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HOUSE BILL 1627

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State of Washington

68th Legislature

2023 Regular Session

By Representatives Reeves, Senn, Berry, Walen, Wylie, and Kloba

Read first time 01/26/23. Referred to Committee on Civil Rights & Judiciary.

1 AN ACT Relating to protecting the interests of minor children  
2 featured on for-profit family vlogs; amending RCW 63.60.020 and  
3 63.60.040; adding new sections to chapter 63.60 RCW; and creating a  
4 new section.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** (1) The legislature finds that social  
7 media influencers can make significant amounts of money from the  
8 digital content they produce. Some influencers use their minor  
9 children as subjects of that content. Those children are generating  
10 interest in and revenue for the content, but receive no financial  
11 compensation for their participation. Unlike in child acting, these  
12 children are not playing a part, and lack legal protections.

13 (2) The legislature finds that social media influencers who  
14 market video content of their families, or "vloggers" can profit from  
15 the personal property rights of their children without restriction.  
16 Some children are filmed, with highly personal details of their lives  
17 shared on the internet for compensation, from birth. In addition to a  
18 severe loss of privacy, these children receive no consideration for  
19 the use and exchange of their personal property rights.

20 (3) The legislature intends to allow minors to receive  
21 proportional compensation for the use of specified personal property

1 rights where their parents have reached a specified profit threshold  
2 from that use. The legislature also intends to provide for minors to  
3 exercise control over specified personal property rights upon  
4 reaching the age of majority.

5 **Sec. 2.** RCW 63.60.020 and 2008 c 62 s 2 are each amended to read  
6 as follows:

7 Unless the context clearly requires otherwise, the definitions in  
8 this section apply throughout this chapter.

9 (1) "Age of majority" has the same meaning as provided in RCW  
10 26.28.010.

11 (2) "Deceased individual" means any individual, regardless of the  
12 individual's place of domicile, residence, or citizenship at the time  
13 of death or otherwise, who has died within ten years before January  
14 1, 1998, or thereafter.

15 (~~(2)~~) (3) "Deceased personality" means any individual,  
16 regardless of the personality's place of domicile, residence, or  
17 citizenship at the time of death or otherwise, whose name, voice,  
18 signature, photograph, or likeness had commercial value at the time  
19 of his or her death, whether or not during the lifetime of that  
20 individual he or she used his or her name, voice, signature,  
21 photograph, or likeness on or in products, merchandise or goods, or  
22 for purposes of advertising or selling, or soliciting the purchase or  
23 sale of, products, merchandise, goods, or services. A "deceased  
24 personality" includes, without limitation, any such individual who  
25 has died within fifty years before January 1, 1998, or thereafter.

26 (~~(3)~~) (4) "Fund-raising" means an organized activity to solicit  
27 donations of money or other goods or services from persons or  
28 entities by an organization, company, or public entity. A fund-  
29 raising activity does not include a live, public performance by an  
30 individual or group of individuals for which money is received in  
31 solicited or unsolicited gratuities.

32 (~~(4)~~) (5) "Individual" means a natural person, living or dead.

33 (~~(5)~~) (6) "Likeness" means an image, painting, sketching,  
34 model, diagram, or other clear representation, other than a  
35 photograph, of an individual's face, body, or parts thereof, or the  
36 distinctive appearance, gestures, or mannerisms of an individual.

37 (~~(6)~~) (7) "Minor" means a person under the age of 18 whose  
38 principal place of residence is in the state of Washington.

1        (8) "Name" means the actual or assumed name, or nickname, of a  
2 living or deceased individual that is intended to identify that  
3 individual.

4        ~~((7))~~ (9) "Person" means any natural person, firm, association,  
5 partnership, corporation, joint stock company, syndicate, receiver,  
6 common law trust, conservator, statutory trust, or any other concern  
7 by whatever name known or however organized, formed, or created, and  
8 includes not-for-profit corporations, associations, educational and  
9 religious institutions, political parties, and community, civic, or  
10 other organizations.

11        ~~((8))~~ (10) "Personality" means any individual whose name,  
12 voice, signature, photograph, or likeness has commercial value,  
13 whether or not that individual uses his or her name, voice,  
14 signature, photograph, or likeness on or in products, merchandise, or  
15 goods, or for purposes of advertising or selling, or solicitation of  
16 purchase of, products, merchandise, goods, or services.

17        ~~((9))~~ (11) "Photograph" means any photograph or photographic  
18 reproduction, still or moving, or any videotape, online or live  
19 television transmission, of any individual, so that the individual is  
20 readily identifiable.

21        ~~((10))~~ (12) "Signature" means the one handwritten or otherwise  
22 legally binding form of an individual's name, written or authorized  
23 by that individual, that distinguishes the individual from all  
24 others.

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

30        NEW SECTION. Sec. 3. A new section is added to chapter 63.60  
31 RCW to read as follows:

32        (1) A vlogger meeting the criteria under subsection (2) of this  
33 section must compensate the vlogger's minor child whose likeness,  
34 name, or photograph constitutes the video content meeting the  
35 criteria in subsection (2)(a) of this section, in accordance with  
36 subsection (3) of this section.

37        (2) This section applies to a vlogger meeting the following  
38 criteria at any time within the previous 12-month period:

1 (a)(i) The number of views received per video segment on any  
2 internet platform or network met the platform or network's threshold  
3 for generation of compensation; or

4 (ii) The vlogger received actual compensation for video content  
5 equal to or greater than \$0.10 per view; and

6 (b) At least 30 percent of the vlogger's compensated video  
7 content produced within a 30-day period included the likeness, name,  
8 or photograph of the vlogger's minor child. Content percentage is  
9 measured by the percentage of time the likeness, name, or photograph  
10 of the vlogger's minor child visually appears or is the subject of an  
11 oral narrative in a video segment, as compared to the total length of  
12 the segment.

13 (3) A vlogger meeting the criteria in subsection (2) of this  
14 section must set aside gross earnings on the video content including  
15 the likeness, name, or photograph of the vlogger's minor child in a  
16 trust, to be preserved for the benefit of the minor upon reaching the  
17 age of majority, according to the following distribution:

18 (a) Where only one minor child meets the content threshold  
19 described in subsection (2)(b) of this section, the percentage of  
20 total gross earnings on any video segment including the likeness,  
21 name, or photograph of the vlogger's minor child that is equal to or  
22 greater than the content percentage that includes the minor child as  
23 described in subsection (2) of this section; or

24 (b) Where more than one minor child meets the content threshold  
25 described in subsection (2)(b) of this section and a video segment  
26 includes more than one of those children, the additive percentage  
27 described in (a) of this subsection for all minor children in any  
28 segment must be equally divided between the children, regardless of  
29 differences in percentage of content provided by the individual  
30 children.

31 NEW SECTION. **Sec. 4.** A new section is added to chapter 63.60  
32 RCW to read as follows:

33 (1) Upon the age of majority, any individual to whom as a minor  
34 child section 3 of this act previously applied may request the  
35 permanent deletion of any video segment including the likeness, name,  
36 or photograph of the individual from any internet platform or network  
37 that provided compensation to the individual's parent or parents in  
38 exchange for that video content.

1 (2) An internet platform or network must take all reasonable  
2 steps to permanently delete the video segment for which a request  
3 described in subsection (1) of this section has been made.

4 (3) Any contract with an internet platform or network for the  
5 exchange or use of video content that would reasonably be anticipated  
6 to include greater than a de minimis use of a vlogger's minor child  
7 must include notification to the internet platform or network of the  
8 minor child's future rights as provided in this section.

9 **Sec. 5.** RCW 63.60.040 and 2004 c 71 s 2 are each amended to read  
10 as follows:

11 (1) For individuals, except to the extent that the individual may  
12 have assigned or licensed such rights, the rights protected in this  
13 chapter are exclusive to the individual, subject to the assignment or  
14 licensing of such rights, during such individual's lifetime and are  
15 exclusive to the persons entitled to such rights under RCW 63.60.030  
16 for a period of ten years after the death of the individual except to  
17 the extent that the persons entitled to such rights under RCW  
18 63.60.030 may have assigned or licensed such rights to others.

19 (2) For personalities, except to the extent that the personality  
20 may have assigned or licensed such rights, the rights protected in  
21 this chapter are exclusive to the personality, subject to the  
22 assignment or licensing of such rights, during such personality's  
23 lifetime and to the persons entitled to such rights under RCW  
24 63.60.030 for a period of seventy-five years after the death of the  
25 personality except to the extent that the persons entitled to such  
26 rights under RCW 63.60.030 may have assigned or licensed such rights  
27 to others.

28 (3) The rights granted in this chapter may be exercised by a  
29 personal representative, attorney-in-fact, parent of a minor child  
30 except as limited in section 3 of this act, or guardian, or as  
31 authorized by a court of competent jurisdiction. The terms "personal  
32 representative," "attorney-in-fact," and "guardian" shall have the  
33 same meanings in this chapter as they have in Title 11 RCW.

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