

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 1980 Session of
1999

INTRODUCED BY STAIRS, ARGALL, BAKER, BELARDI, BENNINGHOFF,
L. I. COHEN, COLAFELLA, CORRIGAN, DALEY, EGOLF, GEIST,
HALUSKA, HARHAI, HORSEY, LUCYK, MELIO, PISTELLA, SATHER,
SHANER, SOLOBAY, STABACK, E. Z. TAYLOR, TRELLO, WILT,
WOJNAROSKI AND YOUNGBLOOD, OCTOBER 19, 1999

REFERRED TO COMMITTEE ON JUDICIARY, OCTOBER 19, 1999

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, providing for
3 unauthorized publication of name or likeness; and
4 establishing a right of action.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Title 42 of the Pennsylvania Consolidated
8 Statutes is amended by adding a section to read:

9 § 8313. Unauthorized publication of name or likeness.

10 (a) General rule.--No person shall publish, print, display
11 or otherwise publicly use for purposes of trade or for any
12 commercial or advertising purpose the name, portrait, photograph
13 or other likeness of any natural person without the express
14 written or oral consent to such use given by:

15 (1) such natural person;

16 (2) any other person, firm or corporation authorized in
17 writing by such natural person to license the commercial use

1 of such natural person's name or likeness; or

2 (3) if such natural person is deceased, any person, firm
3 or corporation authorized in writing to license the
4 commercial use of the decedent's name or likeness, or if no
5 person, firm or corporation is so authorized, then by any one
6 from among a class composed of the decedent's surviving
7 spouse and surviving children.

8 (b) Right of action.--In the event the consent required in
9 subsection (a) is not obtained, the natural person whose name,
10 portrait, photograph, or other likeness is so used, or any
11 person, firm or corporation authorized by such natural person in
12 writing to license the commercial use of such natural person's
13 name or likeness, or, if the natural person whose likeness is
14 used is deceased, any person, firm or corporation having the
15 right to give such consent, as provided in subsection (a)(3),
16 may bring an action to enjoin such unauthorized publication,
17 printing, display or other public use and to recover damages for
18 any loss or injury sustained by reason thereof, including an
19 amount which would have been a reasonable royalty and punitive
20 or exemplary damages.

21 (c) Applicability.--The provisions of this section shall not
22 apply to:

23 (1) the publication, printing, display or use of the
24 name or likeness of any natural person in any newspaper,
25 magazine, book, news broadcast or telecast, or other news
26 medium or publication as part of any bona fide news report or
27 presentation having a current and legitimate public interest
28 and where such name or likeness is not used for advertising
29 purposes;

30 (2) the use of such name, portrait, photograph or other

likeness in connection with the resale or other distribution of literary, musical or artistic productions or other articles of merchandise or property where such natural person has consented to the use of such person's name, portrait, photograph or likeness on or in connection with the initial sale or distribution thereof; or

(3) any photograph of a natural person solely as a member of the public and where such person is not named or otherwise identified in or in connection with the use of such photograph.

(d) Time limitations.--No action shall be brought under this section by reason of any publication, printing, display or other public use of the name or likeness of a natural person occurring after the expiration of 40 years from and after the death of such natural person.

(e) Consent by minor.--Any consent provided for in subsection (a) may only be given on behalf of a minor by the guardian of the minor's person or by either parent.

(f) Other remedies.--The remedies provided for in this section shall be in addition to and not in limitation of the remedies and rights of any natural person under the common law against the invasion of such person's privacy.

(g) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Children." A natural person's immediate offspring and any children legally adopted by the person.

"Surviving spouse." The decedent's surviving spouse under the law of the decedent's domicile at the time of the decedent's death, whether or not the spouse has later remarried.

1 Section 2. This act shall take effect in 60 days.