AN ACT concerning civil law.

Be it enacted by the People of the State of Illinois, represented in the General Assembly:

Section 5. The Right of Publicity Act is amended by changing Sections 5, 10, 15, and 35 as follows:

(765 ILCS 1075/5)

Sec. 5. Definitions. As used in this Act:

"Commercial purpose" means the public use or holding out of an individual's identity (i) on or in connection with the offering for sale or sale of a product, merchandise, goods, or services; (ii) for purposes of advertising or promoting products, merchandise, goods, or services; or (iii) for the purpose of fundraising.

"Identity" means any attribute of an individual that serves to identify that individual to an ordinary, reasonable viewer or listener, including but not limited to (i) name, (ii) signature, (iii) photograph, (iv) image, (v) likeness, or (vi) voice.

"Individual" means a living or deceased natural person, regardless of whether (i) the identity of that individual has been used for a commercial purpose during the individual's lifetime or (ii) the law of the domicile, residence, or citizenship of the person at the time of death or otherwise recognizes a similar or identical property right.

"Juristic person" means a partnership, trust, estate, corporation, unincorporated association, or other organization capable of suing and being sued in a court of law.

"Name" means the actual name or other name by which an individual is known that is intended to identify that individual.
"Person" means a natural or juristic person.

"Work of Fine Art" means (i) a visual rendition including, but not limited to, a painting, drawing, sculpture, mosaic, videotape, or photograph; (ii) a work of calligraphy; (iii) a work of graphic art including, but not limited to, an etching, lithograph, serigraph, or offset print; (iv) a craft work in materials including, but not limited to, clay, textile, fiber, wood, metal, plastic, or glass; or (v) a work in mixed media including, but not limited to, a collage, assemblage, or work consisting of any combination of items (i) through (iv).

(Source: P.A. 90-747, eff. 1-1-99.)

(765 ILCS 1075/10)

Sec. 10. Recognition of right of publicity. The right to control and to choose whether and how to use an individual's identity for commercial purposes is recognized as each individual's right of publicity. This Act is intended to apply to all personalities, living or deceased, regardless of domicile or place of domicile at time of death.

(765 ILCS 1075/15)

Sec. 15. Transferability, descendability, and divisibility. The rights under this Act are property rights that are freely transferable in whole or in part to any person either by written transfer, including but not limited to wills and trusts, or by intestate succession only to an individual's spouse, parents, children, and grandchildren, except that the rights under this Act are not subject to levy or attachment and may not be the subject of a security interest. Nothing in this Section limits the ability of any party to levy, attach, or obtain a security interest in the proceeds of the rights under this Act or the proceeds of the exercise of those rights. The rights under this Act shall be deemed to have existed at the time of a transfer or at the time of the death of any deceased person or subsequent successor of his or her rights for the...
purpose of determining the person or persons entitled to these
property rights as provided in this Section.
(Source: P.A. 90-747, eff. 1-1-99.)

(765 ILCS 1075/35)
Sec. 35. Applicability.
(a) This Act applies to acts or events that have a
substantial relationship to Illinois and take place after the
effective date of this Act.

(b) This Act does not apply to the following:
(1) use of an individual's identity in an attempt to
portray, describe, or impersonate that individual in a live
performance, a single and original work of fine art, play,
book, article, musical work, film, radio, television, or
other audio, visual, or audio-visual work, provided that
the performance, work, play, book, article, or film does
not constitute in and of itself a commercial advertisement
for a product, merchandise, goods, or services;
(2) use of an individual's identity for non-commercial
purposes, including any news, public affairs, or sports
broadcast or account, or any political campaign;
(3) use of an individual's name in truthfully
identifying the person as the author of a particular work
or program or the performer in a particular performance;
(4) promotional materials, advertisements, or
commercial announcements for a use described under
paragraph (1), (2), or (3) of this subsection;
(5) use of photographs, videotapes, and images by a
person, firm, or corporation practicing the profession of
photography ("professional photographer") to exhibit in or
about the professional photographer's place of business or
portfolio, specimens of the professional photographer's
work, unless the exhibition is continued by the
professional photographer after written notice objecting
to the exhibition has been given by the individual portrayed; or 

(6) use of an individual's identity by a person or entity engaged in the business of licensing or transacting of (i) intellectual property rights of any kind (including without limitation copyrights) or (ii) rights to use photographs, videotapes, sound recordings, and any other materials, in any form; provided, however, this exception does not apply when the person or entity expressly authorizes the use of publicity rights governed by this Act for a commercial purpose without the written consent required by this Act.

(Source: P.A. 90-747, eff. 1-1-99.)

Section 99. Effective date. This Act takes effect upon becoming law.