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NOTE

FIFTEEN MINUTES OF EXPLOITATION: THE CASE FOR PROACTIVE LEGAL PROTECTION IN THE AGE OF FAMILY VLOGGING

*Caitlyn Hatfield**

Introduction

Flashback to the 1920s: movies were in black and white, silent films were dominating the box office, and comedies were flourishing. Six-year-old Jackie Coogan captivated audiences with his unforgettable performance in Charlie Chaplin's *The Kid*, which launched him into overnight stardom.¹ Metro-Goldwyn-Mayer Studios labeled him “the most

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1. Martin Chilton, *The Tragic, Trailblazing Life of Jackie Coogan, ‘The Most Famous Boy in the World’*, TELEGRAPH (Feb. 29, 2024, at 1:37 GMT), <https://www.telegraph.co.uk/tv/0/jackie-coogan-the-kid-uncle-fester-life->

famous boy in the world.”² Coogan was everywhere. He pushed the President off the front page of the newspaper when he caught the flu.³ His name and face adorned clothing lines, soaps, dolls, and pencil cases, cementing his status as Hollywood’s first major child star.⁴

At twenty-one, Coogan’s life took an unfortunate turn as he faced unexpected financial struggles.⁵ Hoping to rely on his earnings as a child star, an estimated three to four million dollars, Coogan discovered that his mother and stepfather had burned through nearly all of Coogan’s earnings.⁶ In 1938, Coogan sued his mother and stepfather to recover his lost fortune and won, but he ultimately received only \$126,000 of his original earnings after deducting the legal fees.⁷

In 1939, in response to Coogan’s case, California passed the California Child Actor’s Bill, also known as the Coogan Act.⁸ Prior to the Coogan Act, a minor’s earnings legally belonged to his parents.⁹ However, under the Coogan Act, California now requires fifteen percent of a child actor’s income to be “safeguarded in a trust fund” or savings account.¹⁰ Unfortunately, due to the rushed legislation, the 1939 Coogan Act was filled with loopholes that still left child actors vulnerable to their money-hungry parents.¹¹ For instance, Judy Garland’s mother demanded a stipend from her daughter’s salary for chaperoning Garland and ensuring Garland followed the studio’s obligations.¹² Similarly, Elizabeth Taylor’s mother took ten percent of Taylor’s earnings for being her “manager.”¹³

It was not until January 2000 that “changes in California law affirmed that earnings by minors in the entertainment industry are the property of the minor, not their parents.”¹⁴ California law created “a fiduciary

marriages/?ICID=continue_without_subscribing_reg_first [https://perma.cc/7RQC-HU8C].

2. *Id.*

3. *Id.*

4. *Id.*

5. *Id.*

6. Jennifer Gonzalez, *More Than Pocket Money: A History of Child Actor Laws*, LIBR. OF CONG. BLOGS (June 1, 2022) <https://blogs.loc.gov/law/2022/06/more-than-pocket-money-a-history-of-child-actor-laws/> [https://perma.cc/9RTD-KN88].

7. *Id.*

8. *Id.*; Chilton, *supra* note 1.

9. Chilton, *supra* note 1.

10. *Id.*

11. Gonzalez, *supra* note 6.

12. *Id.*

13. *Id.*

14. *Coogan Law*, SAG-AFTRA, <https://www.sagaftra.org/membership-benefits/young-performers/coogan-law> (on file with the Oklahoma City University Law

relationship between the parent and the child,” and the state governs the child’s earnings by requiring that “15% of all minors’ earnings must be set aside in a blocked trust account.”¹⁵

Flash forward to the present day: movies are in color and have sound; streaming services allow audiences to watch the latest releases from the comfort of their homes; and social media has created a new generation of child stars, “child influencers,” many of whom are not protected by laws like the Coogan Act.

In 2026, the digital world is more accessible than ever—information, entertainment, and social connections are just a tap away. Platforms such as TikTok, YouTube, and Instagram flood screens with baking videos, makeup tutorials, movie and book reviews, and clever life hacks that promise to make everyday tasks easier. Just as effortlessly, people can film, edit, and share their own content, potentially reaching hundreds, thousands, or even millions of viewers in mere seconds.

Child influencers are a new form of child actors in this social media age. These children are prominently featured in social media content, often generating significant revenue for their parents. Yet unlike traditional child actors, child influencers remain primarily unprotected by existing labor laws, thus leaving them vulnerable to exploitation by their parents through the internet for monetary gain.

Part I of this Note outlines the current legal landscape surrounding child influencers. It first examines child-labor protections—including the Fair Labor Standards Act and state-specific regulations aimed at governing influencer work—and then addresses federal privacy protections, such as the Children’s Online Privacy Protection Act (“COPPA”). Part II analyzes the legal tension among parental rights, children’s rights, and a state’s *parens patriae* interest. Part III presents a case study involving family vloggers and the documented harms to children featured in monetized content. Finally, Part IV calls for comprehensive legal reform that extends beyond financial safeguards to recognize children as digital rights holders and to prevent parental exploitation in the influencer economy.

Part I: Current Legal Landscape

Review) (last visited Mar. 17, 2025).

15. *Id.* The Coogan Act has been amended a couple of times over the years, with the most recent amendment going into effect at the start of 2025, see CAL. FAM. CODE § 6750, *amended by*, 2024 Cal. Legis. Serv. ch. 610 (West).

I. Child Labor Laws

A. Federal Labor Laws

Child labor laws in the United States have always been complex, illustrated by the patchwork of federal and state regulations governing the employment of minors. In 1916, Congress passed the Keating-Owen Child Labor Act (“KOCLA”), which prohibited the interstate shipment of goods manufactured at factories where children under a certain age were employed.¹⁶ In the Supreme Court case *Hammer v. Dagenhart*, the Court held that KOCLA was unconstitutional because child labor regulation fell within the states’ authority, not federal authority.¹⁷ The Court further explained that Congress overstepped by passing KOCLA because it was trying to control the states’ production rather than commerce.¹⁸ Therefore, after *Hammer*, the power to regulate child labor was vested in the individual states.¹⁹

In 1938, as part of President Roosevelt’s “New Deal” program, he signed the Fair Labor Standards Act (“FLSA”) into place.²⁰ The FLSA became a landmark United States labor law that established minimum wage, maximum workweek hours, and child labor protections.²¹ The child labor provision was “enacted to ensure that when young people work, the work is safe and does not jeopardize their health, well-being or educational opportunities.”²²

The validity of the FLSA was questioned in the Supreme Court case *United States v. Darby*.²³ In *Darby*, Fred Darby manufactured lumber in Georgia, and he was indicted for violating the FLSA for failing to pay employees their proper minimum wages, requiring excessive work hours

16. Act of Sep. 1, 1916, ch. 432, § 1, 39 Stat. 675, 675, *invalidated by*, *Hammer v. Dagenhart*, 247 U.S. 251 (1918); *Keating-Owen Child Labor Act (1916)*, NAT’L ARCHIVES (Feb. 8, 2022), <https://www.archives.gov/milestone-documents/keating-owen-child-labor-act> [<https://perma.cc/R2MJ-CWG5>].

17. *Dagenhart*, 247 U.S. at 273.

18. *Id.* at 273-74.

19. *Id.* at 276.

20. Jonathan Grossman, *Fair Labor Standards Act of 1938: Maximum Struggle for a Minimum Wage*, U.S. DEP’T OF LABOR, <https://www.dol.gov/general/aboutdol/history/flsa1938> [<https://perma.cc/7JWS-TLDX>] (last visited Mar. 18, 2025).

21. *Id.*

22. *Child Labor*, U.S. DEP’T OF LABOR, <https://www.dol.gov/agencies/whd/child-labor> [<https://perma.cc/UE2U-R9WA>] (last visited Mar. 18, 2025).

23. 312 U.S. 100, 111 (1941).

without overtime pay, and failing to keep records of employees' working hours.²⁴ Darby argued that the FLSA was unconstitutional because Congress did not have the authority to regulate manufacturing within the states under the Commerce Clause, and the Act violated the states' rights by interfering with labor regulations.²⁵ The Supreme Court held that the FLSA was constitutional and that Congress had the authority under the Commerce Clause to regulate employment conditions even if it meant regulating conditions of a business that only operated in a single state.²⁶ This decision overruled *Hammer*, strengthened the federal authority over labor laws, and bolstered protections for workers.²⁷

While the FLSA has an exception for child actors, often referred to as the “Shirley Temple Act,” which “preclud[es] child actors from the same protections as other child workers,” child actors “are still subject to wage and hour restrictions set by federal law.”²⁸ Although child actors have some federal protections, the FLSA contains no provisions addressing child influencers on social media.²⁹ Therefore, federal law leaves child influencers vulnerable to parental coercion, which forces children into performing for a vast online audience without any legal safeguards to protect their time, well-being, or financial compensation. If these videos happen to go viral and raise revenue, these children have no guarantee of seeing a single dollar from the earnings their content produces.

B. State Labor Laws

Only a few states have enacted laws regulating the use of children in monetized social media content.³⁰ In 2023, Illinois amended its current

24. *Id.*

25. *Id.* at 111-12.

26. *Id.* at 114.

27. *Id.* at 117.

28. Alex Ambrose, *Kidfluencers Recast Spotlight on Children's Rights in Digital Entertainment*, INFO. TECH. & INNOVATION FOUND., <https://itif.org/publications/2023/09/05/kidfluencers-recast-spotlight-on-children-s-rights-in-digital-entertainment/> [<https://perma.cc/827Z-W8EV>] (last visited Mar. 18, 2025); 29 U.S.C. § 213(c).

29. *Id.*

30. *See id.*

Child Labor Law.³¹ It became the first state to enact a law, Senate Bill 1782, which requires that all children under the age of sixteen “who appear in at least 30 percent of the content over a 30-day period must receive a portion of the revenue, which will be set aside in a trust until they are legal adults.”³² If a parent fails to follow these requirements, the child is able to take “legal action against their parents or family [members].”³³

In September 2024, the governor of California signed two new pieces of legislation: Senate Bill 764 (“SB 764”) and Assembly Bill 1880 (“AB 1880”).³⁴ Both bills were designed to protect minors from financial abuse in the evolving world of social media and family vlogging.³⁵ SB 764, also known as the Child Content Creator Rights Act, was modeled after the Illinois law and “requires vloggers who feature the minor in at least 30% of their content and earn at least \$1,250 a month to set aside 65% of a proportionate percentage of total gross earnings in a trust account the minor can access when they reach adulthood.”³⁶ AB 1880 is an amendment to the existing Coogan Act, expanding “the definition of entertainment work to include . . . [minor] content creator[s]” and added minor digital content to the list of entertainment work whose participants “must have 15% of their *gross* earnings placed in a Coogan account. This money is held in trust at a bank, credit union, or brokerage firm until the minor turns 18, ensuring that their earnings are protected for their future.”³⁷

Minnesota has new legislation, Senate File number 3496, which went into effect on July 1, 2025.³⁸ The Minnesota legislation also includes

31. *Id.*; 820 ILL. COMP. STAT. 205/05, 205/2.6, 205/12.6 (current version at 820 ILL. COMP. STAT. 206/10, 206/95, 206/100).

32. Ambrose, *supra* note 28; 820 ILL. COMP. STAT. 205/2.6(a)(1), 205/12.6(a) (current versions at 820 ILL. COMP. STAT. 206/100(c)).

33. Ambrose, *supra* note 28.

34. *Governor Newsom Joins Demi Lovato to Sign Legislation to Protect the Financial Security of Child Influencers*, GOVERNOR GAVIN NEWSOM (Sep. 26, 2024) [hereinafter *Newsom*], <https://www.gov.ca.gov/2024/09/26/governor-newsom-joins-demi-lovato-to-sign-legislation-to-protect-the-financial-security-of-child-influencers/> [https://perma.cc/QZ2W-NEXF]; A.B. 1880, 2024 Gen. Assemb., 2023-24 Reg. Sess. (Cal. 2024); S.B. 764, 2024 Gen. Assemb., 2023-24 Reg. Sess. (Cal. 2024).

35. *Newsom*, *supra* note 34.

36. David Prager, April Hua & Adriana Levandowski, *Whose Money is it? How Coogan's Law and the Child Content Creator Rights Act Affect Young Creators*, NIXON PEABODY (Dec. 4, 2024), <https://www.nixonpeabody.com/insights/alerts/2024/12/04/how-coogans-law-and-the-child-content-creator-rights-act-affect-young-creators> [https://perma.cc/LBJ2-4QUG].

37. *Id.*

38. Child Labor Standards Act of 1974, ch. 432, sec. 3, §§ 1-4, 2024 Minn. Laws 17274 (codified as amended at Minn. Stat. §§ 181A.03-.13).

mandatory trust accounts and recordkeeping, but it differs from California and Illinois in that it also includes age restrictions and content deletion rights.³⁹ Minnesota prohibits children under fourteen from participating in content creation that meets specific monetization criteria.⁴⁰ If a child under fourteen appears in content that meets the specific criteria, he or she is to receive 100 percent of the earnings from any of the content in which the child appeared.⁴¹ Further, the Minnesota law grants minors, aged thirteen or older, and adults, who appeared in content as minors, the right to request the removal of their likeness from online content.⁴² The Minnesota law, therefore, provides additional layers of protection that go beyond the financial safeguards offered by the Illinois and California laws.

Currently, Illinois, California, Minnesota, and Utah are the only states with legislation in place to safeguard child influencers from financial abuse.⁴³ However, other states, such as “Maryland, . . . Georgia, Missouri, Ohio, and Arizona . . . have introduced legislation that would mirror Illinois’s groundbreaking legislation.”⁴⁴ Many of these proposed bills focus on creating trust accounts and safeguarding earnings for children appearing in a specific percentage of the content.⁴⁵ They also emphasize privacy protections, including the right for minors to request the deletion of content featuring them once they reach adulthood.⁴⁶ While more states are becoming increasingly aware of the rise of social media and the associated risks it poses to the younger generation, there are not *enough* states moving to pass legislation. Only some states are taking proactive measures to put safeguards in place to protect the most vulnerable. Too many states continue to leave children vulnerable to exploitation, allowing parents or guardians to share the most personal and intimate moments of their lives for monetary gain with little to no regard for the child’s right to privacy.

39. Minn. Stat. § 181A.13.

40. *Id.* § 181A.13 subdiv. 1(a)-(b).

41. *Id.*

42. *Id.* § 181A.13 subdiv. 5.

43. Katie Lee & Erin Twomey, *From Likes to Laws: State Legal Protections for Child Influencers*, CSG SOUTH: POLICY, <https://csgsouth.org/policies/from-likes-to-laws-state-legal-protections-for-child-influencers/> [<https://perma.cc/LTT4-MS5P>] (last visited Oct. 13, 2025).

44. Fortesa Latifi, *These States Are Trying to Require Influencer Parents to Pay Their Kids*, TEENVOGUE (Feb. 1, 2024), <https://www.teenvogue.com/story/these-states-are-trying-to-require-influencer-parents-to-pay-their-kids> (on file with the Oklahoma City University Law Review) (last visited Mar. 18, 2025).

45. *Id.*

46. *Id.*

II. Child Influencers and Privacy Laws

The Children's Online Privacy Protection Act ("COPPA") has little relevance to child influencers on social media.⁴⁷ Enacted in 1998, COPPA was designed to "enforce regulations concerning children's online privacy."⁴⁸ The Act gives the parents or guardians of a child complete "control over what information is collected from their young children online."⁴⁹ It requires that websites, apps, and online services that are directed at children or knowingly collect information from children under thirteen obtain parental consent before collecting, using, or disclosing personal information from children.⁵⁰ While COPPA effectively addresses privacy concerns regarding young children online, it does not extend to the broader issues concerning children's rights and protection on social media platforms, particularly when the children need protection from their parents or guardians.

Part II: The Legal Tension Between Parents, the State, and the Child

Humans instinctively resist being told what they can and cannot do with their bodies, lives, and futures. Body autonomy and integrity grant individuals "the right to make decisions about their own bod[ies] and to be protected from any harm or interference against their bod[ies] without their consent."⁵¹ However, adults often overlook the fact that children are also entitled to this right.⁵² Frequently dismissed as lacking the knowledge or maturity to understand what is best for them, adults speak over children and make decisions on their behalf rather than acknowledging their autonomy.⁵³

The digital age has created tension between parents' fundamental

47. See Children's Online Privacy Act of 1998, Div. C, Title XIII, § 1301, Pub. L. No. 105-277, 112 Stat. 2681, 2681-728 (codified as amended at 15 USC §§ 6501-6506).

48. *Complying with COPPA: Frequently Asked Questions*, FTC, <https://www.ftc.gov/business-guidance/resources/complying-coppa-frequently-asked-questions#A.%20General%20Questions> [https://perma.cc/J9WP-V69N] (last visited Mar. 18, 2025).

49. *Id.*

50. *Id.*

51. *Bodily Autonomy*, CHILD RIGHTS INT'L NETWORK, <https://home.crin.org/issues/bodily-autonomy> [https://perma.cc/2MG6-XJCJ] (last visited Mar. 18, 2025).

52. *Id.*

53. *Id.*

rights to raise their children as they see fit, the states' *parens patriae* interest in protecting minors from harm, and children's rights to privacy and autonomy. As children are increasingly featured in monetized online content without meaningful consent or legal safeguards, these interests collide in complex and uncharted ways, especially in the context of family-influencer content where a child's image, behavior, and private life may be shared, scripted, or monetized without the child's understanding or meaningful consent.

I. Parental Authority and Its Constitutional Limits

Under the Due Process Clause of the Fourteenth Amendment, parents have the fundamental right “to make decisions concerning the care, custody, and control of their children.”⁵⁴ The overall purpose of the Due Process Clause is to prevent “any State [from] depriv[ing] any person of life, liberty, or property, without due process of law.”⁵⁵ The United States Supreme Court has interpreted the Due Process Clause to encompass certain fundamental rights not explicitly enumerated in the Constitution through the principle of “substantive” due process, in order to protect individuals from undue state interference in deeply personal decisions.⁵⁶ These fundamental rights include the right to procreate,⁵⁷ use contraception,⁵⁸ marry,⁵⁹ child rearing and education,⁶⁰ maintain family relationships,⁶¹ and refuse medical treatment.⁶² Because these rights are considered so fundamental, any government action infringing upon them is subject to the strictest level of judicial scrutiny.⁶³

The Supreme Court has long recognized that parents are best positioned to make decisions regarding the upbringing of their children. A

54. *Troxel v. Granville*, 530 U.S. 60, 66 (2000) (plurality opinion); U.S. CONST. amend. XIV, § 1.

55. U.S. Const. amend. XIV, § 1.

56. *Amdt14.S1.6.1 Overview of Substantive Due Process*, CONST. ANNOTATED, https://constitution.congress.gov/browse/essay/amdt14-S1-6-1/ALDE_00013814/ (on file with the Oklahoma City University Law Review) (last visited Sept. 18, 2025).

57. *Skinner v. Oklahoma ex rel. Williamson*, 316 U.S. 535, 541 (1942).

58. *Griswold v. Connecticut*, 381 U.S. 479, 485-86 (1965); *Eisenstadt v. Baird*, 405 U.S. 438, 443 (1972).

59. *Loving v. Virginia*, 388 U.S. 1, 12 (1967); *Obergefell v. Hodges*, 576 U.S. 644, 681 (2015).

60. *Pierce v. Soc’y of Sisters*, 268 U.S. 529, 534-35 (1925).

61. *Moore v. City of East Cleveland*, 431 U.S. 494, 503-06 (1977).

62. *Cruzan v. Dir., Mo. Dep’t of Health*, 497 U.S. 261, 278-79 (1990).

63. *Amdt14.S1.6.1 Overview of Substantive Due Process*, *supra* note 56.

century ago, in *Pierce v. Society of Sisters*, the Court struck down an Oregon law that required all children to attend public school, holding the law unconstitutional.⁶⁴ The Court reasoned that Oregon lacked sufficient justification for the law and that it impermissibly interfered with the liberty of parents to raise their children according to their own values and beliefs.⁶⁵ In affirming the fundamental right of parents to make decisions in the best interest of their children, the Court famously stated: “The child is not the mere creature of the State; those who nurture him and direct his destiny have the right, coupled with the high duty, to recognize and prepare him for additional obligations.”⁶⁶

Seventy-five years after *Pierce*, the Supreme Court reaffirmed the fundamental rights of parents in *Troxel v. Granville*, where it struck down a Washington statute that allowed any third party to petition for visitation rights with a child.⁶⁷ The Court found the statute to be unconstitutionally overbroad, as it infringed on parents’ fundamental right to make decisions concerning the upbringing of their children.⁶⁸ Rather than deferring to parental judgment, the statute empowered judges to substitute their own views of a child’s best interests.⁶⁹ Emphasizing the constitutional protection afforded to parental decision-making, the Court stated:

[W]e have recognized the fundamental right of parents to make decisions concerning the care, custody, and control of their children. . . . In light of this extensive precedent, it cannot now be doubted that the Due Process Clause of the Fourteenth Amendment protects the fundamental right of parents to make decisions concerning the care, custody, and control of their children.⁷⁰

A child enters the world as a blank slate and is vulnerable to its many dangers and injustices. For this reason, children require guidance, care, and supervision, and the Court has recognized that parents are typically best suited to fulfill that role. However, what happens when a parent’s understanding of their child’s best interests is deeply corrupt? What if the

64. *Pierce*, 268 U.S. at 534-35.

65. *Id.* at 534-35.

66. *Id.* at 535.

67. *Troxel v. Granville*, 530 U.S. 57, 67 (2000) (plurality opinion).

68. *Id.*

69. *Id.*

70. *Id.* at 66.

person entrusted with a child's care is also the one who most significantly infringes upon the child's autonomy? While a parent's rights are fundamental, they are not unlimited: "[S]o long as a parent adequately cares for his or her children (*i.e.*, is fit), there will normally be no reason for the State to inject itself into the private realm of the family."⁷¹

II. When the State Steps In: *Parens Patriae* and Protective Intervention

Children do not have the power to choose where they live and who cares for them. They are inherently vulnerable to the decisions of the adults around them. Because of this, states have a *parens patriae* interest, Latin for "parent of the country," in protecting those who cannot protect themselves.⁷² Under the common law doctrine of *parens patriae*, "a state has third-party standing to bring a lawsuit on behalf of a citizen when the suit implicates a state's quasi-sovereign interests for the well-being of its citizens."⁷³ Through statutory authority, states may assume this parental role and take protective action on behalf of "orphans, dependent children, and persons deemed incompetent," those who are most susceptible to abuse, neglect, or exploitation by those responsible for their care.⁷⁴

Courts, acting under the doctrine of *parens patriae*, may intervene in situations where a child is a victim of abuse or neglect, temporarily removing custody from the parents in order to protect the child.⁷⁵ States may also appoint guardians or authorize treatments for individuals deemed incompetent.⁷⁶ Additionally, states may act on behalf of their citizens when it is a matter of public concern and safety.⁷⁷

In 2018, New York faced a measles outbreak, the most severe the United States had seen in decades.⁷⁸ Many of the cases originated in ultra-

71. *Id.* at 68.

72. *Parens Patriae*, CORNELL L. SCH. LEGAL INFO. INST., https://www.law.cornell.edu/wex/parens_patriae#:~:text=The%20doctrine%20of%20parens%20patriae,well%2Dbeing%20of%20its%20citizens [https://perma.cc/GB6R-9UT8] (last visited September 19, 2025).

73. *Id.*

74. *Id.*

75. *See, e.g., id.*; *see also* Stanley v. Illinois, 405 U.S. 645, 652 (1972).

76. *Parens Patriae*, *supra* note 72.

77. *See, e.g., id.*; *see also* Prince v. Massachusetts, 321 U.S. 158, 166 (1944).

78. Bobby Allyn, *N.Y. Ends Religious Exemptions For Required Vaccines*, NPR (June 13, 2019, at 17:26 EST), <https://www.npr.org/2019/06/13/732501865/new-york-advances-bill-ending-religious-exemptions-for-vaccines-amid-health-cris> [https://perma.cc/N4QM-6637].

Orthodox communities where the vaccination rates were low due to parents declining to vaccinate their children on religious grounds.⁷⁹ In response, the New York legislature moved quickly. In 2019, it passed Senate Bill A02371A, which repealed the subdivision of public health law that had previously exempted vaccinations based on religious beliefs.⁸⁰ As a result, parents could no longer invoke religion as a valid reason for refusing to vaccinate their children.⁸¹

Many parents were outraged, arguing that the mandate violated their “state and federal constitutional rights that allow them to exercise their religion freely.”⁸² However, the courts upheld the mandate, reasoning that the state had a compelling interest in protecting its citizens during a public health crisis,⁸³ and the New York governor stated “by signing this measure into law, [it] will help prevent further transmissions and stop this outbreak right in its tracks.”⁸⁴ Further, a former New York state senator emphasized: “Children have a right to attend our schools without being exposed to preventable disease. Parents have a right to feel safe sending their children to child care, camp, and other group activities without fear of putting the health of their families at risk.”⁸⁵ While parents have the fundamental right to make decisions in the best interest of their children, and courts ultimately side with the parents, states may intervene when a parent’s choices pose risks not only to their own children but to the health and safety of others.⁸⁶

Even if parents have pure intentions, if a child’s well-being is at stake, it is not the parents’ rights that should prevail but the welfare of the child.⁸⁷ In one case, a child was suffering from acute lymphocytic leukemia.⁸⁸

79. *Id.*

80. *Id.*; S.B. A02371A, 203d Leg., 1st Reg. Sess., 2019 N.Y. Sess. Laws ch. 35.

81. *Id.*

82. Tanya Albert Henry, *N.Y. Court: Vaccine Requirements Don’t Abridge Religious Freedom*, AMA (Apr. 29, 2021), <https://www.ama-assn.org/delivering-care/public-health/ny-court-vaccine-requirements-don-t-abridge-religious-freedom> [https://perma.cc/V2YN-RQMM].

83. *F.F. ex rel. Y.F.*, 114 N.Y.S.3d 852, 867-68 (N.Y. Sup. Ct. 2019), *aff’d sub nom.*, *F.F. v. State*, 143 N.Y.S.3d 734 (N.Y. App. Div. 2021), *appeal denied*, 37 N.Y.3d 1040.

84. Allyn, *supra* note 78.

85. Yancey Roy, *NY Ends Religious Exemptions to Vaccination Mandates*, N.Y. STATE SENATE (June 13, 2019), <https://www.nysenate.gov/newsroom/in-the-news/2019/kevin-thomas/ny-ends-religious-exemptions-vaccination-mandates-0> [https://perma.cc/G3PM-G6QS].

86. Allyn, *supra* note 78.

87. *Custody of Minor*, 393 N.E.2d 836, 843 (Mass. 1979).

88. *Id.* at 837.

After undergoing chemotherapy, he entered remission; however, the disease recurred only a few months later.⁸⁹ Without consulting with their son's attending physician, the parents halted the child's medication and instead began administering metabolic therapy, which included laetrile.⁹⁰ The physician then involved the state and sought to have the child removed from the parents' custody for the limited purpose of providing the necessary medical care.⁹¹

The court granted legal custody to the Massachusetts Department of Public Welfare, finding that "there [was] a substantial chance for a cure and a normal life for the child if he under[went] chemotherapy treatment."⁹² On appeal, the parents acknowledged the necessity of chemotherapy but continued to seek permission to supplement it with metabolic therapy.⁹³ Both the State and the parents presented expert testimony regarding the safety and efficiency of laetrile.⁹⁴ The court ultimately found that metabolic therapy would be harmful to the child and would interfere with the chemotherapy, which offered him a substantial chance at recovery.⁹⁵ The court further emphasized that "family autonomy is not absolute, and may be limited where, as here, it appears that parental decisions will jeopardize the health or safety of a child."⁹⁶ This case illustrates how the state's *parens patriae* interest may override even deeply held parental beliefs when a child's welfare is at stake—a principle that must also guide how the law addresses modern forms of harm, including the monetization of children's lives online.

While these cases involve medical and public health decisions, the logic extends to other domains where a parent's choice can place a child at risk. In the digital context, the exploitation of children through monetized content similarly raises questions about whether the state must step in, not just when harm becomes visible, but to prevent foreseeable psychological and developmental injury.

Many states have failed to act in their protective role by failing to regulate the digital exposure and exploitation of children. The cases above

89. *Id.* at 838.

90. *Id.* at 838–40, 840 n.3 (discussing how laetrile can break down and form hydrogen cyanide, "a highly toxic substance").

91. *Id.* at 837.

92. *Id.* at 838 (internal quotation marks omitted) (quoting *Custody of a Minor*, 379 N.E.2d 1053, 1056 (Mass. 1978)).

93. *Id.* at 838–39.

94. *Id.* at 839.

95. *Id.* at 844–45.

96. *Id.* at 843 (quoting *Wisconsin v. Yoder*, 406 U.S. 205, 234 (1972)).

demonstrate that state intervention is justified when a parent's decision places a child at risk, especially when less harmful alternatives are available. Similarly, when a parent monetizes a child's likeness or private life, it can be detrimental to the child's mental, emotional, and physical well-being. At a certain point, this dynamic ceases to resemble a healthy parent-child relationship. Instead, it begins to resemble a master-puppet relationship where the child's identity and autonomy are controlled, scripted, and commodified for profit. In these cases, a state's failure to intervene not only neglects its *parens patriae* responsibility but also implicitly permits the violation of a child's rights.

III. Recognizing Children as Rights-Holders

While parents have a fundamental right to raise their children, children themselves are increasingly recognized as having the right to make informed and autonomous decisions about their own bodies. As the Child Rights International Network notes, bodily autonomy includes "the freedom *to* make informed and autonomous decisions about one's body without restrictions."⁹⁷ Over the past several decades, states have acknowledged children's capacities to make certain decisions independent of their parents. In many jurisdictions, courts have recognized that minors may, if they possess the maturity, consent to specific medical treatments without parental involvement and may even seek emancipation from parental authority altogether.⁹⁸

Under the common law mature minor doctrine, a minor may consent to a medical procedure if he demonstrates sufficient understanding of the procedure and its consequences.⁹⁹ In *Cardwell v. Bechtol*, a doctor of osteopathy treated a seventeen-year-old plaintiff with manipulative therapy to alleviate back pain.¹⁰⁰ Following the treatment, the plaintiff's condition worsened; she experienced increased back pain, difficulty walking, and bladder and bowel retention.¹⁰¹ The plaintiff brought suit against the doctor for failing to obtain parental consent before performing the manipulative therapy.¹⁰²

97. *Bodily Autonomy*, *supra* note 51 (alteration in original).

98. *The Mature Minor Doctrine*, USLEGAL, <https://healthcare.uslegal.com/treatment-of-minors/the-mature-minor-doctrine/> [<https://perma.cc/V4CT-ZKWQ>] (last visited April 22, 2026).

99. *Id.*

100. 724 S.W.2d 739, 741-43 (Tenn. 1987).

101. *Id.* at 742.

102. *Id.*

The Supreme Court of Tennessee recognized the mature minor exception to the general common law requirement that parental consent be obtained before treating a minor.¹⁰³ The court cited several cases and applied guiding principles to determine that the plaintiff was intelligent and capable of making an informed decision without her parents' consent.¹⁰⁴ In assessing a minor's decision-making capacity, the court instructed that consideration must be given to "the age, ability, experience, education, training, and degree of maturity or judgment obtained by the minor, as well as upon the conduct and demeanor of the minor at the time of the incident involved."¹⁰⁵ Additionally, the court emphasized that "the sufficiency of a minor's consent depends upon his ability to understand and comprehend the nature of the surgical procedure, the risks involved and the probability of attaining the desired results in the light of the circumstances which attend."¹⁰⁶

Furthermore, in the case of *In re E.G.*, the Supreme Court of Illinois recognized a minor's ability to refuse medical treatment under the mature minor doctrine. The court observed that the age of majority "is not an impenetrable barrier that magically precludes a minor from possessing and exercising certain rights normally associated with adulthood."¹⁰⁷ In that case, E.G., a seventeen-year-old just shy of adulthood, and her mother refused a blood transfusion that would have treated E.G.'s leukemia.¹⁰⁸ They refused her treatment because of their religious beliefs as Jehovah's Witnesses, even though refusal would likely result in E.G.'s death.¹⁰⁹ The State of Illinois filed a neglect petition against E.G.'s mother for refusing potentially life-saving treatment.¹¹⁰

The court examined several contexts in which minors are treated as adults, including minors being charged criminally as adults, minors twelve years or older consenting to treatment for sexually transmitted diseases or substance use, and mature minors exercising constitutional privacy rights to obtain an abortion or other medical care.¹¹¹ Based on these analogies, the court found that if a minor has the right to consent to medical treatment,

103. *Id.* at 748-49.

104. *Id.* at 748.

105. *Id.*

106. *Id.* at 747 (internal quotation marks omitted) (quoting *Younts v. St. Francis Hosp. and Sch. of Nursing, Inc.*, 469 P.2d 330, 377 (Kan. 1970)).

107. *In re E.G.*, 549 N.E.2d 322, 327 (Ill. 1989).

108. *Id.* at 323.

109. *Id.*

110. *Id.*

111. *Id.* at 325-26.

then the minor has the right to *refuse* medical treatment.¹¹² However, the court also acknowledged that a minor's common law right to consent to or refuse medical treatment "is not absolute" and "must be balanced against four State interests: (1) the preservation of life; (2) protecting the interests of third parties; (3) prevention of suicide; and (4) maintaining the ethical integrity of the medical profession."¹¹³ Ultimately, the court upheld E.G.'s right to refuse the potential life-saving treatment due to her demonstrated maturity, competence, understanding of the consequences of rejecting the treatment, and the fact that her mother supported her decision.¹¹⁴ These factors collectively outweighed the State's interest in preserving her life.¹¹⁵

The adoption of the mature minor doctrine by many states affirms the growing recognition of minors' emerging rights. Several states have enacted statutes allowing minors to consent to or refuse medical treatment without parental approval.¹¹⁶ However, legal safeguards remain in place to protect minors.¹¹⁷ For instance, a minor must demonstrate sufficient maturity and a clear understanding of the risks involved, as a medical professional generally cannot perform a procedure based solely on the minor's consent.¹¹⁸ These cases affirm that, under the right conditions, minors are capable of informed decision making, raising the question of why similar legal autonomy has not been extended to children who are repeatedly exposed online without their consent.

While adults typically possess greater maturity, experience, and capacity to make informed decisions and guide children, legal doctrines such as the mature minor doctrine ensure that parental authority does not become a barrier to a child's best interests. Similarly, emancipation laws reflect a broader legal trend toward recognizing minors as autonomous individuals capable of making important personal decisions.¹¹⁹

Emancipation is another legal mechanism that allows minors to assert and protect their individual rights.¹²⁰ Through emancipation, eligible

112. *Id.* at 328.

113. *Id.* (citing *In re Est. of Longeway*, 549 N.E.2d 292, 299 (Ill. 1989).

114. *Id.*

115. *Id.*

116. *State Laws on Minor Consent for Routine Medical Care*, SCHOOLHOUSE CONNECTION, <https://schoolhouseconnection.org/article/state-laws-on-minor-consent-for-routine-medical-care> [<https://perma.cc/D5RP-TBLA>] (last visited June 20, 2025).

117. *Id.*

118. *See, e.g., id.*; *Cardwell v. Bechtol*, 724 S.W.2d 739, 745 (Tenn. 1987).

119. *See Emancipation of Minors*, CORNELL L. SCH. LEGAL INFO. INST., https://www.law.cornell.edu/wex/emancipation_of_minors [<https://perma.cc/F5R3-SU96>] (last visited June 20, 2025).

120. *Id.*

minors may acquire certain rights and legal statuses typically reserved for adults.¹²¹ While every state recognizes a minor's ability to become legally independent from his or her parents, the specific requirements and procedures vary, with each state defining "when and under what conditions" a minor may be emancipated.¹²²

There are generally three types of emancipation: implied emancipation (based on parental or minor conduct), implied partial emancipation (which grants specific rights, such as consent to medical care, without complete legal independence), and express emancipation (where parents permit their children to leave home).¹²³ The most common type is implied emancipation, which "arises from minor and/or parental conduct inconsistent with the right and duty of parents to exercise control over and provide care and support for their child during its minority."¹²⁴

State emancipation laws vary in terms of process, requirements, and the scope of rights granted to individuals. Under the New Mexico Emancipation of Minors Act, a minor may be emancipated if she is at least sixteen years old, willingly lives apart from her parents, independently manages her own financial affairs, and the court finds emancipation to be in the minor's best interest.¹²⁵ The Act further provides that "[a]n emancipated minor shall be considered as being over the age of majority," for several purposes, such as entering into binding contracts, initiating or defending legal actions, and establishing an independent residence.¹²⁶

In *Diamond v. Diamond*, the New Mexico Supreme Court recognized emancipation through conduct.¹²⁷ In *Diamond*, a daughter sought to be declared emancipated while simultaneously asserting her right to receive financial support from her mother.¹²⁸ The court found the daughter to be emancipated based on her conduct, as evidenced by her employment, self-support, living arrangement with a neighbor, and management of her own financial affairs.¹²⁹ Furthermore, the court determined that emancipation did not preclude her from receiving financial support from her mother.¹³⁰

121. *Id.*

122. *Id.*

123. *Id.*

124. *Id.*

125. *Diamond v. Diamond*, 283 P.3d 260, 264 (N.M. 2012) (citing N.M. STAT. ANN. § 32A-21-4).

126. *Id.* at 265 (quoting N.M. STAT. ANN. § 32A-21-5).

127. *See id.* at 272.

128. *Id.* at 261.

129. *Id.*

130. *Id.* at 272.

Because the support was in the daughter's best interest and consistent with the common law concept of partial emancipation, which allows minors to acquire certain adult rights without a complete severance of parental responsibilities, the court affirmed her right to continued financial assistance.¹³¹

In contrast, Texas takes a more conservative approach to emancipation. In the case of *In the Interest of M.K.J.*, a student at Texas A&M University petitioned for emancipation—referred to in Texas as the “removal of disabilities of minority”—to handle medical emergencies, enter into housing and transportation contracts, and make his own decisions regarding his education.¹³² Under Texas Family Code section 31.001, a minor may petition for emancipation if he is a resident of the state, at least seventeen years old (or sixteen and living apart from his parents), and self-supporting.¹³³ Section 31.002 of the statute requires that the petition includes the minor's name, age, and residence; the names and residences of the parents, guardians, or conservators (if any); the reasons emancipation is in the minor's best interest; and the specific purposes for which they are seeking emancipation.¹³⁴ The statute further requires verification from the minor's parents, guardians, or conservators.¹³⁵ In this case, M.K.J. received permission from his mother but not from his father, arguing that the statute did not explicitly require permission from both parents.¹³⁶ The Texas Court of Appeals emphasized the importance of providing notice to *all* managing conservators when a minor files a petition to remove disabilities.¹³⁷ This ensures that the rights of parents or guardians are considered in the emancipation process, which reflects Texas's approach to balancing a minor's desire for independence with parental rights and responsibilities.¹³⁸

California and Illinois are two additional states that apply different criteria and legal implications for emancipation. California is widely recognized as a leader in advancing children's rights, having passed the Coogan Act in 1939 to protect child actors and extending it in 2024 to

131. *Id.* at 269-72.

132. *Int. of M.K.J.*, No. 13-20-00033-CV, 2021 WL 1680200, at *2-3 (Tex. App. Apr. 29, 2021).

133. TEX. FAM. CODE § 31.001(a).

134. *Id.* § 31.002(a).

135. *Id.* § 31.002(b).

136. *Int. of M.K.J.*, 2021 WL 1680200, at *4.

137. *Id.* at *5.

138. *Id.* at *6.

include child content creators.¹³⁹ California's emancipation law differs from Texas's more rigorous framework in that it imposes fewer procedural requirements and does not require verification or consent from a parent or guardian, though notice to the parent or guardian is still required.¹⁴⁰ Under the California Family Code section 7120, minors seeking emancipation must show that they are at least fourteen years old, willingly living apart from their parents or guardians, independently managing their finances, and that those finances are not derived from criminal activity.¹⁴¹ Once emancipated, a minor assumes many of the rights and responsibilities of an adult, such as maintaining his or her own insurance, paying bills, creating a valid will, consenting to medical procedures, and initiating or defending legal actions in his own name, among other responsibilities.¹⁴²

Illinois, like California and New Mexico, takes a more flexible approach than Texas but still cautiously recognizes that minors are individuals with the capacity to make adult decisions. Under the Illinois Emancipation of Minors Act, minors who are at least sixteen years old may petition the court for emancipation by demonstrating maturity, the ability to manage their own affairs, and the capacity to live independently from their parents or guardians.¹⁴³ A petition must include the minor's age, residency in Illinois, the cause for complete or partial emancipation, and the names and addresses of the minor's parents or guardians.¹⁴⁴ Like California, Illinois requires that notice be given to the parents or guardians.¹⁴⁵ Illinois law also permits partial emancipation, which provides that a minor may be granted only some of the rights and responsibilities of adulthood, as determined by the courts.¹⁴⁶

Several states have begun to recognize minors as autonomous individuals capable of making mature decisions regarding their own bodies and lives. The mature minor doctrine and emancipation statutes are

139. Prager, *supra* note 36.

140. CAL. FAM. CODE § 7121(a).

141. CAL. FAM. CODE § 7120(b).

142. *Emancipation*, SANTA CLARA CNTY. SUPER. CT., <https://santaclara.courts.ca.gov/self-help/self-help-probate/probate-help-children-minors/emancipation#rights> [<https://perma.cc/Y4DT-T3G3>] (last visited June 20, 2025).

143. Emancipation of Minors Act, 750 ILL. COMP. STAT. 30/2 (2024), <https://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=2094&ChapterID=59> [<https://perma.cc/6GLJ-EFCQ>] (last visited June 22, 2025).

144. *Id.* 30/7.

145. *Id.* 30/8.

146. *Id.* 30/5(b).

two clear examples of legal frameworks that grant minors responsibility and power in matters traditionally reserved for adults. If states are willing to pass laws that allow a child's rights to override a parent's fundamental right to make decisions, whether in consenting to or refusing medical treatment or in assuming the legal and financial responsibilities of adulthood, then they should also be willing to recognize a child's voice when their own parent is profiting from their identity, image, and private life online.

IV. Moving Toward a Rebalanced Framework

The evolution of parental rights, state interests, and children's legal personhood reflects a broader societal shift toward recognizing minors as active rights-holders. Striking a balance between a parent's fundamental right to child-rearing, a child's right to bodily autonomy and individual agency, and the state's interest in protecting the most vulnerable remains a legal and ethical challenge. However, through common law doctrines and statutes, state courts and legislatures have begun to affirm that children, in appropriate contexts, are capable of understanding and making decisions about their own lives. The legal mechanisms that states are putting in place demonstrate that a minor's voice can—and in some situations should—override a parent's fundamental right, particularly when a child's well-being is at stake. As children's lives become increasingly exposed and monetized online at the hands of their parents, these evolving doctrines may lay a critical foundation for a more comprehensive legal framework aimed at protecting their privacy, dignity, and integrity, giving them control over how their likeness is used and monetized.

The constitutional, statutory, and common law foundations demonstrate that parental authority, while fundamental, is not absolute, especially when a child's well-being is at stake. Courts have upheld a state's duty to intervene in cases of medical neglect, educational harm, and abuse and have increasingly recognized that children themselves possess limited but meaningful rights of autonomy. Yet when it comes to the digital exploitation of children, particularly in monetized family content, the law has often lagged. The following case study explores a visible and tragic example of delayed intervention.

Part III: "8 Passengers," 0 Safeguards: A Case Study in Missed Intervention

I. Inside “8 Passengers”

In 2015, Ruby Franke, a mother of six from Utah, launched the YouTube channel “8 Passengers,” seeking validation and praise for her parenting.¹⁴⁷ The channel, which chronicled a family’s daily life, quickly gained popularity, reaching 2.5 million subscribers.¹⁴⁸ Franke documented some of the most intimate and vulnerable moments in her children’s lives, from “learning to shave” to “trying on new clothes,” forcing her children to share deeply personal experiences with a massive online audience of strangers.¹⁴⁹

Franke’s videos extended beyond daily routines.¹⁵⁰ She often promoted her own disciplinary and parenting techniques, drawing criticism for their severity.¹⁵¹ In 2020, Franke faced public backlash after posting a video in which her “then-15-year-old son said he’d slept on a beanbag chair for seven months” as punishment for playing pranks on his siblings.¹⁵² The video sparked widespread outrage and led to calls for intervention from the Utah Division of Child and Family Services.¹⁵³ However, after investigating and finding no signs of physical abuse, the agency closed the case as unfounded.¹⁵⁴

Other videos showed Franke using hunger to teach her daughter responsibility, threatening to behead her children’s stuffed animals, and excluding two of her children from Christmas gift-giving as a disciplinary tactic, forcing them to watch as their siblings received presents.¹⁵⁵ Despite growing public concern, it was not until 2023 that the state finally

147. Rachel Brodsky, *The Horrifying True Story Behind Hulu’s Devil in the Family: The Fall of Ruby Franke*, TIME (Feb. 25, 2025, at 14:19 CT), <https://time.com/7261390/ruby-franke-devil-in-the-family-hulu-true-story/> (on file with the Oklahoma City University Law Review).

148. *Id.*

149. Emily Olson, *Who is Ruby Franke? What to Know About the Mommy Vlogger Accused of Child Abuse*, NPR (Sept. 1, 2023, at 16:42 ET), <https://www.npr.org/2023/09/01/1197289217/ruby-franke-utah-youtube-child-abuse> [<https://perma.cc/6FVU-BXE4>].

150. Tyler Piccotti, *The Story of Ruby Franke’s Chilling Spiral from Popular “Momfluencer” to Convicted Felon*, BIOGRAPHY (Dec. 29, 2025, at 16:42 EST), <https://www.biography.com/crime/a60319774/ruby-franke-story> [<https://perma.cc/NHE9-NKC6>].

151. *Id.*

152. Olson, *supra* note 149.

153. Piccotti, *supra* note 150.

154. *Id.*

155. Brodsky, *supra* note 147.

intervened.¹⁵⁶

In August 2023, Franke's twelve-year-old son escaped from home and appeared at a neighbor's house, malnourished with duct tape around his ankles, asking for a ride to the police station.¹⁵⁷ Soon after, police arrested Franke and her associate, Jodi Hildebrandt, and charged them with multiple counts of aggravated child abuse.¹⁵⁸ A search of the home uncovered "rope, handcuffs, medical gauze, and a mixture of cayenne pepper and honey in a safe room. [Police] also found a handwritten journal where Ruby had chronicled the day-to-day series of events as she tried to 'exorcise' her children."¹⁵⁹

Further investigation revealed that Franke subjected her children to prolonged, extreme punishments, including forcing them to perform strenuous physical labor for hours in the Utah heat, often without adequate water, shoes, or protection from the sun, resulting in blistering sunburns.¹⁶⁰ The twelve-year-old had "also suffered injuries to his wrists and ankles, including damaged muscle and tissue, from ropes and handcuffs that Hildebrandt used to bind him. The wounds were then improperly treated with cayenne pepper and honey."¹⁶¹

II. Overlooked and Unheard

This case raises several issues. First, Franke publicly shared her children's most vulnerable and intimate moments, turning their private lives into public content for financial gain.¹⁶² Her children were too young to give meaningful consent, and even if they had been mature enough to understand the risks of having their lives broadcast to millions, under Franke's control, their consent would not have mattered. Validation and monetization took precedence over her children's comfort and autonomy.¹⁶³ Her oldest son later stated that he did not want to participate in brand deals because they "made him feel 'controlled.'"¹⁶⁴ Although all of the Franke children expressed discomfort with filming, Franke, heavily influenced by Hildebrandt, escalated her disciplinary tactics and coerced

156. *Id.*

157. *Id.*

158. *Id.*

159. *Id.*

160. Piccotti, *supra* note 150.

161. *Id.*

162. *Id.*

163. Olson, *supra* note 149.

164. Brodsky, *supra* note 147.

her children into producing content against their will.¹⁶⁵

Second, despite the “8 Passengers” channel having 2.5 million subscribers, many of whom became alarmed by Franke’s parenting methods, state intervention never occurred until physical abuse was evident.¹⁶⁶ Concerned viewers launched a petition to involve the Utah Division of Child and Family Services, gathering over 18,000 signatures; however, the state declined to intervene, citing a lack of evidence of physical harm.¹⁶⁷ This inaction persisted despite clear indicators of emotional and psychological abuse, warning signs that thousands of strangers online were able to recognize, but the state chose not to act on.¹⁶⁸

III. Utah’s Response

Utah is one of the few states that has enacted legislation specifically designed to protect child influencers.¹⁶⁹ In the wake of Ruby Franke’s conviction for child abuse, Governor Spencer Cox signed House Bill 322 (“HB 322”) into law, which took effect on May 7, 2025.¹⁷⁰ HB 322 includes provisions similar to those in Illinois, California, and Minnesota.¹⁷¹ The law requires parents, guardians, or content creators who feature minors in social media content to calculate compensation using a set formula.¹⁷² If the minor earns \$20,000 or more within a year, the parent or guardian must establish a trust fund.¹⁷³ When a trust’s average monthly balance remains above \$250,000 for six consecutive months, the trustee must petition the court to appoint a new trustee, which ensures that parents or guardians cannot exploit or mismanage funds that rightfully belong to the child.¹⁷⁴

165. *Id.*

166. *Id.*

167. *Id.*

168. *Id.*

169. Novika Ishar, *Utah Passes Landmark Law to Protect Child Influencers*, ROMANO LAW (Apr. 8, 2025), [https://www.romanolaw.com/utah-passes-landmark-law-to-protect-child-influencers/#:~:text=The%20law%2C%20which%20was%20championed,meets%20or%20exceeds%20\\$20%2C000%20annually](https://www.romanolaw.com/utah-passes-landmark-law-to-protect-child-influencers/#:~:text=The%20law%2C%20which%20was%20championed,meets%20or%20exceeds%20$20%2C000%20annually) [https://perma.cc/3UQP-TUV7].

170. *Id.*

171. *Id.*

172. H.B. 322, 2025 Gen. Sess. (Utah 2025), <https://le.utah.gov/~2025/bills/static/HB0322.html> [https://perma.cc/8RLJ-WDQD] (last visited June 22, 2025).

173. UTAH CODE ANN. § 34-23-502(2).

174. *Id.* § 34-23-502(3)(b).

Additionally, the law imposes record-keeping requirements on employers or content creators who work with minors, namely: documentation of income, the names and ages of the minors involved, their compensation, the time spent, and the amounts transferred to the trust.¹⁷⁵ Following the example of Minnesota's legislation, HB 322 also allows individuals to request that a content creator edit or delete any content featuring them as a minor.¹⁷⁶

Kevin Franke, Ruby Franke's ex-husband, and their oldest daughter, Shari Franke, were prominent advocates for legislation protecting child influencers.¹⁷⁷ Shari has become one of the most outspoken voices in calling for safeguards for children exploited by family vlogging, stating that "[t]here is no such thing as a moral or ethical family vlogger."¹⁷⁸

While Utah's new law offers financial protections, it is more of a reactive measure rather than a proactive one. The state only acted after an extreme case of child abuse came to light, despite years of mounting concern from viewers who flagged troubling content, including emotional manipulation, public shaming, and visible discomfort from the Franke children.¹⁷⁹ These were not isolated moments but a clear pattern of harm playing out in front of millions. Still, because there were no immediate signs of physical injury, the state declined to intervene.¹⁸⁰ Had Utah responded to these warning signs earlier or had safeguards already in place for minors exploited in social media content, the abuse might have been prevented altogether.

Looking ahead, the law may prove to provide proactive protection after all. Utah has become a hub for family vloggers.¹⁸¹ For example, the new reality series *The Secret Lives of Mormon Wives* showcases a group of Utah-based mothers who create family- and faith-centered content as part of the broader "MomTok" trend.¹⁸² As more families turn to content creation as a source of income and influence, the potential for child exploitation remains high. Utah's law offers financial safeguards for

175. *Id.* § 34-23-503(1)(a)-(f).

176. *Id.* § 34-23-504(1).

177. Ishar, *supra* note 169.

178. *Id.*

179. Brodsky, *supra* note 147.

180. *Id.*

181. *In Wake of Ruby Franke Abuse Case, Utah Adds Protections for Children of Social Media Influencers*, CBS NEWS (Mar. 26, 2025 at 09:40 EDT), <https://www.cbsnews.com/news/utah-children-influencer-protections-ruby-franke-child-abuse/> [<https://perma.cc/AM7B-PNHT>].

182. *Id.*

children featured in monetized content, but questions remain about whether that protection goes far enough.

Part IV: From Financial Safeguards to Full Protection

A few states, as discussed in this Note, have recognized the growing risks associated with technological advancements and the monetization of childhood online. These states have enacted laws aimed at financially safeguarding children from parents who might take advantage of their parental role to exploit their children or misuse funds that rightfully belong to children. While these laws mark progress, they fail to address the full scope of harm. Most do not contain provisions that meaningfully address the issues of consent, autonomy, or the psychological and emotional toll that comes with having one's childhood packaged, shared, and sold online. Laws that address these issues would be more proactive, rather than reactive, as they would consider the child's well-being before harm occurs and prevent parents from frequently using their child's image or story for public content.

As previously discussed in this Note, most states recognize the mature minor doctrine or permit minors to petition for emancipation. Courts have increasingly acknowledged that minors possess the capacity to make significant personal decisions when it comes to bodily autonomy and medical consent. However, current state laws governing children featured in monetized online content do not require any form of consent or participation from minors in decisions regarding filming, posting, or profiting from their likeness.

It is commonly recognized that children may be too young to give meaningful consent, which is why parents are entrusted to act in their best interests. Children featured in social media content usually lack the ability or maturity to opt out, challenge their portrayal, or fully comprehend the long-term consequences of having a digital presence. If a child cannot understand these consequences, then they are not capable of giving meaningful consent to having their life publicly shared. Furthermore, parental discretion should not override a child's autonomy solely because the parent holds legal authority and access to the platform. States should adopt safeguards, similar to those developed under the mature minor doctrine and emancipation laws, that assess and require a minor's capacity

to meaningfully consent to having their life shared online before parents are permitted to use a minor's likeness for personal or commercial gain.

In addition, only Utah and Minnesota currently offer a broader range of protection than other states. Both states have provisions that allow individuals to request the removal of any content featuring them once they turn eighteen, thereby recognizing a basic form of digital autonomy. While this is a step in addressing the full scope of harm, it is not enough. Once again, it is more of a reactive measure than a proactive one. The psychological and emotional impact of being publicly exposed during childhood often occurs long before the age of maturity. However, the ability to request removal is essential, and one that every state should implement. A reactive measure is better than no measure at all.

Lastly, these laws largely fail to recognize that parental authority itself can become a source of harm, particularly when parents are motivated by fame, financial gain, or a desire for public validation. As earlier sections of this Note explained, there are state laws that already limit parental control in circumstances that threaten a child's health or safety. That same logic should also apply to digital spaces. Online exploitation may not leave bruises, but it can still result in long-lasting trauma and loss of identity.

As more families turn to social media as a source of income, and as influencer culture continues to normalize the commodification of childhood, states cannot afford to wait for another Ruby Franke case before taking action. While critics may argue that such regulations interfere with parental discretion, state laws already impose limits on that discretion in cases of medical neglect, educational harm, and physical abuse. Protecting a child's autonomy in the digital sphere should not be any different.

A practical and effective legal framework must go beyond financial safeguards to address the full range of harms children face when parents share their lives online. Ideally, such legislation would not just include the financial safeguards some states already have in place, but it would also include: (1) a presumption against monetizing a child's likeness without meaningful consent, which is assessed based on the child's age and maturity; (2) a digital "opt-out" right that allows children to remove or limit content as they grow older; (3) court-appointed oversight; and (4) penalties or enforcement mechanisms to deter misuse. By implementing these protections, states can shift from reacting to harm to preventing it.

A truly comprehensive framework would not only protect children's earnings but also affirm their voices and dignity by requiring meaningful consent and recognizing their autonomy. Without these measures, children

remain visible but voiceless and protected only after the damage is done.

Part V: Conclusion

In conclusion, the lines between parental rights, children's rights, and a state's interest are often thin and difficult to navigate. However, the guiding principle should always be the protection of the most innocent and vulnerable. Every state should move to enact legislation that, while respecting a parent's fundamental right, prevents parental choices from harming their children.

There is a meaningful distinction between a parent sporadically sharing a video of their toddler's birthday or a family vacation and a parent posting daily videos of their child, generating revenue with every post. At that point, the child's role begins to resemble that of an employee, and the parent's actions start to infringe upon the child's right to privacy.

There is no doubt that the world today is far removed from the pre-Coogan era. The concern is no longer limited to child actors in Hollywood; it now includes children across the country, many of whom are at risk of digital exploitation by parents seeking online fame or income. Any parent with a smartphone and a social media account has the potential to build a monetized platform centered around their child. As technology continues to advance and media becomes increasingly accessible, states must adapt to these advancements. Safeguards are needed to prevent the parent-child relationship from evolving into a master-puppet relationship.

The Ruby Franke case served as a disturbing reminder of what can happen when the law fails to act until the harm is undeniable. While recent legislation, such as Utah's HB 322, has introduced critical financial protections, these measures are reactive and do not go far enough to address the issue. Protecting a child's income is vital but so is protecting their dignity, autonomy, and right to be heard. A truly comprehensive legal framework must include meaningful consent requirements, digital opt-out mechanisms, and safeguards that affirm children as full rights-holders, not just economic actors.

Protecting children from digital exploitation is not just about regulating content; it is about honoring their personhood, enforcing the constitutional limits of parental authority, and recognizing that children are not content but individuals with rights whose protection cannot wait until after the harm is done.

