



January 25, 2012

HOUSE BILL No. 1133

DIGEST OF HB 1133 (Updated January 23, 2012 1:34 pm - DI 107)

Citations Affected: IC 32-36.

Synopsis: Rights of publicity. Provides that a deceased personality's rights of publicity: (1) apply to the personality whether the personality died before, on, or after July 1, 1994 (the original effective date of the rights of publicity law); and (2) if the personality died before July 1, 1994, are considered to have existed on and after the date the personality died. Provides that a personality does not have rights of publicity if the personality has commercial value solely because the personality has been charged with or convicted of a crime.

Effective: July 1, 2012.

Eberhart, Foley

January 9, 2012, read first time and referred to Committee on Judiciary.
January 25, 2012, amended, reported — Do Pass.

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HB 1133—LS 6679/DI 69+



January 25, 2012

Second Regular Session 117th General Assembly (2012)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2011 Regular Session of the General Assembly.

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HOUSE BILL No. 1133

A BILL FOR AN ACT to amend the Indiana Code concerning property.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 32-36-1-1 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. (a) This chapter
3 applies to an act or event that occurs within Indiana, regardless of a
4 personality's domicile, residence, or citizenship.
5 (b) This chapter does not affect rights and privileges recognized
6 under any other law that apply to a news reporting or an entertainment
7 medium.
8 (c) This chapter does not apply to the following:
9 (1) The use of a personality's name, voice, signature, photograph,
10 image, likeness, distinctive appearance, gestures, or mannerisms
11 in any of the following:
12 (A) Literary works, theatrical works, musical compositions,
13 film, radio, or television programs.
14 (B) Material that has political or newsworthy value.
15 (C) Original works of fine art.
16 (D) Promotional material or an advertisement for a news
17 reporting or an entertainment medium that:

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1 (i) uses all or part of a past edition of the medium's own
 2 broadcast or publication; and
 3 (ii) does not convey or reasonably suggest that a personality
 4 endorses the news reporting or entertainment medium.
 5 (E) An advertisement or commercial announcement for a use
 6 described in this subdivision.
 7 (2) The use of a personality's name to truthfully identify the
 8 personality as:
 9 (A) the author of a written work; or
 10 (B) a performer of a recorded performance;
 11 under circumstances in which the written work or recorded
 12 performance is otherwise rightfully reproduced, exhibited, or
 13 broadcast.
 14 (3) The use of a personality's:
 15 (A) name;
 16 (B) voice;
 17 (C) signature;
 18 (D) photograph;
 19 (E) image;
 20 (F) likeness;
 21 (G) distinctive appearance;
 22 (H) gestures; or
 23 (I) mannerisms;
 24 in connection with the broadcast or reporting of an event or a
 25 topic of general or public interest.
 26 **(4) A personality whose:**
 27 **(A) name;**
 28 **(B) voice;**
 29 **(C) signature;**
 30 **(D) photograph;**
 31 **(E) image;**
 32 **(F) likeness;**
 33 **(G) distinctive appearance;**
 34 **(H) gesture; or**
 35 **(I) mannerisms;**
 36 **has commercial value solely because the personality has been**
 37 **formally charged with or convicted of a crime.**
 38 SECTION 2. IC 32-36-1-8 IS AMENDED TO READ AS
 39 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 8. (a) A person may not
 40 use an aspect of a personality's right of publicity for a commercial
 41 purpose during the personality's lifetime or for one hundred (100) years
 42 after the date of the personality's death without having obtained

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1 previous written consent from a person specified in section 17 of this
2 chapter. **If a personality is deceased, the rights described in this**
3 **subsection:**

- 4 **(1) apply to the personality whether the personality died**
- 5 **before, on, or after July 1, 1994; and**
- 6 **(2) if the personality died before July 1, 1994, are considered**
- 7 **to have existed on and after the date the personality died.**

8 (b) A written consent solicited or negotiated by an athlete agent (as
9 defined in IC 25-5.2-1-2) from a student athlete (as defined in
10 IC 25-5.2-1-2) is void if the athlete agent obtained the consent as the
11 result of an agency contract that:

- 12 (1) was void under IC 25-5.2-2-2 or under the law of the state
- 13 where the agency contract was entered into;
- 14 (2) was voided by the student athlete under IC 25-5.2-2-8 or a
- 15 similar law in the state where the agency contract was entered
- 16 into; or
- 17 (3) was entered into without the notice required under
- 18 IC 35-46-4-4 or a similar law in the state where the agency
- 19 contract was entered into.

20 (c) A written consent for an endorsement contract (as defined in
21 IC 35-46-4-1.5) is void if notice is not given as required by
22 IC 35-46-4-4 or a similar law in the state where the endorsement
23 contract is entered into.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1133, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 32-36-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. (a) This chapter applies to an act or event that occurs within Indiana, regardless of a personality's domicile, residence, or citizenship.

(b) This chapter does not affect rights and privileges recognized under any other law that apply to a news reporting or an entertainment medium.

(c) This chapter does not apply to the following:

(1) The use of a personality's name, voice, signature, photograph, image, likeness, distinctive appearance, gestures, or mannerisms in any of the following:

(A) Literary works, theatrical works, musical compositions, film, radio, or television programs.

(B) Material that has political or newsworthy value.

(C) Original works of fine art.

(D) Promotional material or an advertisement for a news reporting or an entertainment medium that:

(i) uses all or part of a past edition of the medium's own broadcast or publication; and

(ii) does not convey or reasonably suggest that a personality endorses the news reporting or entertainment medium.

(E) An advertisement or commercial announcement for a use described in this subdivision.

(2) The use of a personality's name to truthfully identify the personality as:

(A) the author of a written work; or

(B) a performer of a recorded performance;

under circumstances in which the written work or recorded performance is otherwise rightfully reproduced, exhibited, or broadcast.

(3) The use of a personality's:

(A) name;

(B) voice;

(C) signature;

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- (D) photograph;
- (E) image;
- (F) likeness;
- (G) distinctive appearance;
- (H) gestures; or
- (I) mannerisms;

in connection with the broadcast or reporting of an event or a topic of general or public interest.

(4) A personality whose:

- (A) name;**
- (B) voice;**
- (C) signature;**
- (D) photograph;**
- (E) image;**
- (F) likeness;**
- (G) distinctive appearance;**
- (H) gesture; or**
- (I) mannerisms;**

has commercial value solely because the personality has been formally charged with or convicted of a crime."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1133 as introduced.)

FOLEY, Chair

Committee Vote: yeas 7, nays 0.

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