

LFC Requester:	Emily Hilla
-----------------------	--------------------

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO
AgencyAnalysis.nmlegis.gov and email to billanalysis@dfa.nm.gov
(Analysis must be uploaded as a PDF)

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: 2/3/2025 *Check all that apply:*
Bill Number: HB221 Original Correction
 Amendment Substitute

Sponsor:	<u>Tara L. Lujan and Joseph L. Sanchez</u>	Agency Name and Code	<u>790 – Department of Public Safety</u>
Short Title:	<u>Voice and Visual Likeness Rights Act</u>	Number:	<u></u>
		Person Writing	<u>Kent Augustine</u>
		Phone:	<u>505-709-5264</u>
		Email:	<u>kent.augustine@dps.nm.gov</u>

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
NFI	NFI	N/A	N/A

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
NFI	NFI	NFI	N/A	N/A

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	NFI	NFI	NFI	NFI	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
 Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Relating to Intellectual Property. Creates the Voice and Visual Likeness Rights Act, to address the contemporary issue of digital manipulation of sound and images known as “deepfakes.” Creates a “digital replication right, which is an individual’s exclusive property right in their voice or visual likeness; and allows a person to license its use and to transfer the right with terms and conditions. Provides in detail for the legal conditions attaching to a license, including protections for minors and provisions for post-mortem survival of the right; and provides for civil actions to remedy unlicensed use, including injunctive relief and punitive damages for malicious use.

FISCAL IMPLICATIONS

No fiscal impact to DPS.

SIGNIFICANT ISSUES

In Section 4 of the bill, the longevity of a license for an adult individual's or emancipated minor's right while the individual is living is valid only to the extent that the license duration does not exceed ten years. However, a license for a living minor's right is valid only to the extent that the license duration does not exceed five years but, in any case, terminates when the minor reaches eighteen years of age. At first reading, that seems to protect minor’s rights with a short duration, however, to get a license for a minor, the license is valid only if the license agreement: (1) is in writing and signed by a parent or guardian of the individual; (2) includes a reasonably specific description of the intended uses of the digital replica; and (3) is approved by a court in accordance with the laws of the state. Perhaps with these checks on the license, it would sometimes be in the minor’s best interest if a license were valid longer than five years and past the minor turning age eighteen and the deadline extended to ten years as it is for an adult individual or emancipated minor.

In Section 7, the bill A civil action for a violation of the provisions of the Voice and Visual Likeness Rights Act may be brought by: (1) a right holder; (2) if the individual is a minor, a parent or guardian of the individual and A civil action for private enforcement of the provisions of the Voice and Visual Likeness Rights Act may be brought within three years after the date on which the party bringing the civil action discovered or with due diligence should have discovered the violation. It would protect minors more if that three-year statute of limitations were extended until after the minor reaches age eighteen by a period of time not exceeding three years.

PERFORMANCE IMPLICATIONS

None,

ADMINISTRATIVE IMPLICATIONS

None,

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None.

TECHNICAL ISSUES

None.

OTHER SUBSTANTIVE ISSUES

None.

ALTERNATIVES

None.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status Quo will remain.

AMENDMENTS

None.