cease the publication or distribution of the petitioner's name, voice, signature, photograph, or likeness, the respondent shall complete the removal or recall, or cease the publication or distribution, within two business days from the day the order is served, unless otherwise required by the order.

(b) As used in this section, "photograph" means any photograph or photographic reproduction, still or moving, or any videotape or live television transmission, of any person, such that the person is readily identifiable.

(1) A person shall be deemed to be readily identifiable from a photograph when one who views the photograph with the naked eye can reasonably determine that the person depicted in the photograph is the same person who is complaining of its unauthorized use.

(2) If the photograph includes more than one person so identifiable, then the person or persons complaining of the use shall be represented as individuals rather than solely as members of a definable group represented in the photograph. A definable group includes, but is not limited to, the following examples: a crowd at any sporting event, a crowd in any street or public building, the audience at any theatrical or stage production, a glee club, or a baseball team.

(3) A person or persons shall be considered to be represented as members of a definable group if they are represented in the photograph solely as a result of being present at the time the photograph was taken and have not been singled out as individuals in any manner.

(c) For purposes of this section, a use of a name, voice, signature, photograph, or likeness in connection with any news, public affairs, or sports broadcast or account, or any political campaign, shall not constitute a use for which consent is required under subdivision (a).

(d) The use of a name, voice, signature, photograph, or likeness in a commercial medium shall not constitute a use for which consent is required under subdivision (a) solely because the material containing the use is commercially sponsored or contains paid advertising. Rather it shall be a question of fact whether or not the use of the person's name, voice, signature, photograph, or likeness was so directly connected with the commercial sponsorship or with the paid advertising as to constitute a use for which consent is required under subdivision (a).

(e) Nothing in this section shall apply to the owners or employees of any medium used for advertising, including, but not limited to, newspapers, magazines, radio and television networks and stations, cable television systems, billboards, and transit ads, by whom any advertisement or solicitation in violation of this section is published or disseminated, unless it is established that those owners or employees had knowledge of the unauthorized use of the person's name, voice, signature, photograph, or likeness as prohibited by this section.

(f) For the purposes of this section, a voice or likeness includes a digital replica, as defined in Section 3344.1.

(g) The remedies provided for in this section are cumulative and shall be in addition to any others provided for by law.

SEC. 2. Chapter 9 (commencing with Section 540) is added to Title 13 of Part 1 of the Penal Code, to read:

Chapter 9. Offense Involving the Use of Artificial Intelligence Technology

540. (a) For the purposes of any provision of this code in which the false impersonation of another is a required element, including, without limitation, Sections 528.5, 529, and 530, false impersonation includes the use of a digital replica with the intent to impersonate another.

(b) For purposes of this section, "digital replica" has the same meaning as in Section 3344.1 of the Civil Code.

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