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LC004842

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2024

A N A C T

RELATING TO LABOR AND LABOR RELATIONS -- EMPLOYMENT OF CHILDREN --
VLOGS

Introduced By: Senators DiMario, Valverde, Burke, Miller, F. Lombardi, McKenney,
DiPalma, Euer, Gu, and Lauria

Date Introduced: March 08, 2024

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 28-3 of the General Laws entitled "Employment of Children" is
2 hereby amended by adding thereto the following sections:

3 **28-3-1.1. Definitions.**

4 When used in this chapter the following words and phrases are constituted as follows:

5 (1) "Compensation" means anything of value to include money or funds received in
6 exchange or for consideration for providing a service, work or product.

7 (2) "Family" means a group of persons related by blood or marriage, including civil
8 partnerships, or whose close relationship with each other is considered equivalent to a family
9 relationship by the individuals.

10 (3) "Minor" means any person under eighteen (18) years of age.

11 (4) "Online platform" means any public-facing website, web application, or digital
12 application, including a mobile application, to include, but not be limited to, a social network,
13 advertising network, mobile operating system, search engine, email service, or Internet access
14 service.

15 (5) "Superintendent of schools" means an individual employed in accordance with the
16 provisions of chapter 2 of title 16 and exercising the powers and duties enumerated in § 16-2-11.

17 (6) "Trust fund" means an arrangement that allows or requires an entity or individual to
18 place assets or compensation in an account to benefit another person or entity.

1 (7) "Vlog" or "Vlogging" means content shared on an online platform in exchange for
2 compensation.

3 (8) "Vlogger" means an individual or family that creates video content, performed in Rhode
4 Island, in exchange for compensation, and includes any proprietorship, partnership, company, or
5 other corporate entity assuming the name or identity of a particular individual or family for the
6 purposes of that content creation.

7 **28-3-9.2. Minors featured in vlogs.**

8 (a) A minor under the age of eighteen (18) is considered engaged in the authorized work
9 of vlogging when the following criteria are met at any time during the previous twelve (12) month
10 period:

11 (1) At least thirty percent (30%) of the vlogger's compensated video content produced
12 within a thirty (30) day period included the likeness, name, or photograph of the minor. Content
13 percentage is measured by the percentage of time the likeness, name, or photograph of the minor
14 visually appears or is the subject of an oral narrative in a video segment, as compared to the total
15 length of the segment; and

16 (2) The number of views received per video segment on any online platform meet the
17 online platform's threshold for the generation of compensation or the vlogger received actual
18 compensation for video content equal to or greater than ten cents (\$0.10) per view.

19 (b) With the exception of § 28-3-9.3, the provisions of this chapter do not apply to a minor
20 engaged in the work of vlogging.

21 (c) All vloggers whose content features a minor under the age of eighteen (18) engaged in
22 the work of vlogging shall maintain the following records and shall provide the records to the minor
23 on an ongoing basis:

24 (1) The name and documentary proof of the age of the minor engaged in the work of
25 vlogging;

26 (2) The number of vlogs that generated compensation as described in subsection (a) of this
27 section during the reporting period;

28 (3) The total number of minutes of the vlogs that the vlogger received compensation for
29 during the reporting period;

30 (4) The total number of minutes each minor was featured in vlogs during the reporting
31 period;

32 (5) The total compensation generated from vlogs featuring a minor during the reporting
33 period; and

34 (6) The amount deposited into the trust fund established in § 23-3-9.3 for the benefit of the

1 minor engaged in the work of vlogging, as required by § 28-3-9.3(a)(1).

2 (d) If a vlogger to include, but not limited to, a family member, whose vlog content features
3 minors under the age of eighteen (18) engaged in the work of vlogging fails to maintain the records
4 as provided in subsection (c) of this section or to deposit compensation required by the provisions
5 of this chapter, the minor, through the minor's parents, guardian or representative, may commence
6 a civil action to enforce the provisions of this chapter.

7 **28-3-9.3. Minors engaged in the work of vlogging -- Trust fund.**

8 (a) A minor satisfying the criteria described in § 28-3-9.2(a) shall be compensated by the
9 vlogger. The vlogger shall set aside from gross earnings on the video content including the likeness,
10 name, or photograph of the minor in a trust account to be preserved for the benefit of the minor
11 upon reaching the age of majority, according to the following distribution:

12 (1) Where only one minor meets the content threshold described in § 28-3-9.2, the
13 percentage of total gross earnings on any video segment including the likeness, name, or
14 photograph of the minor shall be as follows:

15 (i) For a video segment including the likeness, name or photograph of the minor that is
16 equal to or greater than thirty percent (30%) of the vlogs, compensation shall be paid to the minor
17 in an amount equal to ten percent (10%) of the gross earnings;

18 (ii) For video segments including the likeness, name or photograph of the minor that is
19 equal to or greater than fifty percent (50%) of the vlog but less than seventy-five percent (75%),
20 compensation shall be paid to the minor in the amount of twenty-five percent (25%) of the gross
21 earnings; and

22 (iii) Any video segment including the likeness, name, or photograph of the minor equal to
23 or greater than seventy-five percent (75%) of the vlog shall result in compensation paid to the minor
24 in the amount of fifty percent (50%) of gross revenues. All compensation shall be paid and
25 deposited into a trust account pursuant to the provisions of this section.

26 (2) Where more than one minor meets the content threshold described in § 28-3-9.2 and a
27 video segment includes more than one of those minors, the percentage described in subsection
28 (a)(1) of this section for all minors in any segment shall be equally divided between the minors,
29 regardless of differences in percentage of content provided by the individual minors.

30 (b) A trust account required under this section shall provide, at a minimum, the following:

31 (1) That the funds in the account shall be available only to the minor engaged in the work
32 of vlogging;

33 (2) That the account shall be held by a bank as defined in § 6A-4-105, corporate fiduciary
34 as defined in § 6A-3-307, or trust company as defined in § 18-13-1, as those terms are defined in

1 title 7 and shall be specifically identified as belonging to the minor;

2 (3) That the funds in the account shall become available to the minor engaged in the work
3 of vlogging upon the minor attaining the age of eighteen (18) years or upon the minor being
4 declared emancipated or upon an order of a court of competent jurisdiction; and

5 (4) That the account meets the requirements of chapter 7 of tile 18.

6 (c) If a vlogger knowingly or recklessly violates this section to include a violation by a
7 family member, a minor satisfying the criteria provided of § 28-3-9.2(a) may, through an action
8 brought by a parent, guardian or representative, enforce the provisions of this chapter to include,
9 but not limited to, establishment of a trust account. The court may award, to the minor in the action
10 brought by the parent, guardian or representative who prevails in any action to enforce the
11 provisions of this chapter, the following damages:

12 (1) Actual damages;

13 (2) Punitive damages; and

14 (3) Attorneys' fees and litigation costs.

15 (d) This section does not affect a right or remedy available under any other law of the state.

16 (e) Nothing in this section shall be interpreted to have any effect on a party that is neither
17 the vlogger nor the minor engaged in the work of vlogging.

18 **28-3-9.4. Right to be forgotten.**

19 (a) Upon the age of majority, any individual to whom as a minor child, as defined in § 28-
20 3-1.1 of this chapter, previously applied may request the permanent deletion of any video segment
21 including the likeness, name, or photograph of the individual from any internet platform or network
22 that provided compensation to the individual's parent or parents in exchange for that video content.

23 (b) A social media platform that receives a deletion request under subsection (a) of this
24 section shall take all reasonable steps to permanently delete all content for which the request was
25 made.

26 (c) A contract between a vlogger and a social media platform for the creation of video
27 content that would reasonably be anticipated to feature a minor child shall include notification to
28 the social media platform of the rights of the child under this section.

29 (d) An internet platform or network shall take all reasonable steps to permanently delete
30 the video segment for which a request described in subsection (a) of this section has been made.

31 (e) Any contract with an internet platform or network for the exchange or uses of video
32 content that would reasonably be anticipated to include greater than a de minimis use of a vlogger's
33 minor child shall include notification to the internet platform or network of the minor child's future
34 rights as provided in this section.

1 SECTION 2. Section 28-3-1 of the General Laws in Chapter 28-3 entitled "Employment
2 of Children" is hereby amended to read as follows:

3 **28-3-1. Places and times where employment of children prohibited.**

4 Except in occupations specifically authorized by § 28-3-9.2, No ~~no~~ child under fourteen
5 (14) years of age shall be employed or permitted or suffered to work at any time in any business or
6 industrial establishment in this state. No child under sixteen (16) years of age shall be employed or
7 permitted or suffered to work at any time in any factory, mechanical, or manufacturing
8 establishment within this state. A child who has reached the fourteenth (14th) birthday, but has not
9 reached the sixteenth (16th) birthday, may be employed only between the hours of 6:00 a.m. and
10 7:00 p.m; except that a child who has reached the fourteenth (14th) birthday, but has not reached
11 the sixteenth (16th) birthday, may be employed until 9:00 p.m. but only during school vacations;
12 and except as provided in § 28-3-3 no child under sixteen (16) years of age shall be employed or
13 permitted or suffered to work in any business establishment within this state. Every person willfully
14 violating the provisions of this section shall be fined as provided in § 28-3-20.

15 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO LABOR AND LABOR RELATIONS -- EMPLOYMENT OF CHILDREN --
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1 This act would establish a statutory framework designed to protect minors who are
2 engaging in the business of vlogging on social media and the Internet. This act would also establish
3 that a representative of the minor may file a law suit on the minor's behalf, even with respect to
4 family members, to enforce the minor's rights pursuant to the provisions of this chapter.

5 This act would take effect upon passage.

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