

Fiscal Note & Local Impact Statement

123rd General Assembly of Ohio

BILL:	S.B. 54	DATE:	May 5, 1999
STATUS:	As Introduced	SPONSOR:	Sen. Carnes
LOCAL IMPACT STATEMENT REQUIRED:	No —	However, potential local effects	
CONTENTS:	Creates the property right of publicity, creates a cause of action for unauthorized commercial use of an individual's persona and provides a four-year statute of limitation on such actions		

State Fiscal Highlights

- No direct fiscal effect on the state.

Local Fiscal Highlights

- No direct fiscal effect on political subdivisions.

Detailed Fiscal Analysis

The bill creates a new property right, the right of publicity. Right of publicity means the property right in an individual's persona, as defined by the bill, to use the individual's persona for a commercial purpose. The bill specifies how the right is transferable and descendible. Additionally, the bill creates a new civil cause of action for the unauthorized commercial use of an individual's persona and provides a four-year statute of limitations for bringing such an action.

The new cause of action could be brought in a county or municipal court, but would most likely be filed in a court of common pleas based upon the amount of damages that may be sought. The injured party may recover the greater of \$10,000 or actual damages plus at the election of the injured party treble damages or punitive and exemplary damages. The court may also award reasonable attorney's fees, award court costs and other reasonable expenses, order temporary or permanent injunctive relief, and to order the impoundment or destruction of specified items. A county or municipal court may hear actions where the amount in controversy does not exceed \$15,000. A case that exceeds this amount would be filed in a court of common please.

The addition of this new right and the creation of the related cause of action are not expected to have a direct fiscal effect on either the state or on political subdivisions. Several staff members of the Judicial Conference of Ohio have indicated that this bill does not impose a cost upon the court system. A sampling of Ohio judges suggested that little, if any, additional

cases would be generated by this new cause of action. Any additional cases are not expected to impose a fiscal impact since the number of cases would be too small to affect the overall staffing or operation of the courts. However, the judges did indicate that the creation of a new cause of action would initially slow down the speed of the courts where the first few cases could be filed. The movement into a new area of law for Ohio would be slow, as judges are cautious in setting new precedents.

□ *LBO staff: Corey C. Schaal, Budget/Policy Analyst*

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