

THIRD READING

Bill No: SB 1111
Author: Ashby (D)
Amended: 3/23/26
Vote: 21

SENATE PRIV., DIGITAL TECH. & CONS. PROT. COMMITTEE: 8-1, 4/13/26
AYES: Cabaldon, Gonzalez, McNerney, Ochoa Bogh, Padilla, Reyes, Umberg,
Wiener
NOES: Jones

SENATE PUBLIC SAFETY COMMITTEE: 6-0, 4/21/26
AYES: Arreguín, Seyarto, Caballero, Cortese, Pérez, Wiener

SUBJECT: Digital replicas

SOURCE: Author

DIGEST: This bill (1) ensures that “digital replicas” are incorporated into the right of publicity law and criminal false impersonation statutes; (2) removes a presumption about incidental use of another’s likeness.

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) 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.)
- 5) 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.)
- 6) 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.)
- 7) Defines "digital replica" as 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.)

This bill:

- 1) Provides, for purposes of the right of publicity law, that a voice or likeness includes a digital replica, as defined in Section 3344.1.
- 2) Removes the rebuttable presumption from the right of publicity statute.
- 3) 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. “Digital replica” has the same meaning as in Section 3344.1 of the Civil Code.

Background

Given the recent explosion in generative artificial intelligence (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. “Digital replicas” are computer-generated, highly realistic electronic representations that are readily identifiable as the voice or visual likeness of an individual 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.

This bill makes clear that digital replicas are incorporated into existing laws involving false impersonation, or use of likeness, of another, namely the right of publicity law and false impersonation criminal laws. It also removes a presumption regarding incidental use of another’s likeness without their consent.

This bill is supported by various advocacy groups, including 11:11 Media, Transparency Coalition.AI, and the Rape, Abuse, and Incest National Network. No timely opposition was received.

Comment

This bill seeks to ensure that existing laws are equipped to handle the implications of the explosion of AI-generated or manipulated content. This bill is significantly similar to SB 970 (Ashby, 2024), which was held in the Senate Appropriations Committee, and SB 11 (Ashby, 2025), which was vetoed by Governor Newsom.

First, this bill amends California's right of publicity statute. That law 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.

While initially designed for traditional media, the law's principles have become increasingly relevant in the GenAI era. This bill adds that a voice or likeness includes a digital replica. This bill also removes the following provision from the right to publicity statute:

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 in 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.

This bill amends the Penal Code to provide that for any provisions therein that have false impersonation as a required element, false impersonation includes the use of a digital replica with the intent to impersonate another.

Both changes rely on the definition of "digital replica" currently provided in Section 3344.1.

According to the author:

California is leading the nation in AI regulations. However, a significant gap remains. The lack of a comprehensive legal framework to address the non-consensual creation of AI deepfake images leaves victims with no remedy. While some deepfakes target public figures,

AI software now allows users to create content featuring anyone. Often, women are the targeted victims, and the vast majority of incidents are sexually explicit in nature.

SB 1111 creates a framework to hold AI users accountable by establishing clear legal standing for victims and defining the boundaries of AI technology. As technology changes, California must continue to advance the standard for protections against AI violence and those affected by it.

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

SUPPORT: (Verified 4/22/26)

11:11 Media Impact
California Initiative for Technology & Democracy
Rape, Abuse, & Incest National Network
SAG-AFTRA
Transparency Coalition.AI

OPPOSITION: (Verified 4/22/26)

None received

ARGUMENTS IN SUPPORT: 11:11 Media Impact writes:

This issue is urgent. AI-generated abuse is already being used to create sexually explicit deepfakes, spread false statements, and impersonate real people in deeply harmful ways. California's Department of Justice cites research showing that 90% of victims are women, 93% suffered significant emotional distress, 51% had suicidal thoughts, and 49% reported being stalked or harassed online by people who saw the material. These harms disproportionately affect women and girls and increasingly affect children as well.

At 11:11 Media Impact, we are proud to support legislation that addresses technology-facilitated abuse with the seriousness it demands. Survivors should not be left without meaningful recourse when their identities, dignity, and safety are violated.

SB 1111 is an important step to ensure California law keeps pace with this growing threat. It reflects a simple principle: people deserve

protection when their voice or likeness is used without consent, including through AI-generated digital replicas. As technology moves faster than the law, California must act to protect victims and provide clearer paths to accountability.

Prepared by: Christian Kurpiewski / P., D.T., & C.P. / (916) 651-1548
4/24/26 11:07:14

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