
Civil Rights & Judiciary Committee

HB 1627

Brief Description: Protecting the interests of minor children featured on for-profit family vlogs.

Sponsors: Representatives Reeves, Senn, Berry, Walen, Wylie and Kloba.

Brief Summary of Bill

- Requires qualifying vloggers to compensate their minor child whose likeness, name, or photograph appears in their video content.
- Provides qualifying minor children, upon reaching their majority, with the right to request permanent deletion of any video segment including their likeness, name, or photograph from any internet platform or network that provided compensation to their parent or parents.
- Requires internet platforms and networks to take all reasonable steps to permanently delete such video segments upon request.

Hearing Date: 2/14/23

Staff: John Burzynski (786-7133).

Background:

Vlogging.

Vlogging, or video blogging, is the creation of video content to be posted online, including on social media and video sharing sites.

Rights of Personality.

Washington law provides that every individual or personality has a property right in the use of his or her name, voice, signature, photograph, or likeness. These rights are freely transferable, assignable, and licensable, in whole or in part, and may be exercised by a personal

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representative, attorney-in-fact, parent of a minor child, or guardian, or as authorized by a court of competent jurisdiction.

Any person who infringes these rights is liable for the greater of \$1,500 or actual damages, and any profits attributable to the infringement. Additionally, a court may grant an injunction to prevent or restrain the unauthorized use of the rights in a living or deceased individual's or personality's name, voice, signature, photograph, or likeness.

Child Labor Laws.

Washington prohibits employment of any child under the age of 14 in or in connection with store, ship, factory, mine, or inside employment not connected with farm or house work, unless authorized by a Superior Court judge. This restriction does not apply to actors or performers in any film, video, audio, or theatrical production, or to certified youth soccer referees. A violation of these restrictions is a misdemeanor.

The employment of minors in a number of a hazardous occupations is restricted by regulation, subject to various exceptions. Restricted occupations include, for example, manufacturing or storing explosives, mining, meat packing, roofing, etc.

Any person, firm, or corporation employing a minor under the age of 18 must obtain a work permit, and authorization from the minor's parents or legal guardians and their school when in session. Additionally, the hours a minor may be employed are limited by regulation. Hours of employment are more restricted during the school year. State law requires the Department of Labor and Industries to issue a permit and variance allowing minors to be employed as actors or performers in film, video, audio, or theatrical productions if the terms of employment sufficiently protect the minor's health, safety, and welfare.

Washington regulations define "employ" as to engage, suffer, or permit to work, and includes entering into any arrangement, including a contract, whether implied, express, oral, or written, with a minor whereby the minor works in house-to-house sales except when a minor is working in house-to-house sales for her or his parent or stepparent. The term "employ" does not include newspaper vendors or carriers, the use of domestic or casual labor in or about private residences, agricultural labor, or the use of voluntary or donated services performed for an educational, charitable, religious, or nonprofit organization and without expectation or contemplation of compensation for the services performed.

Summary of Bill:

"Vlogger" means an individual or family that creates video content in exchange for compensation, and includes any proprietorship, partnership, company, or other corporate entity assuming the name or identity of a particular individual or family for purposes of that content creation.

A vlogger must compensate their minor child whose likeness, name, or photograph appears in

their video content if the following criteria are met at any time within the previous 12-month period:

- the number of views received per video segment on any internet platform or network met the platform or network's threshold for generation of compensation, or the vlogger received actual compensation for video content equal to or greater than 10 cents per view; and
- at least 30 percent of the vlogger's compensated video content produced within a 30-day period included the likeness, name, or photograph of the vlogger's minor child.

A vlogger subject to this compensation requirement must set aside gross earnings on the video content including the likeness, name, or photograph of the vlogger's minor child. The gross earnings must be placed in a trust, to be preserved for the benefit of the minor child upon reaching the age of majority, subject to the following distribution:

- where only one minor child meets the 30 percent content threshold, the percentage of total gross earnings on any video segment including the likeness, name, or photograph of the vlogger's minor child that is equal to or greater than the content percentage that includes the minor child; or
- where more than one minor child meets the 30 percent content threshold and a video segment includes more than one of those children, the percentage for all minor children in any segment must be equally divided between the children, regardless of any difference in percentage of content provided by the individual children.

When a minor child covered by the foregoing trust requirement reaches the age of majority, they may request the permanent deletion of any video segment including their likeness, name, or photograph from any internet platform or network that provided compensation to their parent or parents in exchange for that video content. Internet platforms and networks must take all reasonable steps to permanently delete the video segments subject to this request.

Any contract with an internet platform or network for the exchange or use of video content that would reasonably be anticipated to include greater than de minimis use of a vlogger's minor child must include notification to the internet platform or network of the minor child's future right to request permanent deletion of video segments including their likeness, name, or photograph.

The state statute authorizing parents to exercise the personality rights of their children is amended to recognize the compensation requirements established in this act.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.