

# Right of Publicity Laws: Oregon

MICHAEL M. RATOZA, BULLIVANT HOUSER BAILEY PC, WITH PRACTICAL LAW INTELLECTUAL PROPERTY & TECHNOLOGY

A Q&A guide to Oregon right of publicity laws. This Q&A addresses the types of persons and aspects of identity protected by the right of publicity, remedies for violations of the right, defenses to right of publicity claims, personal jurisdiction and choice of law considerations, and transfer and licensing of the right. Answers to questions can be compared across a number of jurisdictions (see *Right of Publicity Laws: State Q&A Tool* ([www.practicallaw.com/4-517-3258](http://www.practicallaw.com/4-517-3258))).

## OVERVIEW OF STATE RIGHT OF PUBLICITY LAW

**1. Does your state recognize the right of publicity? If so, is the right of publicity recognized by statute or common law, or both?**

Oregon does not recognize the right of publicity either by statute or common law.

In 1986, the Oregon Supreme Court discussed the right of publicity in general but declined to recognize the tort (*Anderson v. Fisher Broad. Cos., Inc.*, 712 P.2d 803, 812 (1986)). In *Anderson*, the Oregon Supreme Court held that "without a showing that plaintiff's picture was either obtained or broadcast in a manner or for a purpose wrongful beyond the unconsented publication itself, that claim fails" (*Anderson*, 712 P.2d at 813).

**2. Does your state recognize the appropriation invasion of privacy tort? If your state recognizes both a right of publicity and an appropriation invasion of privacy tort, please describe any significant distinctions between the two types of claims.**

Oregon does not recognize the tort of appropriation for commercial benefit of a person's name or likeness.

Oregon recognizes three components of the right of privacy, specifically:

- Intrusion on a person's physical solitude (*McLain v. Boise Cascade Corp.*, 533 P.2d 343, 345-46 (1975)).
- Public disclosure of an embarrassing private fact (*Simpson v. Burrows*, 90 F. Supp. 2d 1108, 1125 (D. Or. 2000)).
- Placing a person in a false light (*Marleau v. Truck Insurance Exchange*, 37 P.3d 148, 153-54 (2001)).

## PERSONS PROTECTED

**3. What types of persons are protected by each law identified in Question 1?**

Oregon does not recognize the right of publicity either by statute or common law.

**4. If your state recognizes a postmortem right of publicity:**

- What is the duration of the postmortem right?
- Is there an exploitation requirement for maintenance of the postmortem right?

Oregon does not recognize the right of publicity either by statute or common law.



**5. Is right of publicity protection in your state subject to any requirement that the person's identity have commercial value?**

Oregon does not recognize the right of publicity either by statute or common law.

**6. If your state recognizes a postmortem right of publicity, is postmortem protection subject to any lifetime exploitation requirement?**

Oregon does not recognize the right of publicity either by statute or common law.

**7. Are any classes of persons (for example, members of the Armed Services) given special right of publicity protection in your state? If so, what is the nature of the protection?**

Oregon's criminal impersonation law prohibits a person from assuming, with intent to obtain a benefit, the character of:

- A public servant.
- An active member or veteran of the US armed forces.

(*Or. Rev. Stat. Ann.* 162.365.)

**PROTECTED ASPECTS OF IDENTITY****8. For each law identified in Question 1, please describe the aspects of a person's identity that are protected.**

Oregon does not recognize the right of publicity either by statute or common law.

**9. Does any law identified in Question 1 require or otherwise permit registration of the right of publicity, including postmortem rights if recognized in your state? If so, please describe the:**

- Benefits of registration and any adverse consequences for failing to register.
- Registration requirements and procedure.

Oregon does not recognize the right of publicity either by statute or common law.

**10. For each law identified in Question 1, what are the elements of a civil claim?**

Oregon does not recognize the right of publicity either by statute or common law.

**11. Please describe any tests for identifiability provided by statute or case law in your state.**

Oregon does not recognize the right of publicity either by statute or common law.

**12. What are the available remedies for a civil violation of each law identified in Question 1?**

Oregon does not recognize the right of publicity either by statute or common law.

**13. Are there any criminal penalties in your state for violations of the right of publicity?**

Oregon does not recognize the right of publicity either by statute or common law. For information on Oregon's criminal impersonation law, please see *Question 7*.

**EXEMPTIONS AND DEFENSES****14. For each law identified in Question 1, what are the key defenses to a civil claim?**

Oregon does not recognize the right of publicity either by statute or common law.

**15. For each law identified in Question 1:**

- What is the statute of limitations for a civil claim?
- How is the statute of limitations calculated?

Oregon does not recognize the right of publicity either by statute or common law.

**PERSONAL JURISDICTION AND CHOICE OF LAW****16. Please describe any statutory requirements or significant case law involving right of publicity claims concerning:**

- Personal Jurisdiction.
- Choice of Law.

**PERSONAL JURISDICTION**

Oregon does not recognize the right of publicity either by statute or common law.

**CHOICE OF LAW**

Oregon's choice of law rules for noncontractual claims are codified in Sections 15.400 to 15.460 of the Oregon Revised Statutes Annotated.

Generally, if the injurious conduct occurred in one state and the resulting injury occurred in another state, then the law of the state of the conduct governs. But if the injury was foreseeable, then the law of the state of the injury governs.

**TRANSFERS, LICENSES AND WAIVERS****17. Is the right of publicity a transferable (assignable) right in your state?**

Oregon does not recognize the right of publicity either by statute or common law.

**18. Please describe any specific restrictions on or requirements for valid transfers (if the right is transferable), licenses or waivers of the right of publicity in your state, including:**

- Whether transfers, licenses and waivers must be made in writing.
- Requirements for obtaining consent from a minor.

**FORM OF AGREEMENT**

Oregon does not recognize the right of publicity either by statute or common law.

**CONSENT FROM A MINOR**

Oregon does not recognize the right of publicity either by statute or common law.

Oregon follows the common law rule that unemancipated minors do not have capacity to enter into an enforceable contract for non-necessaries.

**19. If your state recognizes a postmortem right, are there any statutory or common law rules for ownership or transfer of the right?**

Oregon does not recognize the right of publicity either by statute or common law.

**OTHER SIGNIFICANT LEGISLATION AND CASE LAW**

**20. Please briefly describe any other significant right of publicity statutes, pending legislation and case law in your state not otherwise addressed in this survey.**

There is no pending right of publicity legislation in Oregon.

For the links to the documents referenced in this note, please visit our online version at <http://us.practicallaw.com/2-563-3845>

**ABOUT PRACTICAL LAW**

Practical Law provides legal know-how that gives lawyers a better starting point. Our expert team of attorney editors creates and maintains thousands of up-to-date, practical resources across all major practice areas. We go beyond primary law and traditional legal research to give you the resources needed to practice more efficiently, improve client service and add more value.

If you are not currently a subscriber, we invite you to take a trial of our online services at [practicallaw.com](http://practicallaw.com). For more information or to schedule training, call **888.529.6397** or e-mail [ustraining@practicallaw.com](mailto:ustraining@practicallaw.com).