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

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

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

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

(3) The legislature intends to allow minors to receive proportional compensation for the use of specified personal property
rights where their parents have reached a specified profit threshold from that use. The legislature also intends to provide for minors to exercise control over specified personal property rights upon reaching the age of majority.

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

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

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

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

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

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

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

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

((6)) (7) "Minor" means a person under the age of 18 whose principal place of residence is in the state of Washington.
"Name" means the actual or assumed name, or nickname, of a living or deceased individual that is intended to identify that individual.

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

"Personality" means any individual whose name, voice, signature, photograph, or likeness has commercial value, whether or not that individual uses his or her name, voice, signature, photograph, or likeness on or in products, merchandise, or goods, or for purposes of advertising or selling, or solicitation of purchase of, products, merchandise, goods, or services.

"Photograph" means any photograph or photographic reproduction, still or moving, or any videotape, online or live television transmission, of any individual, so that the individual is readily identifiable.

"Signature" means the one handwritten or otherwise legally binding form of an individual's name, written or authorized by that individual, that distinguishes the individual from all others.

"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.

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

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

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

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

(b) 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. Content percentage is measured by the percentage of time the likeness, name, or photograph of the vlogger's minor child visually appears or is the subject of an oral narrative in a video segment, as compared to the total length of the segment.

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

(a) Where only one minor child meets the content threshold described in subsection (2)(b) of this section, 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 as described in subsection (2) of this section; or

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

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

(1) Upon the age of majority, any individual to whom as a minor child section 3 of this act previously applied may request the permanent deletion of any video segment including the likeness, name, or photograph of the individual from any internet platform or network that provided compensation to the individual's parent or parents in exchange for that video content.
An internet platform or network must take all reasonable steps to permanently delete the video segment for which a request described in subsection (1) of this section has been made.

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 a de minimis use of a vlogger's minor child must include notification to the internet platform or network of the minor child's future rights as provided in this section.

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

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

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

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

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