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Washington State Expands Personality Rights Law to Cover AI-Generated Deepfakes

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Washington state expanded its existing property rights law to address use of a person's "forged digital likeness" without the person's consent. Substitute Senate Bill 5886 (SSB 5886), signed into law by Gov. Bob Ferguson on March 16, 2026, amends Washington's Personality Rights Law to address the growing use of artificial intelligence to create realistic but deceptive audio and video, and impacts those that rely on such technology to create content. The law takes effect on June 11, 2026.

What changed?

The Personality Rights Law already prohibited the use of an individual's name, voice, signature, photograph or likeness without their consent. The amended law expands that list to include a person's "forged digital likeness," defined as:

> A visual representation which is either persistent or transmitted in real-time of an actual and identifiable individual, or an audio recording which is either persistent or transmitted in real-time of an actual and identifiable individual's voice, which: (a) has been digitally created, adapted, altered, or modified to be indistinguishable from a genuine visual representation or audio recording of the individual; (b) misrepresents the appearance, speech, or conduct of the individual; and (c) is likely to deceive a reasonable person into believing that the visual representation or audio recording is genuine.

This property right applies to both living and certain deceased individuals.

Strengthened remedies

In addition to the potential for injunctive relief, actual damages and recovery of attributable profits and reasonable attorneys' fees, the law significantly increases the potential consequences violators face:

- **Doubled civil penalty:** Under the prior law, violators could be subject to financial penalties of $1,500 or actual damages, whichever was greater. The amended law raises the potential civil penalty to $3,000. There remains the potential recovery of actual damages and any attributable profits.
- **Noneconomic damages for deepfake violations:** Where the violation involves a forged digital likeness, the violator is also responsible for noneconomic damages, such as mental or physical pain and suffering, or injury to reputation and humiliation.

Broader legal landscape

SSB 5886 is part of a broader national trend. Washington had already passed a law extending the state's criminal impersonation statute to cover the distribution of someone's forged digital likeness with the intent to defraud, harass or threaten them. Other states, such as California, New York and Tennessee, have passed legislation regulating digital likenesses.

Key takeaways and next steps

Businesses and content creators should act now to prepare for the June 11, 2026, effective date. In particular:

- **Review content workflows.** Any use of AI tools to generate, alter or reproduce audio or visual representations of real

individuals should be audited for compliance.

- **Update consent frameworks.** Existing consent language in contracts, talent agreements and terms of service may not be sufficient to cover AI-generated digital likenesses under the new statutory definition.
- **Assess liability exposure.** The expanded civil penalty and the addition of noneconomic damages for deepfake-specific infringements substantially raise the stakes of noncompliance.

Areas requiring further clarification include how courts will interpret the “likely to deceive a reasonable person” standard in practice, and how the law will interact with First Amendment protections for satire, parody and commentary.

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