

GROUNDBREAKING ILLINOIS LAW PROTECTS CHILD INFLUENCERS FROM FINANCIAL EXPLOITATION: HOW COULD IT IMPACT YOUR BUSINESS?

Insights
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Illinois is the first state to enact a law protecting the financial interests of child influencers. The law, which took effect July 1, addresses what had been gaps in child labor law in light of modern issues and targets family “vloggers” and other online content creators who feature children under the age of 16 in for-profit videos shared on social media or other online platforms. We’ll explain what this is all about and how it impacts content creators, advertisers, and Illinois businesses.

Quick Background

Last year, Governor J.B. Pritzker signed [SB 1782](#) into law after increasing calls for regulation of parents who share videos of their minor children online in exchange for compensation through sponsorships and other advertising programs. This lucrative business, sometimes referred to as “family vlogging” or “sharenthood,” often results in invasions of the child’s privacy, despite the child never seeing a dime from it. SB 1782 adds new requirements to the state’s child labor law addressing the financial exploitation issue. The law took effect on July 1.

Who Must Comply?

The requirements under SB 1782 apply to “vloggers” – **individuals or families** who create video content that is shared on online platforms such as TikTok, Instagram, and YouTube in exchange for compensation (referred to in the law as “vlogs”) as well as **any proprietorship, partnership, company, or other corporate entity** assuming the name or

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identity of a particular individual or family for the purposes of content creation.” The law seeks to regulate the earnings of minors under the age of 16 who are featured in vlogs created by their parents or other vloggers in Illinois and funded by corporate advertisers. The new rules do not apply when a minor produces their own vlogs.

Who Is Protected?

Minors under the age of 16 who are featured in paid content of this kind are now entitled to guaranteed compensation, provided that at any time during the previous 12-month period:

- **the minor’s name, image, likeness, or photograph is included in at least 30% of the vlogger’s compensated content** produced within a 30-day period; and
- **the number of views per video** reached the relevant online platform’s compensation threshold **or** the creator **received actual compensation** for video content equal to or greater than \$0.10 per view.

The 30% criteria is measured by the percentage of time the likeness, name, or photograph of the minor visually appears or is the subject of an oral narrative in a video segment, as compared to the total length of the segment.

What Does the Law Require?

Under the new law, **vloggers must compensate minors satisfying the above criteria**. Specifically, vloggers are required to set aside, in a trust meeting certain requirements, a percentage of the gross earnings from qualifying content for featured minors. The minor can then access the money when they turn 18. The amount to which minors are entitled is based on the percentage of time in which the qualifying content features their name, image, or likeness.

For example, if a minor is featured in 100% of the video content, they would be entitled to at least 50% of the gross compensation earned from that content, and the vlogger is obligated to set this amount aside in trust. If the minor is featured in 50% of the qualifying content, they are entitled to at least 25% of the gross compensation, and so on and so forth.

In addition, **vloggers are required to maintain records** of all qualifying content, compensation received, and funds deposited into a minor's trust account. They must also provide the minor with regular access to this information. When the minor turns 18 or is otherwise emancipated, the vlogger must grant them access to the trust account funds.

How is the Law Enforced?

If vloggers fail to comply with the requirement to maintain certain records, the minor has the right to sue to enforce those provisions. And more importantly, if a vlogger knowingly or recklessly violates the requirements to compensate a minor or hold their earnings in a qualifying trust, the individual has a right to sue the vlogger (including their own parents) to enforce those provisions. A court may award them actual damages, punitive damages, and other costs and fees.

What Does This Mean for Businesses?

Influencer businesses and services have increased significantly in recent years, and businesses must take note of this groundbreaking law – especially because other states, like California and Washington, are considering similar laws. Here are three key takeaways for businesses:

- If you own a **content creation business** and you assume the name or identity of a particular individual or family for purposes of content creation, you must comply with the new law if your content meets the applicable criteria.
- **If your company works with Illinois-based content creators who produce “family content” featuring minors (even if you are not in the business of content creation),** you should consider reviewing your advertising contracts and policies to address these new obligations and ensure compliance under the law. Though companies currently are protected from any liability for working with vloggers who fail to comply, you still risk damage to your reputation through association with non-compliant influencers who advertise your products.
- Stay tuned for **new privacy protections that might be on the horizon** for child influencers. Though it was later removed, early drafts of SB 1782 featured a section allowing persons who had been featured in online video content as minors to request that it be deleted and

requiring internet platforms or networks to take reasonable steps to permanently delete the content as requested. This would have placed new obligations on **internet platforms and networks and those who enter into contracts with them** for the exchange or use of certain video content featuring minors. Lawmakers determined that this concept – which is already codified in many European countries as “the right to be forgotten” – would be too difficult to enforce, but digital creators and businesses should nevertheless be wary of future legislation on this front in Illinois or other states.

Conclusion

Fisher Phillips attorneys will continue to monitor these issues, so make sure you are subscribed to [Fisher Phillips' Insight System](#) to receive the most up-to-date information directly in your inbox. If you have any questions, we encourage you to reach out to the authors of this article, your Fisher Phillips attorney, or any attorney in [our Chicago office](#).