

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2023-2024 Regular Session

AB 1880 (Alanis)
Version: May 23, 2024
Hearing Date: June 4, 2024
Fiscal: No
Urgency: No
CK

SUBJECT

Minors: artistic employment

DIGEST

This bill extends California's "Coogan law," which provides protections to minors providing artistic or creative services, to cover contracts for services as "content creators."

EXECUTIVE SUMMARY

California was a pioneer in enacting laws protecting child actors over 80 years ago. California's "Coogan law" requires funds to be set aside in specified trusts for the benefit of minor actors. Similar protections have been created in other states. However, these protections do not extend to minors appearing in content posted on online platforms.

The dramatic rise of content created and monetized by social media influencers, and specifically content heavily featuring minors, has drawn attention to a gap in these laws. A series of infamous examples of family members exploiting minors appearing in their content has raised calls for legislation to protect the interests of these children.

This bill amends California's Coogan Law to include child "content creators" performing contractual work on an online platform involving digital content. This includes creating, posting, sharing, or otherwise interacting with digital content on websites, applications, and social media platforms.

This bill is author-sponsored. The bill is supported by SAG-AFTRA. The Committee has not received any timely opposition.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Regulates the following contracts entered into between an unemancipated minor and a third party:
 - a) A contract pursuant to which a minor is employed or agrees to render artistic or creative services, either directly or through a third party. “Artistic or creative services” includes services as an actor, actress, dancer, musician, comedian, singer, stuntperson, voice-over artist, or other performer or entertainer, or as a songwriter, musical producer or arranger, writer, director, producer, production executive, choreographer, composer, conductor, or designer.
 - b) A contract pursuant to which a minor agrees to purchase, or otherwise secure, sell, lease, license, or otherwise dispose of literary, musical, or dramatic properties, or use of a person’s likeness, voice recording, performance, or story of or incidents in the person’s life, either tangible or intangible, or any rights therein for use in motion pictures, television, the production of sound recordings in any format now known or hereafter devised, the legitimate or living stage, or otherwise in the entertainment field.
 - c) A contract pursuant to which a minor is employed or agrees to render services as a participant or player in a sport. (Fam. Code § 6750.)
- 2) Requires the court, in an order approving the above contracts, to require that 15 percent of the minor’s gross earnings pursuant to the contract be set aside by the minor’s employer, except as provided. These amounts shall be held in trust, in an account or other savings plan, and preserved for the benefit of the minor. The minor’s employer shall deposit or disburse the 15 percent of the minor’s gross earnings within 15 business days of receipt of specified documentation. However, pending receipt of these documents, the minor’s employer shall hold, for the benefit of the minor, the 15 percent of the minor’s gross earnings pursuant to the contract. (Fam. Code § 6752.)
- 3) Details the trustee’s responsibilities with regard to the above Coogan trust accounts, and requires that a trust account be established in designated California financial institutions. (Fam. Code § 6753.)

This bill:

- 1) Includes within the Coogan law contracts pursuant to which a minor is to provide services as a content creator.

- 2) Defines “content creator” as an individual who creates, posts, shares, or otherwise interacts with digital content on an online platform and engages in a direct contractual relationship with third parties.
- 3) Defines “online platform” as any public-facing website, web application, or digital application, including social media platforms, as defined, advertising networks, mobile applications and operating systems, search engines, email services, and internet access services.

COMMENTS

1. Coogan Law

California’s Coogan Law was passed in 1938 in response to Jackie Coogan’s plight:

The Coogan Law is named for famous child actor Jackie Coogan. Coogan was discovered in 1919 by Charlie Chaplin and soon after cast in the comedian’s famous film, *The Kid*. Jackie-mania was in full force during the 1920s, spawning a wave of merchandise dedicated to his image. It wasn’t until his 21st birthday after the death of his father and the dwindling of his film career that Jackie realized he was left with none of the earnings he had [worked] so hard for as a child. Under California law at the time, the earnings of the minor belonged solely to the parent.¹

The Coogan law was enacted to preserve a portion of a minor’s earnings under an employment contract for creative or artistic services, for the minor’s use when the minor reaches the age of majority.

Despite its ambitious reach, the original law was riddled with loopholes. SB 1162 (Burton, Ch. 940, Stats. 1999) overhauled the Coogan Law. Applicable to both court-approved and non court-approved minors’ contracts for creative or artistic employment, SB 1162 required 15 percent of a minor’s earnings to be set aside and deposited into a “Coogan trust” account, invested in low-risk financial vehicles, and blocked from use until the minor is emancipated or reaches age 18. To enforce the set-aside, SB 1162 imposed a duty on the employer to make the deposit directly into the minor’s Coogan trust account, which a parent or guardian is required to open at an insured financial institution and to invest in a manner consistent with that of a trustee. Annual accounting is required, and court supervision of trust accounts for minors with court-approved contracts continues until the minor turns 18. SB 210 (Burton, Ch. 667, Stats. 2003) further bolstered the Coogan Law by, among other things, requiring the establishment of a default trust account into which employers can deposit the minors’

¹ *Coogan Law*, SAG-AFTRA, <https://www.sagaftra.org/membership-benefits/young-performers/coogan-law>. All internet citations are current as of May 23, 2024.

set-aside earnings, if there is no Coogan trust established for the minor, and by tying approval of minor's work permits to the establishment of a trust account.

2. The rise of children social media influencers

Eerily similar to the plight of Jackie Coogan and other child actors, a number of examples of child performers being exploited have arisen, this time involving performances on online platforms.

The rapid rise of social media influencers has brought in a number of legal issues. Relevant here is the involvement of child influencers, often referred to as "kidfluencers." A Harris Poll found that influencing has become an aspirational path for many children, revealing that children ages 8 to 12 are three times as interested in being a "YouTuber" as they are in being an astronaut.²

Massive success has been found by a handful of kidfluencers with some, like Anastasia Radzinskaya, the 9-year-old star of the YouTube channel *Like Nastya*, making millions of dollars.³ In videos shared with 108 million subscribers, Anastasia spends time with her parents and friends, and demonstrates the risks of overeating sugar as well as the benefits of washing hands. Ryan Kaji is a 13-year-old that earns millions of dollars playing with toys, conducting science experiments, and making crafts on his YouTube channel, Ryan's World. He has a line of toys sold at Target and Walmart. Many more children earn hefty profits on social media sites, such as Instagram, where "nano-influencers" with smaller followings still pull in about \$600 per post, while large accounts can earn \$10,000 or \$20,000. However, many other children are featured in content created by their parents or other family members.

The relevant concern here is how are these children protected from exploitation when the money being earned is in the hands of their family members:

A few other states have their own versions of California's [Coogan] law, but barring one exception, these laws do not extend to children who are making their names on Instagram, TikTok, YouTube or any of the other major social media platforms.

² LEGO Group Kicks Off Global Program To Inspire The Next Generation Of Space Explorers As NASA Celebrates 50 Years Of Moon Landing (July 16, 2019) The Harris Poll, <https://theharrispoll.com/briefs/lego-group-kicks-off-global-program-to-inspire-the-next-generation-of-space-explorers-as-nasa-celebrates-50-years-of-moon-landing/>.

³ Valeriya Safronova, *Child Influencers Make Big Money. Who Gets It?* (October 10, 2023) The New York Times, <https://www.nytimes.com/2023/10/10/style/children-influencers-money.html#:~:text=How%20much%20parents%20should%20set,earnings%20must%20be%20set%20aside>.

“They’re working,” Karen North, a professor of digital social media at the University of Southern California Annenberg School for Communication and Journalism, said of child influencers. “They’re being told how to act and told what to say and do for their parents’ pay and profit, but there are no restrictions the way there would be for a movie or a TV show.”

Even if child influencers produce their own content and are not managed by their parents, they are at risk of being exploited by adults in their lives. On popular social media websites, children under 13 cannot run their own accounts; parents have to open and manage them. And in most states children cannot open a bank account independently until they are 17.

Now, politicians are starting to catch up, motivated in part by civic-minded teenagers who have watched as popular family vloggers like Machel Hobson and Ruby Franke have been exposed for abusing and exploiting their children, mostly behind the scenes, but sometimes on camera.⁴

3. Extending Coogan law to child influencers

According to the author:

As the social media industry grows, it is essential to protect minors from exploitation. This is why I am proud to introduce AB 1880 which would provide crucial legal protections for child influencers, acknowledging the evolving landscape of entertainment and the unique challenges they face in the digital realm. This amendment ensures that child influencers are afforded the same financial safeguards as their counterparts in more traditional forms of artistic employment. By recognizing the rights of child influencers and establishing clear guidelines for their financial well-being, the state promotes a safer and more equitable environment for young individuals participating in online content creation.

As discussed, the Coogan law applies to minors’ contracts for creative or artistic services. This bill includes within the definition of “artistic or creative services” services performed as a “content creator.” A content creator is an individual who creates, posts, shares, or otherwise interacts with digital content on an online platform and engages in a direct contractual relationship with third parties. This includes work done on websites, applications, and social media platforms. The goal is to extend the same financial protections that are afforded child actors to kidfluencers.

⁴ *Ibid.*

It should also be noted that the structure of the Coogan law may leave some loopholes in protections for some kidfluencers. Many of the children being featured in social media content are not working pursuant to any contracts and are featured by their parents within their parents' social media accounts and content. Therefore, it may be difficult to cover all of these situations under the existing framework of California's Coogan law.

SAG-AFTRA writes in support:

With the rise in new mediums for artistic performances, such as social media and paid online content, it is critical that we update the law to extend protections against exploitation. There are unfortunately way too many stories throughout the history of the entertainment industry of children being financially exploited and abused, kids who literally made millions and were left penniless as adults.

Another model being used to cover kidfluencers in these situations was passed in August 2023 in Illinois. SB 1782 (2023 Ill. Laws 556) responded to the above concerns. The law applies to "vlogs," content shared on an online platform in exchange for compensation, and "vloggers," individuals or families that create video content, performed in Illinois, in exchange for compensation. It requires adults who use "the likeness, name or photograph" of a minor in paid online content to set aside a portion of the earnings in a trust. How much parents should set aside is based on how much the child appears in the content. Child influencers have the right to pursue legal action under the law. Another bill being considered by the Legislature, SB 764 (Padilla, 2024), is modeled after that law.

SUPPORT

SAG-AFTRA

OPPOSITION

None received

RELATED LEGISLATION

Pending Legislation: SB 764 (Padilla, 2024) provides protections to children performing in "vlogs," monetized content appearing on online platforms, as specified. This includes the establishment of trust accounts for the benefit of those minors and specified accounting practices. SB 764 is currently in the Assembly Privacy and Consumer Protection Committee.

Prior Legislation:

AB 1880 (Alanis)

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SB 210 (Burton, Ch. 667, Stats. 2003) *See Comment 1.*

SB 1162 (Burton, Ch. 940, Stats. 1999) *See Comment 1.*

PRIOR VOTES:

Assembly Floor (Ayes 74, Noes 0)

Assembly Judiciary Committee (Ayes 10, Noes 0)
