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# A BILL FOR AN ACT

RELATING TO PUBLICITY RIGHTS.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that chapter 482P, Hawaii  
2 Revised Statutes, known as the Hawaii Publicity Rights Act, was  
3 enacted on July 15, 2009, to recognize the existence of the  
4 right of publicity, which is a property right in the commercial  
5 use of one's name, voice, signature, likeness, and other  
6 commercially valuable attributes. The legislature also finds  
7 that the Hawaii Publicity Rights Act, which prevents the  
8 unauthorized use of another individual's name, voice, signature,  
9 or likeness for commercial purposes, is an important law that  
10 allows the people of Hawaii to protect their legacy and rights  
11 that are not covered by federal copyright law and state and  
12 federal trademark laws.

13           The legislature further finds that the legislature's intent  
14 in enacting the Hawaii Publicity Rights Act in 2009 was to  
15 recognize the right of publicity held by all persons, living and  
16 dead, including those who predeceased the enactment of the  
17 Hawaii Publicity Rights Act.



1           The purpose of this Act is to clarify that the Hawaii  
2   Publicity Rights Act applies retroactively to protect the  
3   publicity rights of individuals who died before the date of its  
4   enactment.

5           SECTION 2. Section 482P-1, Hawaii Revised Statutes, is  
6   amended by amending the definitions of "deceased individual" and  
7   "deceased personality" to read as follows:

8           ""Deceased individual" means any individual, regardless of  
9   the individual's place of domicile, residence, or citizenship at  
10   the time of death or otherwise, who has died. "Deceased  
11   individual" includes individuals who died before the enactment  
12   of this chapter.

13           "Deceased personality" means any individual, regardless of  
14   the personality's place of domicile, residence, or citizenship  
15   at the time of death or otherwise, whose name, voice, signature,  
16   or likeness had commercial value at the time of the individual's  
17   death, whether or not during the lifetime of that individual,  
18   the individual used the individual's name, voice, signature, or  
19   likeness on or in products, merchandise, goods, or for purposes  
20   of advertising, selling, or soliciting the purchase or sale of  
21   products, merchandise, goods, or services. "Deceased



1 personality" includes personalities who died before the  
2 enactment of this chapter."

3 SECTION 3. Section 482P-2, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "[+]§482P-2[+] **Property right in use of name, voice,**  
6 **signature, or likeness.** Every individual or personality has a  
7 property right in the use of the individual's or personality's  
8 name, voice, signature, and likeness. The right shall be deemed  
9 to have existed before the enactment of this chapter, including  
10 at and after the time of death of any deceased individual or  
11 deceased personality, and shall continue to exist for a fixed  
12 period of time after death, as prescribed in section 482P-4.  
13 This right shall be freely transferable, assignable, and  
14 licensable, in whole or in part, by any otherwise permissible  
15 form of inter vivos or testamentary transfer, including without  
16 limitation a will or other testamentary instrument, trust,  
17 contract, community property agreement, or cotenancy with  
18 survivorship provisions or payable-on-death provisions, whether  
19 the will or other testamentary instrument, trust, contract,  
20 community property agreement, or cotenancy document is entered  
21 into or executed by the deceased individual or deceased



1 personality or by any subsequent owner of the deceased  
2 individual's or deceased personality's rights as recognized by  
3 this chapter; or, if none is applicable, then the owner of the  
4 rights shall be determined under the laws of intestate  
5 succession applicable to interests in intangible personal  
6 property. The right exists whether or not it was commercially  
7 exploited by the individual or the personality during the  
8 individual's or the personality's lifetime. The right does not  
9 expire upon the death of the individual or personality,  
10 regardless of whether the law of the domicile, residence, or  
11 citizenship of the individual or personality at the time of  
12 death or otherwise recognizes a similar or identical property  
13 right. This chapter is intended to apply to all individuals and  
14 personalities, living and deceased, including those who died  
15 before the enactment of this chapter, regardless of place of  
16 domicile or place of domicile at time of death. In the case of  
17 a deceased individual or deceased personality, the rights  
18 recognized under this chapter shall be deemed to exist at the  
19 time of death of any deceased individual or deceased personality  
20 or subsequent successor of their rights for the purpose of



1 determining the person or persons entitled to these property  
2 rights as provided for in section 482P-3."

3 SECTION 4. Statutory material to be repealed is bracketed  
4 and stricken. New statutory material is underscored.

5 SECTION 5. This Act shall take effect on January 1, 2050.



**Report Title:**

Hawaii Publicity Rights Act; Right of Publicity; Deceased  
Persons

**Description:**

Clarifies the right of publicity includes the rights of  
individuals who died prior to the enactment of the Hawaii  
Publicity Rights Act. Effective 1/1/2050. (HD2)

*The summary description of legislation appearing on this page is for informational purposes only and is  
not legislation or evidence of legislative intent.*

