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## SENATE BILL NO. 771

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice  
on February 20, 1995)

(Patron Prior to Substitute—Senator Benedetti)

A BILL to amend and reenact § 8.01-40 of the Code of Virginia, relating to unauthorized use of name; penalty.

Be it enacted by the General Assembly of Virginia:

1. That § 8.01-40 of the Code of Virginia is amended and reenacted as follows:

§ 8.01-40. Unauthorized use of name or picture of any person; exemplary damages; statute of limitations.

A. Any person whose name, portrait, or picture is used for advertising purposes or for the purposes of trade, without having first obtained the written consent of such person, or if dead, of the surviving consort and if none, of the next of kin, or if a minor, the written consent of his or her parent or guardian, for advertising purposes or for the purposes of trade, such persons may maintain a suit in equity against the person, firm, or corporation so using such person's name, portrait, or picture to prevent and restrain the use thereof; and may. The person may also sue and recover damages for any injuries sustained by reason of such use. And, and if the defendant shall have knowingly used such person's name, portrait or picture in such manner as is forbidden or declared to be unlawful by this chapter, the jury, in its discretion, may award exemplary damages. A prosecution may also be commenced pursuant to § 18.2-216.1.

B. A person who knowingly uses the name of any other person, without having first obtained the written consent and authorization of the other person, in order to induce another to issue a credit card may sue and recover damages for any injuries sustained thereby.

B. C. No action shall be commenced under this section subsection A more than twenty years after the death of such person.