

SENATE THIRD READING
SB 683 (Cortese)
As Amended September 3, 2025
Majority vote

SUMMARY

Clarifies that individuals whose identity is commercially exploited without consent may seek injunctive relief; and establishes a statutory timeline for compliance with a temporary restraining order.

Major Provisions

- 1) Clarifies that in an action for the knowing use of another's name, voice, signature, photograph, or likeness for commercial use without consent, a party may also seek a preliminary injunction or temporary restraining order (TRO) pursuant to Section 527 of the Code of Civil Procedure.
- 2) Specifies that, if a party obtains a TRO pursuant to 1), the respondent shall comply with the order within two business days from the day the order is served, unless otherwise specified by the order.
- 3) *Adds chaptering language to resolve potential conflict with pending legislation.*

COMMENTS

This measure clarifies the remedies available under California's existing publicity rights statute by explicitly authorizing injunctive relief. It also sets a strict deadline for compliance with a TRO issued pursuant to Civil Code Section 3344: two business days. The two-day compliance timeline applies, unless otherwise ordered by the court.

Existing law: publicity rights. California Civil Code Section 3344 provides a cause of action for the unauthorized commercial use of a person's "name, voice, signature, photograph, or likeness" for advertising or selling products, goods, or services. The law applies to living individuals and allows them to recover damages if their identity is exploited without consent for commercial gain. This measure was first enacted in 1971, codifying and expanding the common law tort of misappropriation of name or likeness. The statute aims to protect an individual's right of publicity—a form of intellectual property that gives people control over the commercial use of their persona. It recognizes the economic value of a person's identity and seeks to prevent businesses from misappropriating that value for profit without permission. The statute prohibits only nonconsensual *commercial* use, such as in advertisements and on products.

Existing law: injunctions and TROs for violating Civil Code Section 3344. Under existing law, a person whose name, voice, signature, photograph, or likeness is knowingly used for commercial purposes without consent may bring a civil action under Civil Code Section 3344 to recover statutory damages, actual damages, profits attributable to the use, punitive damages (as permitted under Civil Code Section 3294), and attorney's fees and costs. Although Section 3344 does not expressly provide for injunctive relief, California courts may grant such relief pursuant to Code of Civil Procedure Sections 526 (preliminary injunctions) and Section 527 (temporary restraining orders). These provisions are generally available in a civil action where the plaintiff demonstrates a likelihood of prevailing on the merits and a threat of great or irreparable harm.

(Code of Civil Procedure Section 526 (a); *see also IT Corp. v. County of Imperial* (1983) 35 Cal.3d 63, 69-70.) Thus, a plaintiff alleging a violation of Section 3344 could obtain a TRO or injunction under existing law to stop or prevent further unauthorized commercial use of their identity, subject to the timelines and procedural safeguards set forth in the Code of Civil Procedure.

While detailed timelines for notice, service and the like are set forth in existing law, there is no fixed statutory timeline requiring immediate compliance with a TRO. Instead, compliance is expected to occur upon service of the order, unless otherwise specified by the court.

This bill clarifies and strengthens the existing enforcement framework for violations of Civil Code Section 3344 by expressly authorizing plaintiffs to seek injunctive relief—specifically, a TRO or preliminary injunction—under Code of Civil Procedure Section 527, and by establishing a statutory timeline for compliance. While existing law already permits injunctive relief through general civil procedure, this bill eliminates any ambiguity by codifying the availability of equitable remedies within the text of Section 3344 itself. The bill also adds a new procedural requirement: if a court grants a TRO requiring the removal, recall, or cessation of the unauthorized use of a person’s name, voice, signature, photograph, or likeness, the respondent must comply within two business days of being served, unless otherwise specified by the order. This language was included to provide courts with the discretion to amend compliance deadlines based on the specific circumstances of a given case. The prescribed two-day compliance deadline ensures that individuals have access to prompt, meaningful relief to prevent ongoing or viral misuse of their identity in commercial media—particularly in digital or advertising contexts where harm can escalate rapidly. By integrating this compliance standard directly into Section 3344, the bill seeks to enhance both the clarity and effectiveness of the statute’s remedies without altering the standards or process for obtaining injunctive relief.

Opposition. Opposition emphasizes the risks associated with making injunctive relief explicit in the publicity rights statute. Opponents argue that SB 683 risks unconstitutional application. They warn that by expressly authorizing TROs in right of publicity cases and mandating compliance within two business days, the bill could invite courts to issue prior restraints on First Amendment-protected expression—particularly in instances where plaintiffs seek to suppress unflattering portrayals in news, commentary, or artistic works. The First Amendment Coalition notes that, absent full adjudication, compelled takedown orders risk becoming impermissible prior restraints. They cite *Balboa Island Village Inn, Inc. v. Lemen* (2007) 40 Cal.4th 1141, which prohibits pre-judgment injunctions in defamation cases, and warn that similar reasoning may apply to commercial misappropriation claims where expressive use is alleged.

These constitutional concerns are significant but overstated in this context. First, this bill is expressly limited to the narrow commercial uses prohibited under Section 3344—such as unauthorized uses in advertising or merchandise—not expressive uses like biographical films or news reporting, which are exempted under Civil Code Section 3344 (d). The bill does not alter that exemption, nor does it expand the right of publicity to encompass expressive works that fall outside traditional commercial exploitation. Second, courts remain bound by longstanding constitutional constraints and procedural safeguards before issuing any TRO, including evaluating irreparable harm and likelihood of success on the merits. As such, TROs will still be unavailable where the use is protected speech. For example, in *Michaels v. Internet Entertainment Group, Inc.* (C.D. Cal. 1998) 5 F.Supp.2d 823, the court granted a preliminary injunction based in part on a claim under Section 3344, finding that the plaintiffs had

demonstrated a likelihood of success on the merits and that monetary damages would be inadequate to remedy the harm. The court issued the injunction despite First Amendment objections, because the use at issue—unauthorized online distribution of a sex tape—was plainly commercial and nonexpressive. *Michaels* thus illustrates both the availability of injunctive relief under existing law and the courts' ability to distinguish between protected expression and actionable commercial exploitation.

Finally, the bill's inclusion of a two-business-day compliance timeline, "*unless otherwise specified by the order*," preserves judicial discretion and due process, allowing courts to tailor relief as needed without imposing mandatory censorship.

In short, this bill does not authorize prior restraints—it reaffirms the availability of equitable remedies already presumed in case law and clarifies a procedural path to stop ongoing commercial violations while respecting constitutional limitations. As with any civil statute, improper or overbroad applications can be challenged under California's anti-SLAPP law or on First Amendment grounds, ensuring frivolous or abusive claims are promptly addressed.

According to the Author

We are living in an era when materials are used to sell and promote an increasing variety of products in every conceivable medium at a time when advancing technology provides the means for virtually unlimited manipulation of images and their instantaneous distribution. To the extent the misuse is distributed widely, the damage done is irreparable, even if owners of the rights win an exhaustive lawsuit. Not only do authorized users suffer by this theft, but owners of the rights lose important compensation and career opportunities.

This bill would benefit consumers by providing additional remedies against unauthorized use of image and likeness by requiring removal of material within two business days if a judge grants a temporary restraining order, pending adjudication. One of the strongest interests consumers have is the use over their own name, voice, signature, photograph and likeness, our laws must provide protection to the individual citizen from an invasion of privacy.

Arguments in Support

The Family Violence Law Center, California Partnership to End Domestic Violence, and the Asian Law Alliance explain their support of this measure:

Despite existing remedies allowing courts to award damages and order removal, legal proceedings can take years to be resolved, leaving affected parties exposed to indefinite harm. SB 683 provides a path for affected individuals to file a temporary restraining order or preliminary injunctive relief to have nonconsensual, harmful use of image or likeness provisionally removed from circulation. Victims deserve mitigation immediately, not after paid legal fees and claims have been filed in court. Establishing a right to a two day take down pending final adjudication will protect individuals and allow the court time to determine whether or not the content is constitutionally sound.

Arguments in Opposition

The Motion Picture Association (MPA) opposes this measure, noting that existing law already provides for injunctive relief, and that explicitly requiring injunctive relief is unnecessary:

MPA is unaware of any compelling reason to alter the existing statutory scheme under which injunctions are already available under Section 527 for violations of Civil Code Section

3344, subject of course to the important constitutional safeguards discussed in more detail below...

[T]he sponsor has not cited any examples where plaintiffs whose names, voices, signatures, photographs, or likenesses were used without their consent to sell or promote a product were unable to obtain injunctive relief under Section 527; nor is MPA aware of such instances. Altering a statutory framework that appears to be working well, especially in an area involving First Amendment-protected speech, is simply not warranted.

They argue that though already available, expressly including injunctive relief, "would encourage plaintiffs to seek, and courts to grant, such relief despite the serious infringement on free expression that these remedies represent in this context."

FISCAL COMMENTS

According to the Assembly Appropriations Committee, no significant state costs.

VOTES

SENATE FLOOR: 38-0-2

YES: Allen, Alvarado-Gil, Archuleta, Arreguín, Ashby, Becker, Blakespear, Cabaldon, Caballero, Cervantes, Choi, Cortese, Dahle, Durazo, Gonzalez, Grayson, Grove, Hurtado, Jones, Laird, McGuire, McNeerney, Menjivar, Niello, Ochoa Bogh, Padilla, Pérez, Richardson, Rubio, Seyarto, Smallwood-Cuevas, Stern, Strickland, Umberg, Valladares, Wahab, Weber Pierson, Wiener

ABS, ABST OR NV: Limón, Reyes

ASM JUDICIARY: 11-0-1

YES: Kalra, Dixon, Bauer-Kahan, Bryan, Connolly, Harabedian, Pacheco, Papan, Sanchez, Stefani, Zbur

ABS, ABST OR NV: Macedo

ASM PRIVACY AND CONSUMER PROTECTION: 14-0-1

YES: Dixon, Bennett, Bryan, DeMaio, Irwin, Lowenthal, Hoover, McKinnor, Ortega, Patterson, Pellerin, Petrie-Norris, Wicks, Wilson

ABS, ABST OR NV: Ward

ASM APPROPRIATIONS: 14-0-1

YES: Wicks, Sanchez, Arambula, Calderon, Nguyen, Dixon, Elhawary, Aguiar-Curry, Hart, Pacheco, Pellerin, Solache, Ta, Tangipa

ABS, ABST OR NV: Mark González

UPDATED

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CONSULTANT: Shiran Zohar / JUD. / (916) 319-2334

FN: 0001575