

2012 -- H 7970

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LC02195
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2012

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A N A C T

RELATING TO COURTS AND CIVIL PROCEDURE - PROCEDURE GENERALLY

Introduced By: Representative Joseph M. McNamara

Date Introduced: March 20, 2012

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 9-1-28 of the General Laws in Chapter 9-1 entitled "Causes of
2 Action" is hereby amended to read as follows:

3 **9-1-28. Action for unauthorized use of name, portrait, or picture.** – (a) Any person
4 whose name, portrait, or picture is used within the state for ~~advertising purposes or for the~~
5 commercial purposes ~~of trade~~ without his or her written consent may bring an action in the
6 superior court against the person so using his or her name, portrait, or picture to prevent and
7 restrain the use thereof, and may recover damages for any injuries sustained by reason of such
8 use. If the defendant shall have knowingly used the person's name, portrait, or picture in such
9 manner as is prohibited or unlawful, the court, in its discretion, may award the plaintiff treble the
10 amount of the damages sustained by him or her.

11 (b) Nothing in this section shall be so construed as to:

12 (1) Apply to the use of names, portraits, or pictures in political speech or on matters of
13 public concern;

14 (2) prevent Prevent any person practicing the profession of photography from exhibiting
15 in or about his or her or its establishment specimens of the work of the person or establishment,
16 unless the exhibiting of any such specimen is continued after written notice objecting to it has
17 been given by the person portrayed; ~~and nothing in this section shall be so construed as to or~~

18 (3) prevent Prevent any person from using the name, portrait, or picture of any
19 manufacturer or dealer in connection with the goods, wares, and merchandise manufactured,

1 produced, or dealt in by the manufacturer or dealer which the person has sold or disposed of with
2 the name, portrait, or picture used in connection therewith, or from using the name, portrait, or
3 picture of any author, composer, or artist in connection with any literary, musical, or artistic
4 production of the author, composer, or artist which the person has sold or disposed of with the
5 name, portrait, or picture used in connection therewith.

6 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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1 This act would exempt the use of names, portraits, or pictures in political speech or on
2 matters of public concern from legal actions based on the unauthorized use of names, portraits, or
3 pictures.

4 This act would take effect upon passage.

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