## HB0322S02 compared with HB0322

{Omitted text} shows text that was in HB0322 but was omitted in HB0322S02 inserted text shows text that was not in HB0322 but was inserted into HB0322S02

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#### **Child Actor Regulations**

## 2025 GENERAL SESSION STATE OF UTAH

**Chief Sponsor: Doug Owens** 

Senate Sponsor:Scott D. Sandall

- 3 LONG TITLE
- **4 General Description:**
- 5 This bill enacts provisions related to minors involved in entertainment.
- **6 Highlighted Provisions:**
- 7 This bill:
- 8 defines terms:
- 9 requires that a parent or guardian establish a trust for a {performer} minor involved in entertainment;
- provides the circumstances under which a child of a content creator is not subject to trust and compensation requirements;
- provides the circumstances under which a parent or guardian may serve as the trustee of a {performer's} trustfor a minor involved in entertainment;
- provides the requirements for a performer's employer when depositing a percentage of the {performer's} earnings of a minor involved in entertainment into a trust;
- establishes a right of action for a {performer} minor involved in entertainment;
- 15

requires that a content creator maintain a {monthly} record that relates to a minor {involved} featured in the content creator's content;

- 17 \rightarrow \{\text{requires that a content creator maintain the monthly records for at least one year;}\}
- requires that a content creator inform a minor's parents that the minor is featured in the content creator's content:
- requires that a minor's parent or guardian establish a trust for the minor featured in social media contentunder certain conditions;
- 22 establishes limitations related to the trust established for a minor featured in social media content;
- establishes a formula for a content creator to calculate the percentage of any earnings from social media that feature a minor and to transfer the earnings to the minor's trust;
- > provides exemptions from the trust and compensation requirements;
- establishes a right of action for an individual featured in social media content as a minor;
- establishes a process by which a content creator may petition a court for an exception to the requirement to divide earnings from social media featuring a minor;
- 29 rants an individual featured in social media content as a minor a right of deletion;
- requires that a social media company maintain a readily available process by which an individual featured in social media content as a minor may request that a {social media company} content creator delete content featuring the individual featured in social media content as a minor; {and}
  - provides a process by which {a social media company} an individual may petition a court to {maintain social media content an individual requests that the social media company delete.} require that a content creator delete the individual's content;
- > provides for an award of attorney fees and damages; and
- provides the circumstances under which the provisions of this bill supersede a contractual provision related to disputes.
- 40 Money Appropriated in this Bill:
- 41 None

- 42 Other Special Clauses:
- 43 None
- 45 ENACTS:
- 46 **34-23-501**, Utah Code Annotated 1953, Utah Code Annotated 1953

34-23-502, Utah Code Annotated 1953, Utah Code Annotated 1953
34-23-503, Utah Code Annotated 1953, Utah Code Annotated 1953
34-23-504, Utah Code Annotated 1953, Utah Code Annotated 1953
Be it enacted by the Legislature of the state of Utah:
Section 1. Section 1 is enacted to read:
Part 5. Employment of Minors in Entertainment
<u>34-23-501.</u> Definitions.
As used in this part:
<u>(1)</u>
(a) "Administrative cost" means a reasonable cost that a content creator incurs when making social
media content.
(b) "Administrative cost" includes:
(i) an expense directly related to the production of social media content; and
(ii) a social media service fee.
(c) "Administrative cost" does not mean any income a content creator pays to the content creator.
(1) (2) "Compensated content" means paid minutes that feature a qualifying minor's personal content
$\{(2)\}$ $(3)$
(a) "Content creator" means an individual who produces social media content.
(b) "Content creator" does not include a minor who is the sole producer of the minor's own social media
<u>content.</u>
(3) (4) "Content share" means a determination, that a content creator makes on the first of each
calendar month, of the percentage of minutes of a content creator's social media content that:
(a) were published in the calendar month immediately before the day on which the content creator
makes the determination; and
(b) feature the personal content of an individual other than the content creator.
(5) "Emotional harm or substantial embarrassment" means psychological or emotional distress a
reasonable, similarly situated individual would feel resulting from the individual's personal content
appearing in a content creator's social media content.
(6) "Income from social media" means the income a content creator receives from creating social media

content after the content creator makes reasonable deductions for administrative costs.

- 80 (7) "Market value compensated minor" means a minor who:
- 81 (a) in a calendar year, has an average monthly content share of at least 30% of a content creator's content;
- 83 (b) is featured in social media content where the content creator:
- 84 (i) received income from social media of at least \$150,000 in a calendar year; and
- 85 (ii) is the parent or guardian of the minor;
- 86 (c) receives compensation for appearing in a content creator's content that is substantially equivalent to the compensation that similarly situated represented minors would receive;
- 89 (d) is not represented in negotiations relating to the minor's appearance in the content creator's content; and
- 91 (e) is not a qualified minor or a represented minor.
- 63 {(4)} (8) "Minor" means an individual who is under 18 years old.
- 93 (9) "Minor content earnings" means any portion of income from social media that resulted from paid minutes featuring a qualifying minor.
- 64 {(5)} (10) "Paid minutes" means the total number of minutes of social media content that generates {compensation for the content creator} income from social media.
- 66  $\{(6)\}$  (11)
  - (a) "Performer" means an individual who, either directly or through a third-party:
- (i) renders artistic or creative services in a motion picture, theater, radio, {or} television production
  , or social media content in exchange for compensation under an employment contract; {or}
- 69 (ii) agrees to sell, lease, license, transfer, exchange, or otherwise dispose of for the purpose of use in motion pictures or theatrical, radio, or television productions:
- 71 (A) literary, musical, artistic, or dramatic properties;
- 72 (B) the use of the individual's name, likeness, recording, or performance; or
- 73 (C) the story of or the incidents in the life of the individual {-}; or
- (iii) appears in social media content as a market value compensated minor.
- 74 (b) "Performer" includes an individual who engages in {the activities} an activity described in Subsection {(8)(a)(i)} (11)(a)(i) or (ii) as:
- 76 (i) an actor or actress;
- 77 (ii) a dancer;
- 78 (iii) a musician;

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       (iv) a stunt double;
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       (v) a writer;
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       (vi) a director;
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       (vii) a producer;
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       (viii) a choreographer;
 84
       (ix) a composer;
 85
       (x) a conductor; {or}
 86
       (xi) a designer\{-\}; or
120
       (xii) a represented minor.
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       {(7)} (12) "Personal content" means social media content that features an individual's name, likeness, or
           photograph, or for which an individual is the subject of an oral narrative.
       {(8)} (13) "Qualifying minor" means a minor who:
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       (a) a content creator determines on January 1 of each year, that in the immediately preceding calendar
           year:
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       (i) had an average monthly content share of at least 30% of a content creator's content; and
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       (ii) was featured in social media content where the content creator received income from social media
           of at least $150,000 in a calendar year; and
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       (b) is not a represented minor or a market value compensated minor.
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       (14) "Represented minor" means a minor:
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       (a) in a calendar {month} year, has {a} an average monthly content share of at least 30% of a content
           creator's content; {and}
       {(b) {is featured in social media content where:}-}
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 93
       {<del>(i)</del> }
       {(A) {the number of views received per video meets the threshold for the generation of compensation;
           <del>or}</del>}
 95
       {(B) {the content creator received compensation for the qualifying minor's personal content equal to or
           greater than $.10 per view; and}
 97
       {(ii)} (b) who is featured in social media content where the content creator received {actual}
           compensation for income from social media {content} of at least {$15,000} $150,000 in {the
           previous 12-month period.} a calendar year;
136
       (c)
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- (i) who is represented by a parent, guardian, attorney, or other individual with a fiduciary duty to the minor and who is not the content creator in negotiations relating to a minor's appearance in a content creator's social media content; and
- 139 (ii) whose parent, guardian, attorney, or other individual with a fiduciary duty to the minor enters into an employment agreement with the content creator.
- 99 {(9)} (15) "Social media company" means the same as that term is defined in Section 13-71-101.
- 100 {(10)} (16) "Social media content" means video content shared on a social media service that meets the social media service's threshold for the generation of {compensation} income from social media.
- 102 {(11)} (17) "Social media service" means the same as that term is defined in Section 13-71-101.
- Section 2. Section 2 is enacted to read:
- 147 <u>34-23-502.</u> Minors employed as performers -- Trust required -- Cause of action.
- 148 (1) As used in this section, "employer," as that term relates to a market value compensated minor, means the market value compensated minor's parent or guardian.
- 105 {(1)} (2) {Within 15 days after} On or before January 30 of a calendar year, if in the {day on which a minor begins employment as} preceding calendar year a performerearned income of \$20,000 or more, the performer's parent or guardian {of the minor} shall:
- 107 (a) establish a trust for the benefit of the {minor} performer in accordance with Title 75A, Chapter 8, Uniform Transfer to Minors; and
- (b) unless the performer is a market value compensated minor, notify the {minor's} performer's employer of the existence of the trust and any additional information required for the employer to transfer gross earnings to the trust.
- 111 <u>{(2)} (3)</u>
  - (a) Subject to Subsection {(2)(b)} (3)(b), the {minor's} parent or guardian may serve as the trustee of the trust.
- 113 (b) If the average monthly balance of the trust exceeds \$250,000 for a consecutive period of at least six months:
- 115 (i) the trustee of the trust shall petition a court to appoint a trustee to replace the trustee; and
- 117 (ii) after receiving a petition under Subsection {(2)(b)(i)} (3)(b)(i), a court shall appoint a new trustee to replace the trustee.
- 119 (c) A {minor's} performer's parent or guardian may not access the funds in the trust.

- (d) A beneficiary of a trust established under this section may access the funds in the trust beginning the day on which the beneficiary turns 18 years old.
- 122 {(3)} (4) {After receiving notice from the minor's parents as required in Subsection (1), the minor's The performer's employer shall transfer 15% of the {minor's } performer's gross earnings into the trust:
- 124 (a) no later than 30 days after the day on which the minor's employment terminates if the minor's term of employment is 30 days or fewer; or
- (b) on the same date that the employer makes payments in accordance with the employer's regular pay period, if the {minor's} performer's term of employment is more than 30 days.
- 129 {(4)} (5) The {minor's } performer's employer shall make the transfer described in Subsection {(3)} (4) in accordance with Title 75A, Chapter 8, Uniform Transfer to Minors.
- 131 {(5)} (6) After the {minor's} performer's employer completes the transfer described in Subsection {(3)} (4), the {minor's} performer's employer has no further obligations under this section.
- 133 {(6)} (7) Notwithstanding any other statute of limitation or repose that may be applicable to an action described in this section, an individual, for up to five years after the day on which the individual turns 18 years old, has a right of action against:
- (a) an employer if the employer fails to transfer funds to the individual's trust as required under this section;
- 138 (b) an individual's parent or guardian if the individual's parent or guardian fails to:
- (i) establish a trust as required under this section; or
- 140 (ii) notify the individual's employer of the existence of the trust as required under this section; and
- (c) the trustee of the individual's trust, if the trustee failed to appoint a trust company to serve as trustee of the trust as required under this section.
- 144 {(7)} (8) If an individual brings a cause of action under Subsection {(6)} (7), a court may award:
- 145 (a) actual damages;
- 146 (b) punitive damages;
- (c) any other remedy provided by law; and
- 148 (d) reasonable costs and attorney fees.
- 195 Section 3. Section 3 is enacted to read:
- 196 <u>34-23-503.</u> {Minors featured in social media content } Qualifying minors -- Trust required -- Cause of action.

152  $\{\underbrace{\{1\}}\}$ {(a)} (1) A content creator that produces social media content featuring a qualifying minor shall maintain a monthly record of: 199 (a) income from social media; 154 (ii) (b) the qualifying minor's name and documentation of the qualifying minor's age; 155 {(ii) {social media content that the content creator produces and for which the content creator is <del>paid;}</del>} 157 {(iii)} (c) paid minutes; 202 (d) minor content earnings; 158 {(iv)} (e) compensated content; and 159 {(v)} (f) the funds transferred into a trust for the benefit of a qualifying minor, as described in Subsection (5). 161 (2) The content creator shall: 162 (a) retain the records described in Subsection (1) for at least {one year} two years after the day on which the content creator creates the {record} records; 164 (b) provide notice to the qualifying minor of the existence of the records; and 165 (c) make the records readily available to the {qualifying} minor for review upon request from the qualifying minor. 167 **(3)** (a) If any portion of a content creator's social media content contains a minor, on January 1 of each year, the content creator shall make a determination as to whether the minor is a qualifying minor. 170 (b) {Except as provided in Subsection (4)(b), if } If a content creator determines that a minor is a qualifying minor, the content creator shall inform the qualifying minor's parent or guardian, in writing and within 15 business days {, that the minor is a qualifying minor.}: 218 (i) that the minor is a qualifying minor; and 219 (ii) of any compensation the content creator shall pay to the qualifying minor in accordance with Subsection (5). (c) {Except as provided in Subsection (4)(b), within 15 days after the day on which the 173 content creator informs the qualifying minor's parent or guardian as described in Subsection (3)(b), the parent or guardian of the qualifying minor shall, if the total amount of compensation described in Subsection (3)(b)(ii) equals or exceeds \$20,000:

- 176 (i) establish a trust for the benefit of the qualifying minor in accordance with Title 75A, Chapter 8, Uniform Transfer to Minors;
- 178 (ii) notify the content creator of the existence of the trust; and
- (iii) provide any additional information required for the content creator to make transfers of gross earnings into the trust.
- 230 (d) If the parent or guardian of the qualifying minor is the content creator, the requirement to notify the qualifying minor's parent or guardian described in Subsection (3)(b) and (3)(c) does not apply.
- 181 <u>(4)</u>
  - (a) The qualifying minor's parent or guardian may serve as the trustee of the trust.
- 182 {(b) {If the minor's parent or guardian is also the content creator, Subsections (3)(b) and (3)(c) do not apply.}}
- 184 {(e)} (b) If the average monthly balance of the trust exceeds \$250,000 for a consecutive period of at least six months:
- 186 (i) the trustee of the trust shall petition a court to appoint a trustee to replace the trustee; and
- 188 (ii) after receiving a petition under Subsection (4)(c)(i), a court shall appoint a new trustee to replace the trustee.
- 190 {(d)} (c) The qualifying minor's parent or guardian may not access the funds in the trust.
- 191 {(e)} (d) A beneficiary of a trust established under this section may access the funds in the trust beginning the day on which the beneficiary turns 18 years old.
- 243 (5)
- 193 {(5)} (a) {Except as provided in Subsection (8), if } If a content {creator received } creator's content had minor content earnings in the previous month, a content creator shall:
- 195  $\{(a)\}$ 
  - {(i) {calculate the percentage of paid minutes from the previous month that were compensated content;}}
- 197  $\{(ii)\}\ \underline{(i)}\ \{\underline{\text{divide}}\ \underline{\text{use}}\ \text{the } \{\underline{\text{percentage calculated in Subsection }(5)(a)(i) \ among}\}\ \underline{\text{formula }E=(A/T)*(Q/S)*(M/2) \ \text{or the } \{\underline{\text{total number of}}\ \}\ \underline{\text{formula }E=(A/T)*(1/X)*(M/2) \ \text{to determine the }}$   $\underline{\text{qualifying }\{\underline{\text{minor's content share;}}\}\ \underline{\text{minor where:}}}$
- 200 {(iii)} (A) {using the percentage calculated in Subsection (5)(a)(ii), transfer that percentage of the minor content earnings to each } E = a qualifying minor's {trust} earnings; {and}

249 (B) A = all paid minutes featuring any qualifying minor; 250 (C) T = total paid minutes;251 (D) Q = paid minutes featuring the qualifying minor; 252 (E) S =the sum of paid minutes for all qualifying minors; 253 (F) M = the preceding month's income from social media; and 254 (G) X = the total number of qualifying minors; and 202 {<del>(iv)</del>} (b) {(A)} (i) {if the division determined} subject to Subsection (5)(b)(ii), transfer the minor's earnings described in Subsection {(5)(a)(ii) results in a total percentage that exceeds 100%, the content ereator shall divide the percentage equally among qualifying-\ (5)(a)(i) directly to the content creator shall divide the percentage equally among qualifying {minors} minor; {and} or 205 (B) <u>susing the percentage calculated after the division in Subsection (5)(a)(iv)(A), transfer that amount</u> calculated of the minor content earnings to each qualifying minor's trust; or}} 208 {<del>(b)</del> } (i) {calculate the percentage of paid minutes from the previous month that were compensated content;}} 210 (ii) {using the percentage calculated in Subsection (5)(b)(i), divide that percentage by the total number of qualifying minors; and} 212 {(iii)} (ii) {using the percentage calculated} after the {division} qualifying minor's parent or guardian establishes a trust as described in Subsection {(5)(b)(ii)} (3)(c), transfer {that amount calculated of the minor content earnings } the qualifying minor's earnings calculated to each qualifying minor's trust. 215 <u>(6)</u> (a) The content creator shall make a transfer described in Subsection (5) in accordance with Title 75A, Chapter 8, Uniform Transfer to Minors. 217 (b) The content creator shall make the calculations and the transfers described in Subsection (5) {within before the {first week-} end of the month following the month in which the content creator received minor content earnings. 220 <u>(7)</u>

(i) the content creator shows complying with Subsection (5) causes undue hardship;

(a) A content creator may petition a court for an exception to Subsection (5) if:

222	(ii) the content creator provides an alternative plan to distribute compensation to a qualifying
	minor; and
224	(iii) the content creator commits to establishing an alternative trust that complies with the
	requirements of this section.
226	(b) A court shall issue an order granting an exception to Subsection (5) if the court determines:
228	(i) the content creator adequately shows that complying with Subsection (5) causes undue hardship; and
230	(ii) the alternative plan described in Subsection (8)(a)(ii) is in the best interest of the qualifying minor.
232	(8) Notwithstanding any other statute of limitation or repose that may be applicable to an action
	described in this section, an individual, for up to five years after the day on which the individual
	turns 18 years old, has a right of action:
235	(a) against:
236	(i) a content creator if the content creator fails to transfer funds to the individual's trust during the time
	the individual was a qualifying minor as required under this section;
239	(ii) a trustee if the trustee fails to appoint a trust company to serve as the trustee as required under this
	section; and
241	(iii) an individual's parent or guardian, if the parent or guardian fails to:
242	(A) establish a trust as required under this section; or
243	(B) notify the content creator of the existence of the trust as required under this section; and
245	(b) only if a court did not issue an order granting an exception as described in Subsection (7)(b).
247	(9) If an individual brings a cause of action under Subsection (8), a court may award:
248	(a) actual damages;
249	(b) punitive damages;
250	(c) any other remedy provided by law; and
251	(d) reasonable costs and attorney fees.
252	(10) A minor that creates, produces, or publishes the minor's own social media content is entitled to all
	compensation resulting from the social media content.
299	(11) The provisions of this section supersede any agreement related to venue, arbitration, or mediation
	in a contract entered into after May 7, 2025, between a qualifying minor and a content creator.

Section 4. Section 4 is enacted to read:

34-23-504. Minor's right of deletion.

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- (1) An individual, who is at least 18 years old, may request that a content creator delete or edit any social media content that the content creator posted featuring the individual as a qualifying minoror a market value compensated minor by making a request to a social media company.
- 308 (2) The social media company may verify the age of the individual when the individual submits the request to delete or edit the content creator's post featuring the individual as a qualifying minor or market value compensated minor.
- 259 {(2)} (3) A social media company shall provide a readily apparent process for an individual described in Subsection (1) to submit a request for a content creator to:
- 261 (a) delete the post from the social media platform; {and} or
- 262 (b) edit posts to remove the {qualifying minor's} individual's personal content.
- 263 {(3)} (4) An individual submitting a request under this section shall include all information reasonably requested by the social media company to identify the {minor} individual and the social media content featuring the {qualifying} individual as a qualifying minor or a market value compensated minor that the individual requests to delete or edit.
- 266 {(4)} (5) Upon receiving a request described in Subsection (1), a social media company shall inform the content creator of the request within {30-} three business days after the day on which the social media company receives the request.
- 269 <u>{(5)}</u> (6)
  - (a) Within ten business days after the day on which the content creator receives the notice described in Subsection (5), the content creator shall:
- (i) delete or edit the social media content described in the request; or
- 325 (ii) notify the social media company of:
  - {(a)} (A) {The content creator shall remove social media} the content {identified in the request described in Subsection (1) within 72 hours after social media} creator's decision to not delete or edit the request described in Subsection (1) within 72 hours after social media {company informs the} content {creator as required in Subsection (4).}; and
- 327 (B) the content creator's reason for not deleting or editing the social media content.
- 328 (b) The social media company shall inform the individual making the request of the content creator's decision under Subsection (6)(a) within three business days after the day on which the social media company receives notification from the content creator.
- 331 <u>(7)</u>

- (a) Subject to Subsection (7)(d), an individual who was a qualifying minor or a market value compensated minor has a right of action under this section against the content creator if the content creator does not edit or delete social media content that features the individual after a request described in Subsection (1).
- 335 (b) If an individual brings an action in accordance with Subsection (7)(a), a court shall consider:
- 337 (i) any emotional harm or substantial embarrassment the social media content causes the individual;
- 272 {(b)} (ii) {If a } the interests of the content creator {fails to remove the social media content as required } in {Subsection (5)(a), the social media company shall remove content} the social media company shall remove content{, unless:}; and
- 274 {(i)} (iii) the {social media company petitions a court to allow } public interest served by the social media content {to remain on the social media service; and}.
- 276 {(ii)} (c) {a} If the court issues an order {as described in Subsection (7).} requiring the content creator to delete the social media content that is the subject of the individual's request, the court shall award the individual:
- 277 {(6)} (i) {The social media company may verify the age of the individual when the individual submits

  the request to delete or edit } if the content creator's {post featuring } social media content featured

  the individual as a qualifying minor {:} :
- 346 (A) actual damages; and
- 347 (B) reasonable costs and attorney fees; or
- 348 (ii) if the content creator's social media content featured the individual as a market value compensated minor, actual damages that occurred after the day on which the individual turned 18 years old.
- 351 (d) An individual who was a market value compensated minor may bring an action under this Subsection (7) for up to the later of:
- 280 {(7)} (i) {If a social media company petitions a court to allow social media content to remain on a social media service, a court shall grant an order allowing} three years after the {content to remain} } day on {the social media service if the court determines allowing the social media content to remain on the social media service serves a significant public interest that outweighs the privacy interest of individual} which the social media service if the court determines allowing the social media content to remain on the social media service serves a significant public interest that outweighs the privacy interest of individual {making the request.} turns 18 years old; or

- (ii) three years after the day on which the individual knew or should have known that the social media content inflicted emotional harm or substantial embarrassment.
- 356 (8) The provisions of this section supersede any agreement related to venue, arbitration, or mediation in a contract entered into after May 7, 2025, between an individual petitioning a court to edit or delete the social media content and a social media service.
- 359 Section 5. Effective date.

This bill takes effect on May 7, 2025.

2-17-25 7:12 PM