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House Government Oversight Committee
Sponsor Testimony – H.B. 367
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Chair Peterson, Vice Chair Thomas, Ranking Member Humphrey, and honorable members of the House Government Oversight Committee, thank you for the opportunity to present sponsor testimony on House Bill 367, a common-sense update for Ohio’s name, image, and likeness rights to give all our citizens the ability to protect against unauthorized uses of their identities.

This bill, which removes the requirement of having a “commercial purpose” to protecting an individual, is about recognizing the inherent dignity and worth of everyone. It’s about acknowledging that each person’s identity is unique and valuable and that it should not be used without their consent. It’s about ensuring that Ohioans have the power to control how their personal identity is used and shared.

Right now, to bring a case against someone for using your name, image, or likeness, you must assert that the use was for some commercial purpose or used to defraud. However, this leaves out all of us who would never be asked to be in an ad, to sponsor a product, or to otherwise be given compensation for appearing in a company’s presentation. There are countless ways that regular Ohioans could have their names modified that do not rise to the level of defamation yet should still be fully protected, even if those names are not yet household names.

Clearly, we introduce this bill in the context of increasing use of artificial intelligence. We must remember that artificial intelligence is just a tool, albeit one that significantly lowers the barriers to entry for anyone to make lifelike reproductions of someone else without their authorization. We update the language for a person’s persona to include “modified facsimile of an individual’s persona wherein a reasonable trier of fact would confuse the modified facsimile and the individual.” This legal framework would apply just as much to an AI-produced “deepfake” as it would to more mundane reproductions done with general image, audio, or video manipulation. In that way, our bill would exist within the legal precedence already established.

Importantly, this bill also respects our First Amendment rights. It includes protections and exceptions for protected speech like political ads and news reporting or just people in a crowd. These specific carveouts exist with current identity intellectual property rights. We therefore ensure that our freedom of speech is not compromised while still providing individuals with the necessary legal tools to protect their personal identity. We have spoken with multiple interested parties, including the Attorney General's office, centered around ensuring these protections were in place. Through these IP meetings, we also updated the relevant notice sections to include e-mail.

With this update, we do define malicious deepfake recordings and create a legal framework for dealing with these fraudulent productions. As defined, this would be a fixed and false video or audio that appears authentic that is made to intentionally harm another person due to the false conduct or nature of speech in the recording. These recordings would most likely be used for defamation or extortion, where we update the code accordingly.

Again, we put in protections for First Amendment protected speech, specifically political records. While fabricated records would be allowable, the audio or video would have to conspicuously place:

1. A clear statement that the media or record has been materially altered in a manner that renders it fictionalized or inauthentic; and
2. The identity and contact information of the entity responsible for creating and/or distributing the ad.

We have worked throughout this General Assembly to bolster our legal code and protect our God-given rights. This bill today ensures every Ohioan, not just the famous, can be protected from those who would tarnish their names. We thank you for the opportunity to testify today and request favorable consideration of this bill, and we are happy to answer any questions you may have.