

Kirk A. Cullimore proposes the following substitute bill:

Identity Protection Modifications

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kirk A. Cullimore

House Sponsor: Jordan D. Teuscher

LONG TITLE

General Description:

This bill amends provisions related to libel and slander to address artificial intelligence and digitally manipulated content.

Highlighted Provisions:

This bill:

- defines terms;
- clarifies that defamation law applies to content created through artificial intelligence or other technological means;
- requires notice to a publisher before filing a defamation action based on digitally created content;
- limits recovery to actual damages if the publisher removes the content within 10 days after receiving notice;
- establishes an exclusive right to consent to the use of an individual's personal identity;
- expands the definition of abuse of personal identity to include unauthorized distribution and trafficking in identity-replication tools;
- provides exemptions for certain uses of personal identity; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

45-3-2, as last amended by Laws of Utah 2025, Chapter 472

45-3-3, as last amended by Laws of Utah 2025, Chapter 472

29 **45-3-4**, as last amended by Laws of Utah 2025, Chapter 472

30 **45-3-5**, as last amended by Laws of Utah 2025, Chapter 472

31 **45-3-6**, as enacted by Laws of Utah 1981, Chapter 95

32 **45-3-7**, as enacted by Laws of Utah 2025, Chapter 472

33 ENACTS:

34 **45-2-3.5**, Utah Code Annotated 1953

35 **45-2-14**, Utah Code Annotated 1953

36

37 *Be it enacted by the Legislature of the state of Utah:*

38 Section 1. Section **45-2-3.5** is enacted to read:

39 **45-2-3.5 . Artificially generated content.**

40 (1) As used in this section, "generative artificial intelligence" means the same as that term is
41 defined in Section 45-3-2.

42 (2) It is not a defense to a claim of libel or slander that the communication:

43 (a) was created through generative artificial intelligence, computer animation, digital
44 manipulation, or any other technological means; or

45 (b) uses simulated or recreated content rather than actual recordings or images of an
46 individual.

47 Section 2. Section **45-2-14** is enacted to read:

48 **45-2-14 . Notice before filing action -- Effect of removal.**

49 (1) As used in this section:

50 (a) "Digitally created content" means content created through generative artificial
51 intelligence, computer animation, digital manipulation, or other technological means.

52 (b) "Generative artificial intelligence" means the same as that term is defined in Section
53 45-3-2.

54 (2) Before filing an action under this chapter for libel or slander based on digitally created
55 content, an individual shall provide written notice to the person who published or caused
56 the publication of the allegedly defamatory content.

57 (3) The individual shall ensure the notice described in Subsection (2):

58 (a) specifies the content claimed to be defamatory and the location where the content
59 appears;

60 (b) explains why the content is false and defamatory; and

61 (c) is delivered by certified mail or by electronic means that provide proof of receipt.

62 (4) In an action brought under this chapter, an individual may recover only actual damages

63 if the person who published or caused the publication of the digitally created content
 64 removes the content within 10 days after the day on which the person receives notice
 65 under Subsection (2).

66 (5) This section may not be construed to impose liability on an interactive computer service
 67 as defined in 47 U.S.C. Sec. 230.

68 Section 3. Section **45-3-2** is amended to read:

69 **45-3-2 . Definitions.**

70 As used in this [æ] chapter:

71 (1) "Advertisement" means a notice designed to attract public attention or patronage and
 72 includes a list of supporters for a particular cause.

73 (2) "Cause the publication" means:

74 (a) that a person:

75 (i) prepares or requests another to prepare:

76 (A) an advertisement of the type described in Subsection [45-3-3(1)] 45-3-3(2)(a);

77 or

78 (B) content that uses, simulates, or recreates an individual's personal identity; and

79 (ii) submits or requests another to submit the advertisement or content for
 80 publication; and

81 (b) the advertisement or content has been published.

82 (3)(a) "Consent" means an individual's voluntary agreement to the use of that
 83 individual's personal identity.

84 (b) "Consent" may not be inferred by the failure of the individual to request that the
 85 individual's personal identity not be used or that the individual's name be removed
 86 from a mailing or supporter list.

87 (4) "Content" means audio, video, image, text, or other media, regardless of format.

88 (5) "Generative artificial intelligence" means an artificial intelligence technology system
 89 that:

90 (a) is trained on data;

91 (b) responds to human input; and

92 (c) is capable of generating content similar to content created by a human, with limited
 93 or no human involvement in the generation.

94 [~~(b) is designed to simulate human conversation with a consumer through one or more of~~
 95 ~~the following:~~]

96 [(i) text;]

- 97 [(ii) audio; or]
- 98 [(iii) visual communication; and]
- 99 [~~(e) generates non-scripted outputs similar to outputs created by a human, with limited~~
- 100 ~~or no human oversight.]~~
- 101 (6) "Individual" means a natural person, living or dead.
- 102 (7) "Person" means any natural person, firm, partnership, association, corporation, joint
- 103 venture, or any other form of business organization or arrangement, and the agents or
- 104 representatives of such persons.
- 105 (8)(a) "Personal identity" means an individual's:
- 106 [(i) name;]
- 107 [(ii) title;]
- 108 [(iii)] (i) picture;
- 109 [(iv)] (ii) portrait;
- 110 [(v)] (iii) visual or video likeness;
- 111 [(vi)] (iv) voice; or
- 112 [(vii)] (v) audiovisual appearance.
- 113 (b) "Personal identity" includes any simulation, reproduction, or artificial recreation of
- 114 the content described in Subsection (8)(a), whether created through:
- 115 (i) generative artificial intelligence;
- 116 (ii) computer animation;
- 117 (iii) digital manipulation; or
- 118 (iv) any other technological means.
- 119 (9) "Publish" means that a person provides the instrumentality through which an
- 120 advertisement or content is communicated to [~~the public at large or to a significant~~
- 121 ~~portion thereof]~~ another person.
- 122 (10) "Right holder" means the individual or a person to whom the individual's right in the
- 123 individual's personal identity has descended or been transferred, including an executor,
- 124 successor, heir, assignee, licensee, or devisee of the individual.
- 125 [(10)] (11) "Voice" means a computer-generated sound in a medium that is readily
- 126 identifiable and attributable to a particular individual, regardless of whether the sound
- 127 contains the actual voice of the individual.
- 128 Section 4. Section **45-3-3** is amended to read:
- 129 **45-3-3 . Acts constituting abuse -- Permitting prosecution.**
- 130 (1)(a) Subject to other provisions of this chapter, each individual has the exclusive right

- 131 to consent to the use of the individual's personal identity.
- 132 (b) The right described in Subsection (1)(a):
- 133 (i) includes a replication right, in which only the individual or right holder may
- 134 consent to the use of the individual's personal identity in a simulation,
- 135 reproduction, or artificial recreation of the individual's personal identity;
- 136 (ii) is licensable but not assignable during the life of the individual;
- 137 (iii) does not expire until 70 years after the death of the individual;
- 138 (iv) upon the death of the individual:
- 139 (A) is descendible to the individual's executors, successors, heirs, assignees,
- 140 licensees, or devisees; and
- 141 (B) is transferable to a right holder by any means of conveyance or operation of
- 142 law for up to 70 years after the death of the individual; and
- 143 (v) in the case of an individual who died before May 6, 2026, applies retroactively for
- 144 up to 70 years before May 6, 2026, and vests in the executors, successors, heirs,
- 145 assignees, or devisees of the individual.
- 146 (2) Except for purposes of the criminal penalty in Section 76-12-304, the personal identity
- 147 of an individual is abused if:
- 148 (a)(i) content containing the personal identity of an individual is used for purposes of:
- 149 (A) advertising products, merchandise, goods, or services;
- 150 (B) fundraising;
- 151 (C) solicitation of donations; or
- 152 (D) purchases of products, merchandise, goods, or services;
- 153 [(ii) the use:]
- 154 [(A) expresses or implies that the individual approves, endorses, has endorsed, or
- 155 will endorse the specific subject matter;]
- 156 [(B) creates a likelihood of confusion as to the participation, association, or
- 157 connection of the individual; or]
- 158 [(C) creates a false impression that the individual participated in or approved the
- 159 use; and]
- 160 [(iii) (i) consent has not been obtained from the individual[-];
- 161 (b) a person publishes, performs, distributes, transmits, or otherwise makes available to
- 162 another person an individual's personal identity with actual knowledge that the use
- 163 was not authorized:
- 164 (i) by the individual, if the individual is living;

165 (ii) by the individual's legal guardian, if the individual is a minor; or
 166 (iii) by the individual's executors, successors, heirs, assignees, licensees, or devisees,
 167 if the individual has been deceased for up to 70 years; or

168 [(b)] (c) the person knowingly distributes, sells, or licenses any technology, software, or
 169 tool whose intended primary purpose is the unauthorized creation or modification of
 170 content that includes an individual's personal identity[~~for commercial purposes~~].

171 [(2)] (3) Nothing in this [part] chapter prohibits prosecution of abuse of personal identity
 172 under Section 76-12-304.

173 [(3)] (4) The personal identity of an individual is not abused if the individual's personal data
 174 or publicly available information:

- 175 (a) was lawfully obtained;
- 176 (b) is used to preview, advertise, or promote the sale of a product, service, or
 177 subscription, including the sale of a product, service, or subscription of which the
 178 individual's personal data or publicly available information is or may be a part; and
- 179 (c) is not used in a way that expresses or implies that the individual approves, endorses,
 180 has endorsed, or will endorse the product, service, or subscription being previewed,
 181 advertised, or promoted.

182 (5) The personal identity of an individual is not abused under Subsection (2)(b) if the
 183 publication, performance, distribution, transmission, or other disclosure of the personal
 184 identity is accompanied by a clear and conspicuous disclosure that the content is a
 185 simulation or artificial recreation of the individual.

186 Section 5. Section **45-3-4** is amended to read:

187 **45-3-4 . Cause of action for abuse -- Remedies.**

188 (1) An individual whose personal identity has been abused under Section 45-3-3 of this [act]
 189 chapter, or a right holder of that individual, may bring an action against a person who
 190 caused the publication of the advertisement or content[~~]~~ .

191 (2) [~~and is entitled to~~] Upon prevailing in an action under this section, the court may award
 192 to the plaintiff injunctive relief, damages alleged and proved, exemplary damages, and
 193 reasonable [attorney's] attorney fees and costs.

194 Section 6. Section **45-3-5** is amended to read:

195 **45-3-5 . Action against publisher -- Grounds -- Remedies.**

196 (1) An individual whose personal identity has been abused under Section 45-3-3 of this [act]
 197 chapter, or a right holder of that individual, may bring an action against a person who
 198 published the advertisement or content:

199 (a) if the advertisement or content, on its face is such that a reasonable person would
200 conclude that it is unlikely that an individual would consent to such use; and

201 (b) if the publisher did not take reasonable steps to [assure] ensure that consent was
202 obtained.

203 (2) ~~[In] Upon prevailing in~~ an action under this section, ~~[the plaintiff shall be entitled to]~~ the
204 court may award to the plaintiff injunctive relief, damages alleged and proved,
205 exemplary damages, and reasonable ~~[attorney's]~~ attorney fees and costs.

206 Section 7. Section **45-3-6** is amended to read:

207 **45-3-6 . Other remedies unaffected.**

208 This ~~[aet]~~ chapter does not limit or supersede any causes of action otherwise available to
209 the parties.

210 Section 8. Section **45-3-7** is amended to read:

211 **45-3-7 . Exemptions.**

212 (1) A person does not violate Section 45-3-3 or Section 45-3-4 if the person uses an
213 individual's personal identity in:

214 (a) connection with a news, public affairs, or sports broadcast, including the promotion
215 of and advertising for a sports broadcast~~[-]~~ or an account of public interest~~[-or a~~
216 ~~political campaign]~~;

217 (b) a representation of the individual as the individual in a documentary or in a historical
218 or biographical work, unless the representation creates the false impression that the
219 representation is or comprises the authentic participation of the individual;

220 ~~[(b) a play, book, magazine, newspaper, musical composition, visual work, work of art,~~
221 ~~audiovisual work, radio or television program if it is fictional or nonfictional~~
222 ~~entertainment, or a dramatic, literary, or musical work;]~~

223 (c) a work of political, public interest, or newsworthy value, including a comment,
224 criticism, parody, satire, scholarship, or a transformative creation of a work of
225 authorship;

226 (d) fleeting or incidental uses; or

227 ~~[(d)]~~ (e) an advertisement or commercial announcement for a work described in this
228 Subsection (1).

229 (2) The use of personal identity in a commercial medium does not constitute a use for
230 purposes of advertising or solicitation solely because the material containing such use is
231 commercially sponsored or contains paid advertising.

232 (3) This ~~[part]~~ chapter may not apply to, and nothing in this ~~[part]~~ chapter may be construed

233 to impose liability or culpability on, an interactive computer service, as defined in 47
234 U.S.C. 230(f)(2), for content provided by another person.

235 (4) Nothing in this chapter is intended to abrogate or narrow any claim or defense available
236 under any other statute or under the common law.

237 Section 9. **Effective Date.**

238 This bill takes effect on May 6, 2026.