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Model Release Guide

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This document is provided to members of Professional Photographers of America for general information purposes and shall not be considered legal advice. PPA strongly recommends that photographers contact local counsel to determine whether a model release has been properly worded to meet the statutory requirements of the state.



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WHEN SHOULD I USE A MODEL RELEASE?

Great question! It's one that a lot of photographers ask as well. The easiest, safest, and best answer is: always.

What if one of your images from a shoot is so outstanding that you want to use it for your marketing or advertising? No matter how great your relationship with a client might be, the best practice is to have them sign a model release in advance of the use. In some cases the use might be so extensive that you elect to obtain an additional release to cover the use instead of relying on the standard model release provisions in your client contract. The positive results are twofold: good protection for you and good customer relations with your client.

This way, you won't have a client change their mind and say, "I know I said you could use the photo, but I didn't know you were going to plaster it all over the internet! I'm calling my lawyer!" The written agreement will help protect you in such a situation. PPA's sample model release on the last page of this guide includes a wide range of potential uses in an effort to help you keep all your bases covered!

We strongly caution photographers against relying solely on a verbal agreement with a client for a model release – as people's recollections of an agreement often change over time. Moreover, some states have an absolute requirement for a written model release and failure to have one in place can lead to significant legal damages.

The law is constantly changing, however, PPA has put together this informational guide on the state of model release law as a starting point to assist members in determining for themselves what may be necessary. Inside you will also find a brief summary of the "why" of model releases that may help you better understand their purpose and use.

WHY DO I NEED PERMISSION TO USE MY OWN WORK?

Under most circumstances, photographers own the copyright in their images including the exclusive right to make copies, offer them for sale and to publicly display the work. So why would you need a model release to use your own work?

Almost all states recognize a right to privacy that, among other things, prohibits someone from “misappropriating” the likeness of another for commercial purposes. An increasing number of states also recognize a “right to publicity” which is the right to control the commercial exploitation of one’s persona or likeness. While the person in an image may have consented to being photographed—either as a client or by attending an event where they had no reasonable expectation of privacy—it does not automatically follow that they also consent to their likeness being used in your marketing materials or those of a third party.

While you have an exclusive right to make copies and distribute your work the way in which you use those images can be limited by the privacy and publicity rights of the people in those images – unless you have a model release that addresses those issues.

WRITTEN MODEL RELEASES: ALWAYS BEST, SOMETIMES REQUIRED BY LAW

How many times has it happened? You’re putting together your marketing for the next year and find a great image that you want to use—but for some reason, you don’t have a model release in the file. “No problem,” you think to yourself. “This is a good client. I’ll just call her and ask if it’s okay to use the image in my advertising.” But don’t leave it to chance – follow up on that conversation and GET IT IN WRITING.

There is an old saying that “verbal contracts are worth the paper they are written on” – and the same applies to verbal model releases. Without a signed model release, any number of disputes about the scope of the permission given—or whether any permission was given at all—can arise. In addition to being a good idea, there are some states in which a verbal model release is equivalent to not having a model release at all. Worse yet, some states impose misdemeanor criminal sanctions for failure to obtain a proper release.

50-STATE SURVEY (PLUS D.C.)

The law is constantly changing, but as an informational resource PPA has put together this list as a starting point as you explore issues related to commercial appropriation of likeness (privacy) and right to publicity issues in your state. While the right to privacy (in most states) only exists for the life of that individual, most states with a right to publicity give the heirs of the deceased the right to grant permission for various uses. While this chart is a good starting point, you should consult with a local, licensed attorney for any legal advice regarding the application of the law in your state.



State	Written Model Release Required	Post Mortem Model Release Required	Referenced in...
Alabama		Yes, 55 years	Ala. Civ. Code 6-5-770
Alaska			Common Law (likely appropriation)
Arizona		Yes (soldiers only, indefinite)	Common Law (appropriation); Az. Rev. Stat. 12-761 (civil - soldiers only); Az. Rev. Stat. 13-3726 (criminal - deceased soldiers only)
Arkansas		Yes, 50 years	A.C.A. 4-75-1104-1110
California		Yes, 70 years	Civil Code Sec. 3344-3344.1
Colorado			Common Law (appropriation)
Connecticut			Common Law
Delaware			Common Law (appropriation)
District of Columbia			Common Law (appropriation)
Florida		Yes, 40 years	Fl. Stat. 540.08
Georgia		Yes, indefinite	Common Law
Hawaii		Yes, 70 years	H.R.S.A. 482P-2 et seq.
Idaho			Common Law (appropriation)
Illinois	Yes	Yes, 50 years	765 ILCS 1075
Indiana	Yes	Yes, 100 years	Indiana Code 32-36-1
Iowa			Common Law (appropriation)
Kansas			Common Law (appropriation)
Kentucky		Yes, 50 years for public figure	Ky. Rev. Stat 391.170
Louisiana		Yes (soldiers only, indefinite)	Common Law (appropriation - all); La. Rev. State 14 Sec. 102.21 (criminal - soldiers only)
Maine			Common Law (appropriation)
Maryland			Common Law (appropriation)
Massachusetts	Yes		Mass. Gen. Laws 214-3a
Michigan		Yes, indefinite	Common Law
Minnesota			Common Law
Mississippi			Common Law (appropriation)
Missouri			Common Law
Montana			Common Law (appropriation)
Nebraska		Yes, indefinite	Neb. Rev. Stat 20-202

State	Written Model Release Required	Post Mortem Model Release Required	Referenced in...
Nevada	Yes	Yes, 50 years	Nev. R.S.A. 597.770 et seq.
New Hampshire			Common Law
New Jersey		Yes, indefinite	Common Law
New Mexico			Common Law plus see NM Stat. 57-22-6.3 (express written consent when used in fundraising)
New York	Yes		N.Y. Civil Rights Law 50-51
North Carolina			Common Law (appropriation)
North Dakota*	No (See * Below)		Unclear
Ohio	Yes	Yes, 60 (civil), 10 years (criminal statute, soldiers only)	Ohio Rev. Code 2741.01 et seq. (civil); O.R.C. 2741.02 and 2741.99 (criminal - soldiers only)
Oklahoma		Yes, 100 years	Okla. Stat., Title 12 Sections 1448 and 1449 (Civil); Okla. Rev. Stat. 21-839.1-3 (Criminal, exceptions apply)
Oregon			Common Law (appropriation)
Pennsylvania	Yes	Yes, 30 years	42 Pa.C.S.A. Chp. 83A, Sec. 8316
Rhode Island	Yes		RIGL 9-1-28
South Carolina		Yes, indefinite	Common Law
South Dakota		Yes, 70 years	SDCL 21-64-2
Tennessee		Yes, at least 10 years	Tenn. C.A. 47-25-1102
Texas		Yes, 50 years	Common Law (appropriation) and Tex. Prop Code 26.001 et seq. (post-mortem)
Utah			Utah Code Ann. 45-3-1 and UCA 1953 Sec 76-9-407 (misdemeanor criminal)
Vermont			Common Law (appropriation)
Virginia	Yes	Yes, 20 years	Va. Code Anno. 8.01-40 and 18.2-216.1 (criminal misdemeanor)
Washington		Yes, 10 years (individual) or 75 years (personality)	Wash. Rev. Code 63.60.010
West Virginia			Common Law
Wisconsin	Yes		Wis. Stat. 995.50(2)(b)
Wyoming*	No (See * Below)		Unclear

*ND and WY do not appear to have case law on this issue but would likely recognize the right of privacy.

SAMPLE MODEL RELEASE

I, _____, [print name of person giving the release] for good and valuable consideration, the receipt of which is hereby acknowledged, hereby irrevocably authorize [name of photographer or studio including location] to use photographs of me and or my property and authorize [choose one: him/her/their] and [choose one: his/her/their] assignees, licensees, legal representatives and transferees to use and publish (with or without my name, company name, or with a fictitious name) photographs, pictures, portraits or images herein described in any and all forms and media and in all manners including composite images or distorted representations, and the purposes of publicity, illustration, commercial art, advertising, publishing (including publishing in electronic form on CDs or internet websites), for any product or services, or other lawful uses as may be determined by the photographer or studio name here. I further waive any and all rights to review or approve any uses of my likeness, any written copy or finished product. I **am of full legal age** and *(delete the bold copy if this is for a minor)* have read and fully understand the terms of this release.

Description of images

Signed _____

Witness _____ Date _____

I am the parent or legal guardian of the above mentioned minor and have the legal right and authority to execute the above release on behalf of the minor.

Signed _____

Witness _____ Date _____

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