Office of Senate Floor Analyses
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VETO

Bill No: SB 11
Author: Ashby (D)
Enrolled: 9/17/25
Vote: 27

SENATE JUDICIARY COMMITTEE: 12-0, 4/1/25
AYES: Umberg, Niello, Allen, Arreguín, Ashby, Caballero, Durazo, Laird, Stern, Wahab, Weber Pierson, Wiener
NO VOTE RECORDED: Valladares

SENATE PUBLIC SAFETY COMMITTEE: 6-0, 4/22/25
AYES: Arreguín, Seyarto, Caballero, Gonzalez, Pérez, Wiener

SENATE APPROPRIATIONS COMMITTEE: 6-0, 5/23/25
AYES: Caballero, Seyarto, Cabaldon, Grayson, Richardson, Wahab
NO VOTE RECORDED: Dahle

SENATE FLOOR: 38-0, 6/2/25
AYES: Allen, Alvarado-Gil, Archuleta, Arreguín, Ashby, Becker, Blakespear, Cabaldon, Caballero, Cervantes, Choi, Cortese, Dahle, Durazo, Gonzalez, Grayson, Grove, Jones, Laird, Limón, McGuire, McNerney, Menjivar, Niello, Ochoa Bogh, Padilla, Pérez, Richardson, Rubio, Seyarto, Smallwood-Cuevas, Stern, Strickland, Umberg, Valladares, Wahab, Weber Pierson, Wiener
NO VOTE RECORDED: Hurtado, Reyes

SENATE FLOOR: 37-0, 9/13/25
AYES: Allen, Alvarado-Gil, Archuleta, Arreguín, Ashby, Becker, Blakespear, Cabaldon, Caballero, Cervantes, Cortese, Dahle, Durazo, Grayson, Grove, Hurtado, Jones, Laird, Limón, McGuire, McNerney, Menjivar, Niello, Ochoa Bogh, Padilla, Pérez, Reyes, Richardson, Rubio, Seyarto, Smallwood-Cuevas, Stern, Strickland, Umberg, Wahab, Weber Pierson, Wiener
NO VOTE RECORDED: Choi, Gonzalez, Valladares

ASSEMBLY FLOOR: 79-0, 9/12/25 - See last page for vote

SUBJECT: Artificial intelligence technology

SOURCE: Author

DIGEST: This bill ensures that computer-manipulated or generated content is incorporated into the right of publicity law and criminal false impersonation statutes. This bill requires those making available such technology to provide a warning to consumers about liability for misuse, as provided. This bill also requires Judicial Council to review the impact of AI on evidence introduced in court proceedings and to adopt rules of court as necessary.

ANALYSIS:

Existing law:

1) Establishes California's right of publicity law, which provides that 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 such person's prior consent, shall be liable for any damages sustained by the person or persons injured as a result thereof. (Civil (Civ.) Code § 3344(a).)

2) Subjects a person in violation to liability to the injured party for the greater of the actual damages suffered or statutory damages of $750, and any profits from the unauthorized use that are attributable to the use and are not taken into account in computing the actual damages. Punitive damages may also be awarded to the injured party or parties. The prevailing party shall also be entitled to attorney's fees and costs. (Civ. Code § 3344(a).)

3) Provides that where a photograph or likeness of an employee of the person using the photograph or likeness appearing in the advertisement or other publication prepared by or on behalf of the user is only incidental, and not essential, to the purpose of the publication in which it appears, there shall arise a rebuttable presumption affecting the burden of producing evidence that the failure to obtain the consent of the employee was not a knowing use of the employee's photograph or likeness. (Civ. Code § 3344(c).)

4) Defines "digital replica" to mean a computer-generated, highly realistic electronic representation that is readily identifiable as the voice or visual

likeness of an individual that is embodied in a sound recording, image, audiovisual work, or transmission 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. It does not include the electronic reproduction, use of a sample of one sound recording or audiovisual work into another, remixing, mastering, or digital remastering of a sound recording or audiovisual work authorized by the copyright holder. (Civ. Code § 3344.1.)

5) Defines "artificial intelligence" to mean an engineered or machine-based system that varies in its level of autonomy and that can, for explicit or implicit objectives, infer from the input it receives how to generate outputs that can influence physical or virtual environments. (Civ. Code § 3110(a).)

6) Provides that any person who knowingly and without consent credibly impersonates another actual person through or on a website or by other electronic means for purposes of harming, intimidating, threatening, or defrauding another person is guilty of a public offense punishable by a fine and/or imprisonment. (Penal (Pen.) Code § 528.5.)

7) Provides that every person who falsely impersonates another in either their private or official capacity, and in that assumed character carries out specified actions, is punishable by a fine and/or imprisonment. (Pen. Code § 529.)

8) Provides that every person who falsely impersonates another, in either their private or official capacity, and in such assumed character receives any money or property, knowing that it is intended to be delivered to the individual so personated, with intent to convert the same to their own use, or to that of another person, or to deprive the true owner thereof, is punishable in the same manner and to the same extent as for larceny of the money or property so received. (Pen. Code § 530.)

This bill:

1) Requires, by December 1, 2026, a person or entity that makes available to consumers any AI technology that enables a user to create a digital replica to provide a consumer warning that misuse of the technology may result in civil or criminal liability for the user, as provided.

2) Subjects violations to a civil penalty not to exceed $10,000 for each day that the technology is provided to or offered to the public without a consumer warning in a civil action.

3) Provides, for purposes of the right of publicity law, that a voice or likeness includes a digital replica.

4) Removes the rebuttable presumption from the right of publicity statute.

5) Requires, by no later than January 1, 2027, the Judicial Council to review the impact of artificial intelligence on the admissibility of proffered evidence in court proceedings and develop any necessary rules of court to assist courts in assessing claims that proffered evidence has been generated by or manipulated by artificial intelligence and determining whether such evidence is admissible.

6) Defines the following terms:

   a) "Artificial intelligence" has the same meaning as in Section 3110 of the Civil Code.
   b) "Digital replica" has the same meaning as in Section 3344.1 of the Civil Code.

7) Provides that for the purposes of all Penal Code provisions for 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.

8) Includes language to avoid chaptering out.

Background

Given the recent explosion in generative AI capabilities and its near ubiquitous use, concerns have been raised that existing law must be updated to account for harms associated with its use. The rapid advancement of AI technology has made it drastically cheaper and easier to produce realistic synthetic content that is virtually impossible to distinguish from authentic content.

This bill makes clear that computer-manipulated or -created content is incorporated into existing laws involving the false impersonation, or use of likeness, of another, namely the right of publicity and false impersonation laws. This bill also tasks Judicial Council with reviewing the impact of AI on the admissibility of evidence

in court proceedings and developing necessary rules of court.[1] To ensure consumers are on notice of these laws, those making such technology available that is capable of creating a digital replica are required to warn consumers that misuse can result in civil or criminal liability. This bill is author-sponsored. It is supported by several groups, including the California District Attorneys Association and the National AI Youth Council. It is opposed by a coalition of industry and advertising associations, including the Network Advertising Initiative and Technet.

For a more thorough discussion, please see the Senate Judiciary Committee analysis of this bill.

Comment

According to the author:

> Artificial intelligence has pushed the boundaries of how technology makes human lives easier. However, the lack of necessary regulations has led to its abuse. Bad actors are creating and sharing AI deepfake videos, images, and audio recordings that use a person's name, image, or likeness without their consent. An alarming number of these deepfakes depict people engaging in sexual activities. This leaves victims vulnerable to exploitation including identity theft, scams, misinformation, and drastic misrepresentation of character. While some deepfakes target public figures, AI software allows users to create non-consensual content featuring anyone. This issue has disproportionately impacted women and girls, though not exclusively.
>
> Existing law does not allow victims to pursue private legal action when someone uses their likeness for AI generated material without their consent. SB 11 closes this gap by granting individuals the right to initiate litigation against those who use AI to falsely impersonate them and further requires courts to evaluate evidence generated by AI to ensure authenticity of evidentiary materials presented in our judicial system to a judge or jury. It also requires consumer warnings on AI software, both identifying and discouraging its potential for misuse. This bill strikes a balance between regulating rapidly

[1] It should be noted that Judicial Council has already initiated the process of establishing a rule and standard for the use of generative AI in court-related work. Given the extremely broad definition used for AI in the recent invitation to comment, which encompasses the definition used herein, that work, once completed, may very well satisfy the relevant provision of this bill.

advancing AI technologies and allowing continued innovation in the AI sector.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

According to the Senate Appropriations Committee:

- Department of Consumer Affairs (DCA): DCA estimates that this bill would cost the Department $10,000-$15,000 per enforcement action in AG costs. Additionally, the Department would require enforcement resources to assist in investigating potential violations, as well as an Attorney to review case complaints and make prosecutorial referrals. Additionally, DCA's Office of Information Services (OIS) has determined a $200 IT impact to post the consumer warning to its website.

- Trial Courts: The Judicial council reports minor and absorbable costs (Trial Court Trust Fund, General Fund) associated with creating a rule of court related to AI. The Council further notes unknown workload costs pressures associated with determining the impact of AI on evidence. In addition, this bill could result in unknown, potentially significant costs to the state funded trial court system (Trial Court Trust Fund, General Fund) to additional adjudicate civil and criminal actions.

- Incarceration and Supervision: Unknown, potentially significant costs (local funds, General Fund) to the counties and the Department of Corrections and Rehabilitation (CDCR) to incarcerate people for the crimes expanded by this bill.

According to the Assembly Appropriations Committee:

- Possible costs (General Fund, special funds) to the Department of Justice (DOJ) of an unknown amount. Actual costs will depend on whether the Attorney General pursues enforcement actions, and, if so, the level of additional staffing DOJ needs to handle the related workload. If DOJ hires staff to handle enforcement actions authorized by this bill, it would incur significant costs, likely in the low hundreds of thousands of dollars annually at a minimum. If DOJ does not pursue enforcement as authorized by this bill, it would likely not incur any costs.
- Cost pressures (Trial Court Trust Fund, General Fund) of an unknown but potentially significant amount to the courts to adjudicate civil actions and additional criminal charges, and to review the impact of AI technology on

evidence and, if needed, issue related rules of court. Actual costs for adjudication will depend on the number of cases filed and the amount of court time needed to resolve each case. It generally costs approximately $1,000 to operate a courtroom for one hour. Judicial Council reports minor and absorbable costs to conduct the study and create rules of court.

- Although courts are not funded on the basis of workload, increased pressure on the Trial Court Trust Fund may create a demand for increased funding for courts from the General Fund. The fiscal year 2025-26 state budget provides $82 million ongoing General Fund to the Trial Court Trust Fund for court operations.
- Costs (local funds, General Fund) to the counties and the California Department of Corrections and Rehabilitation to incarcerate people convicted of false impersonation offenses. Actual incarceration costs will depend on the number of convictions, the length of each sentence, and whether each sentence must be served in county jail or state prison. The average annual cost to incarcerate one person in county jail is approximately $29,000. The Legislative Analyst's Office estimates the average annual cost to incarcerate one person in state prison is $133,000. County incarceration costs are not subject to reimbursement by the state. However, overcrowding in county jails creates cost pressure on the General Fund because the state has historically granted new funding to counties to offset overcrowding resulting from public safety realignment.

SUPPORT: (Verified 10/15/25)

California Civil Liberties Advocacy
California District Attorneys Association
Chamber of Progress
Common Sense Media
Los Angeles County Democratic Party
National AI Youth Council
Recording Industry Association of America
SAG-AFTRA
The Center for AI and Digital Policy
Transparency Coalition.AI

OPPOSITION: (Verified 10/15/25)

Association of National Advertisers
California Chamber of Commerce
California Hispanic Chambers of Commerce

Computer and Communications Industry Association
Network Advertising Initiative
Software Information Industry Association
Technet

ARGUMENTS IN SUPPORT: Transparency Coalition.AI writes:

> AI capabilities have shown how detrimental its misuse can be when there is malicious intent. AI manipulated content continues to harm victims across the state, with examples ranging from fake audio of elected officials making false statements, to synthetic material of primarily women engaging in sexual activities. While some deepfakes target public figures, easily accessible AI software now allow users to create non-consensual content featuring anyone. This issue predominately impacts women and girls and has been difficult for victims to address, much less seek justice.
>
> SB 11 addresses the continued exploitation of AI technology. It is imperative to establish guardrails that protect consumers from harm and allow existing victims to seek recourse. This bill focuses on balancing innovation and individual privacy to prevent AI abuse.

ARGUMENTS IN OPPOSITION: A coalition of industry groups, including the Association of National Advertisers writes:

> [A]s drafted, we are unclear if the bill is intended to capture business to business activities, such as companies selling advertising services to other companies wherein the advertisement may include synthetic content. To that end, Proposed Section 22650 should be amended to expressly permit business partners / vendors to use our AI tools to generate content as well as authorize businesses to sell or develop such content for their business partners/vendors. The bill should also be amended to clarify what exactly it means by "misuse" for purposes of this warning.

GOVERNOR'S VETO MESSAGE:

> This bill would amend existing statutes regarding the right of publicity and the crime of false impersonation to address situations involving digital replicas. It would also direct the Judicial Council to consider issues raised by evidence generated or manipulated by artificial intelligence (AI).

I commend the author for working to ensure that our state is prepared for the challenges raised by AI's ability to produce highly realistic digital content. I share the author's concern over the risks posed by synthetic content, including the use of AI to impersonate or appropriate another's likeness without their consent.

However, this bill also requires any AI technology that enables a user to create a digital replica to include, wherever a user may input a prompt, a hyperlink to a clear and conspicuous disclosure to warn users of potential civil or criminal liability. Failure to include the hyperlink exposes the technology provider to significant civil liability under this measure.

This year, I have signed bills requiring companion chatbot operators to disclose to users that they are interacting with an artificial system (SB 243, Padilla) and internet companies to warn minors of the potential dangers of social media use (AB 56, Bauer-Kahan). Under certain circumstances, public disclosures and warning labels can play a key role in providing transparency to the public and mitigating harm. In this case, however, it is unclear whether a warning would be sufficient to dissuade wrongdoers from using AI to impersonate others without their consent. For this reason, I cannot sign this bill.

ASSEMBLY FLOOR: 79-0, 9/12/25
AYES: Addis, Aguiar-Curry, Ahrens, Alanis, Alvarez, Arambula, Ávila Farías, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Caloza, Carrillo, Castillo, Chen, Connolly, Davies, DeMaio, Dixon, Elhawary, Ellis, Flora, Fong, Gabriel, Gallagher, Garcia, Gipson, Jeff Gonzalez, Mark González, Hadwick, Haney, Harabedian, Hart, Hoover, Irwin, Jackson, Johnson, Kalra, Krell, Lackey, Lee, Lowenthal, Macedo, McKinnor, Muratsuchi, Nguyen, Ortega, Pacheco, Papan, Patel, Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Ransom, Celeste Rodriguez, Michelle Rodriguez, Rogers, Blanca Rubio, Sanchez, Schiavo, Schultz, Sharp-Collins, Solache, Soria, Stefani, Tangipa, Valencia, Wallis, Ward, Wicks, Wilson, Zbur, Rivas
NO VOTE RECORDED: Ta

Prepared by: Christian Kurpiewski / JUD. / (916) 651-4113
10/15/25 14:44:10

****** END ******