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PROTECTING PAGEANT PRINCESSES: A CALL FOR STATUTORY REGULATION OF CHILD BEAUTY PAGEANTS

*Lindsay Lieberman**

INTRODUCTION

For the past three years, four-year-old beauty queen Eden Wood has competed in child pageants.¹ Her parents have spent more than \$70,000 on her pageant career,² which has produced an impressive record of victories.³ Eden has won between \$25,000 and \$30,000 in prizes, but has yet to receive any money because of the high costs of reinvestment in the pageant circuit.⁴ Eden expresses a deep passion for pageant life,⁵ but

* Brooklyn Law School Class of 2011; B.A., Rutgers College, 2007. The author wishes to thank her parents, Marjorie and Bernie, her sister, Marissa, and her Grandmother, Bert, for their unconditional support and encouragement. She would also like to thank Amanda Kateman and the members of the *Journal of Law and Policy*.

¹ Andrea Canning & Jessica Hoffman, *Former Child Beauty Queen Speaks Out*, GOOD MORNING AMERICA, Aug. 13, 2009, <http://abcnews.go.com/GMA/beauty-queen-takes-gma-scenes-pageants/story?id=8315785>.

² *Id.* Eden's parents have paid for the "necessities" of child pageant life: "professional photos, spray tanning, coaching, and \$3,000 on dresses." *Id.*

³ Andrea Canning & Deborah Apton, *Pageants Behind the Scenes: Toddlers, Tiaras, Tempers and Tantrums*, GOOD MORNING AMERICA, Aug. 11, 2009, <http://abcnews.go.com/GMA/story?id=8295552&page=1>. "When ABC visited Eden last month in her small Arkansas town, it was obvious she'd found her calling. The Woods' home is full of hundreds of trophies and crowns." *Id.*

⁴ Inside Toddlers & Tiaras, Good Morning America, <http://abcnews.go.com/GMA/popup?id=8131172> (last visited Mar. 12, 2010). The pageant circuit is composed of a "complex network of pageant systems." Elizabeth Gleick, *Playing at Pageants*, TIME, June 24, 2001, *available at*

many wonder whether the lifestyle is one in which a child should be so consumed. The negative effects of child pageantry reverberate throughout the lives of young women, such as nineteen year old Brooke Breedwell.⁶ Breedwell was a child pageant contestant and a star of the television documentary, "Painted Babies."⁷ She now speaks about her childhood stardom and the destructive effects it had on her life.⁸ As a girl, she suffered from stress and anxiety while striving for an unrealistic standard of perfection.⁹ She explains that her mother's ambition, coupled with her own obsessive drive to win, resulted in severe social and psychological consequences.¹⁰

Society recognizes the detrimental effects of child beauty pageants.¹¹ Family therapists report that pageants interfere with healthy child development.¹² As a result, little girls who participate are prone to persistent lifetime challenges, including

<http://www.time.com/time/magazine/article/0,9171,1101970120137165,00.html>.

⁵ Canning & Apton, *supra* note 3. Eden announces, "I like the makeup, and I like hair spray Makeup makes me happy. I like being pretty on stage with my makeup on." *Id.*

⁶ JANE TREAYS, *Painted Babies* (BBC 1995).

⁷ *Id.* "Painted Babies" was a 1995 documentary that followed two young girls, Brooke Breedwell and Asian Mansur, to the Southern Charm pageant in Atlanta, Georgia, where they competed for the \$5,000 winning prize and the "glittering crown of Supreme Queen." *Id.* Treays has stated that the documentary "not only launched [her] career but provoked thousands of letters of complaint, most of which expressed the concern that these [child beauty] contests bordered on child abuse." *Id.* "One of the stage moms in 'Painted Babies' states that beauty is incredibly important in society and it will open any door and help you achieve any goal." Posting of starlabranche to NowPublic.com, <http://www.nowpublic.com/culture/we-tv-plans-documentary-kiddie-beauty-pageants> (Aug. 28, 2008, 7:50 EST) [hereinafter *WE TV*].

⁸ Canning & Hoffman, *supra* note 1.

⁹ *Id.*

¹⁰ *Id.*

¹¹ Charleton Kendrick, *Are Child Beauty Pageants Bad For Children?*, FAMILY EDUCATION, <http://life.familyeducation.com/emotional-development/girls-self-esteem/41305.html> (last visited Mar. 12, 2010).

¹² *Id.*

PROTECTING PAGEANT PRINCESSES

741

body shame, perfectionism, depression and eating disorders.¹³ Former child beauty queen Nicole Hunter, who competed in pageants as a girl,¹⁴ explains that dressing and acting like a woman at a young age compelled her to prematurely confront her sexuality, which in turn lowered her self-esteem.¹⁵ Hunter further reveals that since leaving the pageant circuit she has struggled with anorexia nervosa.¹⁶ Despite these negative effects, the child pageant industry is a multi-billion dollar business with over 5,000 beauty contests held each year.¹⁷

One state government has taken an initial step to acknowledge child pageant dangers.¹⁸ Annie W. Mobley, a member of the North Carolina House of Representatives, has proposed a bill that would establish a study committee to assess the need for child pageant regulations.¹⁹ Mobley is the first government actor to acknowledge the possible risks inherent in the child pageant circuit. If the bill is passed, the study committee will address the widely held concern that the pageant industry is damaging to children.²⁰

This note explores the demand for statutory protection of

¹³ Michele Berg, *Child Beauty Pageants: Read the Warning Label*, MOMLOGIC.COM, Apr. 1, 2009, http://www.momlogic.com/2009/04/child_beauty_pageants.php.

¹⁴ Nicole Hunter, *Effects of Beauty Pageants*, WRITING.COM, http://www.writing.com/main/view_item/item_id/1221193-Effects-of-Beauty-Pageants (last visited Mar. 12, 2010).

¹⁵ *Id.*

¹⁶ *Id.* “Anorexia nervosa [is] a serious mental illness associated with a diminished appetite for food in a relentless pursuit for thinness. [It] [u]sually shows itself during adolescence primarily in women with sometimes fatal consequences. The disorder is associated with substantial psychological disturbances and symptoms overlap with other psychiatric illnesses—mood and anxiety disorders.” 16:2 Edward F. Fitzgerald, *Intoxication Test Evidence* § 55 (2d ed. 1999 & Supp. 2009).

¹⁷ Henry A. Giroux, *Child Beauty Pageants: A Scene From the “Other America,”* TRUTHOUT, May 11, 2009, <http://www.truthout.org/051109A>.

¹⁸ H.R. 1348, 2010 Gen. Assem. Sess. (N.C. 2009), *available at* <http://www.ncleg.net/Sessions/2009/Bills/House/PDF/H1348v0.pdf> [hereinafter *H.R. 1348*].

¹⁹ *Id.*

²⁰ *Id.*

child beauty pageant contestants. Part I examines the history and development of child pageants, and the nature of competition and pressure rooted in pageant life. Part II describes governmental protections provided for child entertainers and then analogizes child performers to child pageant contestants. Part III details North Carolina's initial effort to set forth regulations for child beauty pageants, and then presents suggestions for ensuring the safest conditions for children involved in pageantry.

I. CHILD BEAUTY PAGEANTS: HISTORY AND CURRENT TRENDS

B.T. Barnum first introduced the beauty pageant concept when he paraded women throughout his renowned circus.²¹ Beauty pageants, in which women competed to be crowned for their physical attractiveness, developed in the 1920s as casino attractions in Atlantic City.²² Over subsequent years, modern pageants like "Ms. America" and "Ms. USA" were established across the country.²³ Children's pageants developed in the 1960s,²⁴ and have since incorporated the conventional

²¹ Editors of Publications International, *10 Notable Beauty Pageant Moments*, HOWSTUFFWORKS, <http://people.howstuffworks.com/10-notable-beauty-pageant-moments.htm> (last visited Mar. 12, 2010).

²² Karen Nussbaum, *Children and Beauty Pageants*, A MINOR CONSIDERATION, <http://minorcon.org/pageants.html> (last visited Mar. 12, 2010). Casino hotelmen staged a "National Beauty Tournament" on an Atlantic City beach searching for the "most beautiful bathing beauty in America," while enticing summer tourists to stay at the resort past Labor Day. *The History of Pageants: 1920's*, PAGEANT CENTER, <http://pageantcenter.com/history-20s.html> (last visited Mar. 12, 2010). This event later became the Ms. America pageant, and was staged in Atlantic City until 2005. *The History of Pageants: 2000's*, PAGEANT CENTER, <http://pageantcenter.com/history-2000.html> (last visited Feb. 26, 2010).

²³ *The History of Pageants: 1950's*, PAGEANT CENTER, <http://pageantcenter.com/history-50s.html> (last visited Feb. 26, 2010).

²⁴ *The History of Pageants: 1960's*, PAGEANT CENTER, <http://pageantcenter.com/history-60s.html> (last visited Feb. 26, 2010). The first beauty pageant for children, "Little Miss Universe" was staged in Miami, Florida, and the second, "Little Miss America Pageant," was staged in northern New Jersey in 1961. *Id.*

PROTECTING PAGEANT PRINCESSES

743

characteristics of adult pageants.²⁵ In an effort to win the pageant crown, little girls²⁶ present themselves on stage in sportswear and evening gowns,²⁷ while displaying their talents through song and dance.²⁸ Each contestant's presence, confidence and performance is judged²⁹ and pageant winners receive scholarships, grants and trophies.³⁰

Participants pay exorbitant costs to partake in the beauty pageant circuit.³¹ First, an entry fee is required for each

²⁵ See *Toddlers & Tiaras* (TLC television broadcast 2009). Pageant contestants compete in formal wear, swimwear and talent competitions. There are personal interviews and photograph assessments. *Id.*; see also *Living Dolls: The Making of a Child Beauty Queen* (HBO television documentary broadcast May 13, 2001) [hereinafter *Living Dolls*].

²⁶ Nussbaum, *supra* note 22. Boys also participate in child beauty pageants. *TLC's Toddlers and Tiaras: The Show About Beauty Pageants for Children*, ASSOCIATED CONTENT, July 25, 2009, http://www.associatedcontent.com/article/1965962/tlcs_toddlers_and_tiaras_the_show_about.html?cat=9PageantCenter [hereinafter *Associated Content*]; *Pageants Around the World*, PAGEANT CENTER, <http://pageantcenter.com/majorpageants.html> (last visited Mar. 12, 2010). This Article focuses only on the controversies surrounding the female pageant circuit.

²⁷ Nussbaum, *supra* note 22. Child pageant gowns cost between \$500 and \$1,000. *Kids Beauty Pageants, What You'll Need to be Competitive*, HUBPAGES, <http://hubpages.com/hub/Kids-Beauty-Pageants-What-Youll-Need-to-be-Competitive> (last visited Mar. 12, 2010).

²⁸ See *Living Dolls*, *supra* note 25.

²⁹ Nussbaum, *supra* note 22. In order to prepare for pageants children practice their runway walks and stage smiles. See *Toddlers & Tiaras*, *supra* note 25. Girls wear acrylic nails, professional make-up and hair extensions or wigs to hide thin, sparse hair. *Id.* Some girls undergo tanning treatments before taking the stage. *Id.* Tanning options include chemical based spray tans or handheld tan applicators, which enable fast and convenient application immediately before a performance. *Id.*

³⁰ Nussbaum, *supra* note 22; Child Beauty Pageant, WIKIPEDIA, http://en.wikipedia.org/wiki/Child_beauty_pageant (last visited Mar. 12, 2010). "Trophies can be taller than the contestants themselves; in the 'Little Miss' pageant, the World level trophies can be 5 to 6 feet tall." *Id.* (citing OurLittleMiss.com, History, <http://www.ourlittlemiss.com/History.html> (last visited Mar. 12, 2010)).

³¹ See generally *Toddlers & Tiaras: Roni's Mom*, excerpt (TLC television broadcast 2009) [hereinafter *Roni's Mom*]; *Living Dolls*, *supra* note 25.

contestant, which covers venue price, awards and trophies, administrative costs and company profits.³² Second, there are expenses for beauty and maintenance.³³ Parents invest in professional hair stylists and make-up artists.³⁴ They purchase fake wigs and hair extensions,³⁵ expensive evening gowns³⁶ and specially-made bikini bathing suits.³⁷ Other costs include manicures, pedicures and tanning treatments.³⁸ Some parents incur high travel costs by relocating and lodging in different cities and states in order to participate in high-profile competitions.³⁹ Parents also hire pageant coaches, who charge hourly rates to polish kids' competition skills.⁴⁰ The expenses extend to dance lessons, voice training, modeling and poise coaching.⁴¹ Pageant officials report that "some families have

³² Nussbaum, *supra* note 22. For example, there is a \$545 minimum entry fee for the Universal Royalty pageant. *Id.* Additional costs include professional photographs or "headshots," commonly required upon pageant entry. *See* Associated Content, *supra* note 26. At one website, a photography studio in St. Louis, MO advertises that photography sessions are \$30 each, portrait prices begin at \$40 and digital retouching is \$50 per pose. Pageant Headshots, <http://thestudiostl.blogspot.com/2009/07/pageant-headshots.html> (Jul 13, 2009, 20:09 EST). A second website boasts that their company charges "only \$75 per look." Pageant Head Shots, <http://www.atozcolor.com/id13.html> (last visited Mar. 12, 2010).

³³ Canning & Hoffman, *supra* note 1.

³⁴ *See Toddlers & Tiaras: Holly's Mom*, excerpt (TLC television broadcast 2009) [hereinafter *Holly's Mom*] (documenting a seven year old girl having her hair chemically highlighted).

³⁵ *See generally Toddlers & Tiaras*, *supra* note 25.

³⁶ *Id.*

³⁷ *Id.* "Pageant websites claim that [the swim suit competition] is supposed to showcase the girl's athleticism and health." *WE TV*, *supra* note 7.

³⁸ *See generally Toddlers & Tiaras: Lindsay's Mom*, excerpt (TLC television broadcast 2009) [hereinafter *Lindsay's Mom*].

³⁹ *See Living Dolls*, *supra* note 25.

⁴⁰ *Id.* Telephone coaching is available at an average rate of \$50 per hour while in-person coaching is typically \$75 per hour. *See, e.g.*, Pageant Coaching Source, <http://www.pageantcoachingsource.com> (last visited Apr. 4, 2010).

⁴¹ *See generally* sources cited *supra* note 25.

PROTECTING PAGEANT PRINCESSES

745

gone into debt . . . paying [pageant] entry fees before paying the rent.”⁴²

The child pageant circuit focuses on ideals of perfection and beauty,⁴³ with an accompanying emphasis on sexuality.⁴⁴ Girls clad in revealing costumes strut and dance,⁴⁵ remove pieces of their wardrobes⁴⁶ and wink at judges.⁴⁷ Essentially, young pageant girls are trained to flirt and exploit their nascent sexuality in order to win.⁴⁸ Though commonly criticized for such outlandish and destructive practices⁴⁹ the child pageant industry enjoys heightened success and widespread popularity.⁵⁰

⁴² Canning & Apton, *supra* note 3. One mother explained “I know people who have spent so much on pageants, they lost their trailers.” William J. Cromie, *The Whys and Woes of Beauty Pageants*, June 8, 2000, <http://www.news.harvard.edu/gazette/2000/06.08/beauty.html>.

⁴³ See generally *Toddlers & Tiaras*, *supra* note 25.

⁴⁴ *Id.*

⁴⁵ See sources cited *supra* note 25.

⁴⁶ *Living Dolls*, *supra* note 25. See generally *Toddlers & Tiaras*, *supra* note 25. “Watching a two-year old parade around the stage in a velcro rip-away outfit in stripper-like fashion induces more than repulsion; it also raises questions about the limits of subjecting kids to such pornographic practices and the distorted values these pageants provide for them.” Giroux, *supra* note 17.

⁴⁷ See *Living Dolls*, *supra* note 25; *Roni’s Mom*, *supra* note 31; *Toddlers & Tiaras: Marleigh’s Mom*, excerpt (TLC television broadcast 2009) [hereinafter *Marleigh’s Mom*]. “[S]he places her hands on her hips. She drops her chin and gives the camera a coy, come-hither look . . .” Ivey Dejesus, *Commentary: “Toddlers & Tiaras Causes Psychological Harm,”* PENNLIVE.COM, Oct. 12, 2009, http://www.pennlive.com/tv/index.ssf/2009/10/commentary_toddlers_and_tiaras_causes_psychological_harm.html.

⁴⁸ See Dejesus, *supra* note 47. “[H]er eyes [are] rimmed heavy with eye liner and fake eyelashes. Her lips are thick with gloss; her hair, teased and coifed, is stiff with hair spray. She pouts and shakes her small bum. She is seductive, a sex kitten in glittery sandals. And she is all of 7.” *Id.*

⁴⁹ See generally *Toddlers & Tiara*, *supra* note 25.

⁵⁰ *Id.*; *Toddlers & Tiaras*, WIKIPEDIA, http://en.wikipedia.org/wiki/Toddlers_&_Tiaras (last visited Mar. 12, 2010). The television show began its third season on January 20, 2010, and at the time of publication of this article has aired twenty eight episodes of the show. *Id.* While more and more Americans tune in to watch child beauty pageants, adult beauty pageants have suffered losses in ratings, and ABC television network dropped the Ms.

A. Child Pageantry Permeates Common Culture

Although once referred to as a “subculture,” child pageantry is rapidly gaining notice throughout popular culture.⁵¹ While in the 1990s, child pageantry was considered a southern state phenomenon,⁵² it has spread countrywide in recent years.⁵³ In 1996, the industry gained nationwide media attention after the murder of beauty queen JonBenet Ramsey.⁵⁴ For the first time,

America pageant in 2004. *Pageant History: 2000's*, *supra* note 22. The show was subsequently picked up by cable television’s Country Music Television network. *Id.*

⁵¹ Frank Rich, *Let Me Entertain You*, N.Y. TIMES, Jan. 18, 1997, available at <http://www.nytimes.com/1997/01/18/opinion/let-me-entertain-you.html>.

⁵² See generally Rob Owen, ‘America Undercover’ Eyes Child Beauty Pageants, POST-GAZETTE.COM, May 13, 2001, <http://postgazette.com/tv/20010513owen.asp>; *The Child Beauty-Pageant Queens Who Grew Up*, TIMES ONLINE, May 25, 2008, http://women.timesonline.co.uk/tol/life_and_style/women/article3997487.ece.

⁵³ See East Coast USA State Pageants, <http://www.eastcoastusapageant.com/StatePageants/Default.htm> (last visited Feb. 23, 2010); *Toddlers & Tiaras: A Pageant Show’s In Brooklyn* (TLC television broadcast Apr. 14, 2009). The pageant craze has developed in Europe and other parts of the world. Jolanda Charles, *Exploring Child Beauty Pageants*, TRINIDAD & TOBAGO GUARDIAN, May 28, 2009, <http://guardian.co.tt/features/life/2009/05/28/exploring-child-beauty-pageants>. “[C]hild pageants remain one of the fastest growing industries in the US; and knowing how much we [in Trinidad & Tobago] look to the States as our benchmark for economic success and first world development, it is only a matter of time before this cash cow goes to the mainstream here as well.” *Id.* In Brazil, a family court judge is considering whether to allow a little girl to become the “drum corps queen” in this year’s Rio de Janeiro carnival. *Uproar in Brazil as Girl, 7, is Chosen as Samba Queen for Rio Carnival*, MAILONLINE, Feb. 8, 2010, <http://www.dailymail.co.uk/news/worldnews/article-1248973/Row-girls-Rio-carnival-role-samba-queen.html>. The role would require seven year old Julia Lira to don a revealing costume and dance for eighty minutes during the carnival’s parade. *Id.* The director of the Rio de Janeiro state Council for the Defense of Children and Adolescents stated that allowing Julia to take on this role of “queen” would “increase the treatment of children as sexual objects in Brazilian society.” *Id.*

⁵⁴ Rich, *supra* note 51; Alex Kuczynski, *Tough Times on the Children’s Pageant Circuit*, N.Y. TIMES, Sept. 13, 1998, available at

PROTECTING PAGEANT PRINCESSES

747

the American public viewed photographs and videos depicting a five year old dressed up as a twenty year old seductress.⁵⁵ Notwithstanding the alarming images and the negative publicity surrounding Ramsey's murder,⁵⁶ child pageantry recovered shortly after the tragedy.⁵⁷ Today, the controversy of child beauty contests is reflected in the fact that as the industry grows nationwide and attracts more participants, impassioned ridicule and criticism develops simultaneously throughout the media and internet.⁵⁸

The hit television show, *Toddlers & Tiaras*, airing on The Learning Channel, provides viewers a glimpse into the bizarre⁵⁹

<http://www.nytimes.com/1998/09/13/style/tough-times-on-the-children-s-pageant-circuit.html>.

⁵⁵ See generally Rich, *supra* note 51. The sight of JonBenet "dressed up like a 25-year-old, moving suggestively across the stage amounted to nothing less than kiddie porn." Giroux, *supra* note 17. "What the JonBenet Ramsey case made visible across the wide landscape of the culture was the recognition that images of six-year-olds cosmetically transformed into sultry, Lolita-like waifs were difficult to watch." *Id.*

⁵⁶ "After the JonBenet Ramsey case, it became more difficult to portray child beauty pageants as American as apple pie, embraced uncritically as simply good, clean family entertainment and defended for their civic value to the community." Giroux, *supra* note 17.

⁵⁷ See Gleick, *supra* note 4. In fact, the child pageant industry enjoyed business explosion following the Ramsey murder. Julie Scelfo, *Inside the World of Child Pageants: "Their Little League,"* NEWSWEEK, Apr. 17, 2006, available at <http://www.newsweek.com/id/46697/page/1>. Carl Dunn, CEO of Pageantry Magazine, reported JonBenet Ramsey's murder "gave [the child pageant industry] more of a national exposure and it gave people the idea that this was a business model they could be a part of. A lot of business people and possible participants became more aware of the opportunities that are out there, so the industry experienced a growth in participation." *Id.* After the Ramsey investigation, no specific connection was found between the murder and Ramsey's participation in beauty pageants. *Id.*

⁵⁸ See *Toddlers & Tiaras*, *supra* note 25. "[Watching *Toddlers & Tiaras* is] almost like a train wreck. You know you shouldn't look but you can't take your eyes away." Kristin Jordan Shamus, *'Toddlers' Show Like Train Wreck,* WICHITA EAGLE, Jan. 30, 2010, <http://www.kansas.com/2010/01/30/1159483/toddlers-show-like-train-wreck.html>.

⁵⁹ See *Toddlers & Tiaras: Paige's Parents*, excerpt (TLC television broadcast 2009). One episode depicts a four year old receiving a chiropractic

and shocking realities of pageant life.⁶⁰ The show documents the dysfunction that ensues when ambitious mothers seek to validate their daughters' beauty, thereby exposing the oddities attendant to child pageant stardom.⁶¹ The children on the show are presented in two distinct lights.⁶² Babies, some as young as two weeks old,⁶³ are shown disinterested in pageant life—crying and throwing temper tantrums.⁶⁴ Older girls are depicted stereotypically—enamored by their own reflections,⁶⁵ shouting

adjustment and a caviar hair treatment before her pageant. *See also* Associated Press, *Tiny Tots in Feature Boas Strut their Stuff in Beauty Pageants*, <http://www.lubbockonline.com/news/011697/tinytots.htm> (last visited Mar. 12, 2010) (Jo-Ann Guerin, director of All Star U.S.A. Pageants explains that she once received “two entry forms from a woman with only one child . . . the woman [later] explained she was pregnant”). “One mother of two little boys, ages two and three, glibly proclaims on one episode [of *Toddlers & Tiaras*] that ‘I always wanted to have girls, so I’m turning my boys into girls by putting them into pageants and modeling.’” Giroux, *supra* note 17 (quoting *Toddlers & Tiaras*, *supra* note 25).

⁶⁰ Giroux, *supra* note 17. “‘*Toddlers & Tiaras*’ takes its audiences backstage at child beauty pageants from all over the country, offering up to viewers a spectacularized snapshot of what kids as young as a few months old have to go through as they and their moms (and some dads) prepare them to compete in the pageants.” *Id.*

⁶¹ *Id.* “The images of these kids dressed up like little adults with the moms insisting that they be spray tanned, adorn fake nails and eyelashes, and wear more makeup on their faces than the late Tammy Faye Baker once used is harder to watch than even the cheesy dance routines in which they learn to swing their hips and flip their hair back in a shameful, highly eroticized manner.” *Id.*

⁶² *See Toddlers & Tiaras*, *supra* note 25.

⁶³ Andrea Canning & Jessica Hoffman, *On TLC’s ‘Toddlers & Tiaras,’ Little Divas Make Their Entrance: Wednesday’s Season Premiere Reveals the Ins and Outs of Pint-Size Beauty Pageants*, GOOD MORNING AMERICA, July 21, 2009, <http://a.abcnews.com/print?id=8128371>.

⁶⁴ *See, e.g.,* David Kinckley, *Kiddie Pageants: It’s Not a Pretty Picture*, N.Y. DAILY NEWS, Jan. 27, 2009, http://www.nydailynews.com/entertainment/tv/2009/01/27/2009-01-27_kiddie_pageants_its_not_a_pretty_picture-1.html; *Marleigh’s Mom*, *supra* note 47.

⁶⁵ *See Toddlers & Tiaras: Tootie’s Mom*, excerpt (TLC television broadcast 2009).

PROTECTING PAGEANT PRINCESSES

749

demands at assistants⁶⁶ and expressing ambitious contempt for their competition.⁶⁷

Parents use appearance-altering techniques to mask their little girls' flaws and imperfections.⁶⁸ They decorate their children in wigs, excessive make-up, false eyelashes and fake teeth.⁶⁹ Parents spray on dihydroxyacetone ("DHA") chemicals to give the appearance of tanned skin.⁷⁰ Some girls use whitening strips⁷¹ while others who have lost their baby teeth wear fake mouthpieces known in the pageant world as "flippers."⁷² Overall, make-up, hairstyles and provocative outfits sexualize the pre-sexual contestants.⁷³

Toddlers & Tiaras is not unique in its mission to entertain viewers by exposing American families with pageant dreams.⁷⁴ In 2006, the comedy-drama, *Little Miss Sunshine*, told the story

⁶⁶ *Id.*

⁶⁷ *Id.*

⁶⁸ See *Toddlers & Tiaras*, *supra* note 25. "One mom who is putting her daughter, Rebecca, a six-year-old, through her pre-pageant tanning insists that the tanning is necessary to hide any imperfections." Giroux, *supra* note 17.

⁶⁹ See *Toddlers & Tiaras*, *supra* note 25.

⁷⁰ *Roni's Mom*, *supra* note 31.

⁷¹ See *Toddlers & Tiaras: Aubrey's Mom*, excerpt (TLC television broadcast 2009) [hereinafter *Aubrey's Mom*]. Using whitening strips destroys natural tooth enamel. Home Tooth Bleaching Slightly Reduces Enamel Strength, SCIENCE DAILY, Apr. 15, 2009, <http://www.sciencedaily.com/releases/2009/04/090414110816.htm>.

⁷² See *Toddlers & Tiaras: Karmen's Flipper*, excerpt (TLC television broadcast 2009); *Toddlers & Tiaras: Karlee's Mom*, excerpt (TLC television broadcast 2009) [hereinafter *Karlee's Mom*]; American Dental Association: Frequently Asked Questions, http://www.ada.org/prof/resources/topics/cdt/faq_archive.pdf (last visited Mar. 12, 2010).

⁷³ See *Toddlers & Tiaras*, *supra* note 25.

⁷⁴ "Unfortunately, the ghost of *JonBenet* with its disparaging foregrounding of children as commodities, reduced to sexualized ornaments in fake tans, capped teeth and over-the-top makeup has returned with a vengeance with a slew of shows like 'Little Miss Perfect,' 'Little Beauties' and the wildly popular reality-based docudrama, 'Toddlers & Tiaras,' which is being shown with no irony intended on The Learning Channel." Giroux, *supra* note 17.

of young Olive Hoover and her family's adventures en route to the Little Miss Sunshine Pageant.⁷⁵ The movie "deftly satirized parents more than willing to dress up children as young as 4 years old like Barbie dolls."⁷⁶ Additionally, Women's Entertainment Television has created a reality show, *Little Miss Perfect*, which follows ten families in their quests for pageant crowns.⁷⁷ The craze has likewise encroached upon every-day common culture, as seen at stores that emulate beauty pageantry like *Club Libby Lu*.⁷⁸ The store hosts birthday parties where little girls play dress-up, wear make-up and have their hair styled.⁷⁹

⁷⁵ Manohla Dargis, *Little Miss Sunshine: You're Either on the Family Bus, or You're Off*, N.Y. TIMES, Jul. 26, 2006, available at <http://movies.nytimes.com/2006/07/26/movies/26suns.html>.

⁷⁶ Giroux, *supra* note 17. "[Parents] are more than willing to provide [children] with bleached and lacquered hair, fake eyelashes, flamboyant costumes and garish jewelry—'painted and pompadoured to look like mini-hookers' as they teach them to suggestively bump and grind their way to winning a plastic tiara, and if lucky, some prize money." *Id.*

⁷⁷ Little Miss Perfect—More Than Just a Pageant, Wetv.com/little-miss-perfect/index.html (last visited Mar. 12, 2010). "[Little Miss Perfect] turned out to be a reality show about women who have internalized the Global Accords Governing Fair Use of Women to the extent that they embrace an astonishing hobby. The hobby is the competitive display of their female children, whom they trick out in the most extreme, sexualized feminine drag imaginable, at an event called the Little Miss Perfect Pageant." Cheap Frills: Spinster Aunt Views Child Beauty Pageant on TV, <http://blog.iblamethepatriarchy.com/2010/01/13/cheap-frills-spinster-aunt-views-child-beauty-pageant-on-tv/> (Jan. 13, 2010) [hereinafter *Cheap Frills*].

⁷⁸ See Libby Copeland, *Glamour Babes: At Glittery and Glossy Club Libby Lu, Little Girls Play Dress-Up, for a Price*, WASH. POST, Mar. 25, 2006, <http://www.washingtonpost.com/wp-dyn/content/article/2006/03/24/AR2006032402188.html> ("Club Libby Lu sells the particular fantasy of a culture that has given itself over to klieg lights and red carpets, to cheap celebrity and expensive childhoods, to girls who dress like women and women who act like girls."). In 2009, all Club Libby Lu stores were closed down by the parent company, Saks Incorporated, because of financial difficulties. Stacey Garfinkle, *Buh-Bye, Club Libby Lu*, POST, Dec. 5, 2008, http://voices.washingtonpost.com/parenting/2008/12/goodbye_club_libby_lu.html.

⁷⁹ Garfinkle, *supra* note 78. "The problem was that the club's version of dress-up involved hooking girls as young as three on glittery tube tops, tight pants, boas, nail polish, lip gloss, tiaras and runway modeling. Princesses

PROTECTING PAGEANT PRINCESSES

751

The New York Times' Frank Rich commented, "pageantry isn't a subculture—it's our culture . . . but as long as we call it a subculture, it can remain a problem for somebody else."⁸⁰

Even as child beauty pageant exposés surface on television and the internet, the pageants themselves survive the scrutiny and continue to gain popularity.⁸¹ It is estimated that the child pageant circuit is a \$5 billion industry with over 5,000 pageants held each year.⁸² The industry has become big business, bringing in money from corporate sponsors of beauty products, make-up companies and children's fashion magazines.⁸³ Yet, despite being one of the fastest growing businesses in America,⁸⁴ the child pageant circuit is entirely unregulated.⁸⁵

According to California's Attorney General, "there is no law that prescribes how a pageant must be managed, [and] the rules are set by each contest promoter."⁸⁶ Without governmental regulation of promoters, organizers or participants, child welfare is subject to the whims of individual pageant coordinators.⁸⁷ Coordinators are disinclined to set their own regulations because the more outlandish the pageants, the more profit they receive from corporate organizers and contestants.⁸⁸ Consequently, the lack of pageant regulation increases the potential for damaging effects on the child participants.

and pop stars—hence sex—were in. So, dress-up was cool and fun, if it was sexy. No pilots or doctors or astronauts or firefighters to dress as in this place." *Id.*

⁸⁰ Rich, *supra* note 51.

⁸¹ "Providing cosmetic corrections for kids that range from toddlers to 12-year-olds, in spite of the damage it inflicts on children, seems to attract large viewing audiences." Giroux, *supra* note 17.

⁸² *Id.*

⁸³ *Id.*

⁸⁴ See Charles, *supra* note 53; Scelfo, *supra* note 57.

⁸⁵ See Nussbaum, *supra* note 22.

⁸⁶ Nussbaum, *supra* note 22. Some pageant officials make efforts to control pageant practices by setting forth eligibility conditions, and by requiring birth certificates to validate participants' ages. For the most part, however, pageants are loosely regulated. *Id.*

⁸⁷ *Id.*

⁸⁸ See *id.*

*B. The Risks Inherent in Child Pageantry**1. Psychological Effects on Pageant Contestants*

Childhood is complicated and growing up under a spotlight adds to the psychological difficulties children endure.⁸⁹ Kids who participate in beauty pageants encounter a tremendous amount of premature stress.⁹⁰ In addition to dressing up like adults,⁹¹ pageant participants face grown up pressures as well.⁹² Serious contenders practice for long hours and endure criticism and failure.⁹³ These exhaustions, coupled with constant awareness of one's physical appearance, can be taxing on a child's development.⁹⁴ Indeed, exposure to competition, sexuality⁹⁵ and extreme disappointment⁹⁶ at a young and impressionable age results in destructive effects on maturing children.⁹⁷

Competition at a young age affects children's development.⁹⁸ Child psychologists report that competition inhibits children

⁸⁹ Jessica Krieg, *There's No Business Like Show Business: Child Entertainers and the Law*, 6 U. PA. J. LAB. & EMP. L. 429, 446 (2004) (citing Marc R. Staenberg & Daniel K. Stuart, *Children As Chattels, The Disturbing Plight of Child Performers*, 32 BEVERLY HILLS B. ASS'N J. 21, 22 (1997)).

⁹⁰ See *Toddlers & Tiaras*, *supra* note 25; Canning & Hoffman, *supra* note 1.

⁹¹ See *Lindsay's Mom*, *supra* note 38.

⁹² Canning & Hoffman, *supra* note 1.

⁹³ See *Living Dolls*, *supra* note 25.

⁹⁴ See Nussbaum, *supra* note 22. "Traveling, stress and competition are everyday aspects of an adult's life . . . an average day of an adult requires at least these three aspects to make it to lunch hour . . . but at the age of eight, stress about body ideals, modeling, and trophies should not [exist]." *Id.*

⁹⁵ Charles, *supra* note 53. "[G]irls involved in pageants are promoting sexuality by their make-up, their clothes, the routines they perform, their whole demeanor, and it is the very innocence of these children that is being sexualised."

⁹⁶ See, e.g., *Toddlers & Tiaras: Morghan's Mom*, excerpt (TLC television broadcast 2009). One little girl says "when I lose I feel guilty." *Id.*

⁹⁷ Charles, *supra* note 53.

⁹⁸ Giroux, *supra* note 17.

PROTECTING PAGEANT PRINCESSES

753

from forming positive relationships with other kids.⁹⁹ Failure to engage in healthy interplay with peers leads to delayed social development and various other problems relating to a child's social capacities.¹⁰⁰ As portrayed in *Toddlers & Tiaras*, the competitive pressures manifest themselves in the girls' moods and attitudes.¹⁰¹ Some girls are depicted as irritable and cranky, while others handle the stress of competition with ruthless ambition.¹⁰² Jealousy and envy confuse children and cause rifts in relationships with friends and siblings.¹⁰³ Children in high-stress, intense and unusual situations, like beauty contests, prematurely discover truths about their abilities and limitations.¹⁰⁴ It is no surprise, therefore, that it is difficult for children to understand and internalize the pageant experience and cope accordingly.¹⁰⁵

Child specialists suggest that it is "developmentally inappropriate to teach a six year old to pose like a twenty year old model."¹⁰⁶ William Pinsoff, a clinical psychologist and president of the Family Institute at Northwestern University, has said that focusing on perfecting one's looks at such a young age "unleash[es] a whole complex of destructive self-experiences that can lead to eating disorders and all kinds of distortion in terms of body image."¹⁰⁷ The American Psychological Association Task Force on the Sexualization of Girls ("APA Task Force") warns about consequences that arise when children

⁹⁹ *Id.*

¹⁰⁰ *Id.*; see also *Exploitation in Child Beauty Pageants*, AZETE, Nov. 20, 2009, <http://www.azete.com/view/19584>. Children who spend all of their free time competing in pageants, acting and looking like adults, miss out on years of childhood activities.

¹⁰¹ See *Toddlers & Tiaras*, *supra* note 25.

¹⁰² See *id.*

¹⁰³ See Marc Ransford, *Professor Says Beauty Pageants Aren't for Kids*, BALL STATE NEWSCENTER, Feb. 17, 1997, <http://www.bsu.edu/news/article/0,1370,-1019-260,00.html>.

¹⁰⁴ Christopher C. Cianci, *Entertainment or Exploitation?: Reality Television and the Inadequate Protection of Child Participants Under the Law*, 18 S. CAL. INTERDISC. L.J. 363, 391 (2009).

¹⁰⁵ See *id.* at n.188.

¹⁰⁶ Giroux, *supra* note 17.

¹⁰⁷ Nussbaum, *supra* note 22.

engage in behaviors that are associated with sexuality.¹⁰⁸ The APA Task Force reports that there is a strong connection between young girls who encounter premature exposure to sexuality and physical appearances and the onset of eating disorders, low self-esteem, and depression.¹⁰⁹ And yet, provocative clothing and suggestive dancing¹¹⁰ permeate child pageantry.¹¹¹ Children have plenty of confusing years during puberty and adolescence to explore sexuality and worry about their appearances.¹¹² Introducing these pressures prematurely prevents kids from relishing in what should be untroubled and carefree years of early life.¹¹³ Moreover, while some children grow up to be beautiful, most grow up to be average. Thus, an early emphasis on the importance of one's looks results in further psychological harm when a developing woman cannot maintain the beauty she enjoyed as a child performer.¹¹⁴

2. *Physical Effects on Pageant Contestants*

In addition to causing severe emotional and developmental effects, pageant life takes a toll on a child's physical well being. The Food and Drug Administration ("FDA") has approved the chemical, DHA, used in spray tan products;¹¹⁵ however, the

¹⁰⁸ *Id.*

¹⁰⁹ Giroux, *supra* note 17 (citing AM. PSYCHOLOGICAL ASS'N, REPORT OF THE APA TASK FORCE ON THE SEXUALIZATION OF GIRLS 24 (2007), available at <http://www.apa.org/pi/wpo/sexualizationrep.pdf> [hereinafter *APA Task Force*]). These three psychological disorders are three of the most common mental health problems of girls and women. *Id.*

¹¹⁰ *See id.*

¹¹¹ *See generally* *Toddlers & Tiaras*, *supra* note 25.

¹¹² *See generally* Anita Gurian, *Depression in Adolescence: Does Gender Matter?*, ABOUTOURKIDS.ORG, http://www.aboutourkids.org/articles/depression_in_adolescence_does_gender_matter (last visited Mar. 12, 2010).

¹¹³ *See generally* Giroux, *supra* note 17. "[There is a] danger of undermining a child's self-confidence, especially when she loses, if the message she receives is that how she looks is the most important aspect of who she is." *Id.*

¹¹⁴ *See* Ransford, *supra* note 103.

¹¹⁵ U.S. Food and Drug Administration, *Tanning Products: Sunless*

PROTECTING PAGEANT PRINCESSES

755

FDA commonly alters its findings after further research is developed.¹¹⁶ The FDA recommends avoiding contact between the DHA and the mucous membranes such as the eyes, nose and mouth.¹¹⁷ In fact, merely inhaling the chemical can cause coughing, dizziness, fainting or rashes.¹¹⁸ Regardless of the warning, pageant parents carelessly spray DHA on their babies' faces seemingly forgetting that DHA is a potentially harmful substance.¹¹⁹ Some of the older kids are merely instructed to keep their mouths and eyes shut before they enter a tanning salon chamber unsupervised.¹²⁰ Additionally, to attain flawless skin, pageant girls shave their body hair¹²¹ and remove their facial hair¹²² years before puberty sets in.¹²³ Some parents even

Tanning Sprays and Products, <http://www.fda.gov/Radiation-Emitting-Products/RadiationEmittingProductsandProcedures/Tanning/ucm116434.htm> (last visited Mar. 12, 2010) [hereinafter *FDA, Tanning Products*].

¹¹⁶ For example, when the FDA recalled Vioxx as a dangerous prescription drug, the Deputy Director of the Office of New Drugs gave a statement before the Senate Committee on Finance, saying "Experience has shown that the full magnitude of some potential risks do not always emerge during the mandatory clinical trials conducted before approval to evaluate these products for safety and effectiveness. Occasionally, serious adverse effects are identified after approval either in post-marketing clinical trials or through spontaneous reporting of adverse events." *FDA, Merck and Vioxx: Putting Patient Safety First?: Hearing Before the S. Comm. on Finance*, 108th Cong. 161 (2004) (prepared statement of Sandra Kweder, Deputy Director, Office of New Drugs, Center for Drug Evaluation and Research, U.S. Food and Drug Administration), available at <http://finance.senate.gov/hearings/99575.pdf>.

¹¹⁷ See *FDA, Tanning Products*, *supra* note 115.

¹¹⁸ Ask Women's Health, *WOMEN'S HEALTH MAG.*, Dec. 2009, at 24. Allan Halpern, M.D., chief of dermatology service at Memorial Sloan-Kettering Cancer Center in New York, asserts that even though DHA is "FDA approved for external use, it hasn't been proved safe to breathe in." *Id.*

¹¹⁹ See *Toddlers & Tiaras: Karmen's Mom*, excerpt (TLC television broadcast 2009).

¹²⁰ See *Karlee's Mom*, *supra* note 72.

¹²¹ See *Holly's Mom*, *supra* note 34 (documenting a seven year old shaving her legs so that the spray tan applies smoothly and evenly onto her skin).

¹²² See *Toddlers & Tiaras: Haley's Mom*, excerpt (TLC television

encourage their children to have plastic surgery in order to perfect their pageant looks.¹²⁴ Younger girls undergo cosmetic ear surgeries, called otoplasties,¹²⁵ and have their teeth corrected prematurely.¹²⁶ Minors as young as fourteen undergo breast augmentations¹²⁷ to achieve fully mature looks.¹²⁸ These physical costs to a child's body are significant results of the pressure to conform in an industry where beauty is the top priority.

broadcast 2009); *see also* *Toddlers & Tiaras: Skylar's Mom*, excerpt (TLC television broadcast 2009).

¹²³ *See* *Aubrey's Mom*, *supra* note 71.

¹²⁴ *APA Task Force*, *supra* note 109, at 24. Children get their ears surgically pinned down. Over 77,000 invasive surgical procedures were performed on teens eighteen years old and younger in 2005, a 15% increase since 2000. *Id.*

¹²⁵ *See* AM. SOC'Y FOR AESTHETIC PLASTIC SURGERY, COSMETIC SURGERY NATIONAL DATA BANK STATISTICS 10 (2008), *available at* <http://www.surgery.org/sites/default/files/2008stats.pdf>. In 2008, 10,695 children under the age of eighteen received otoplasties. *Id.* There is no statistic to say that pageant children undergo otoplasties more often than girls who do not participate in pageants. Pageants' emphasis on beauty and extensive appearance-altering leads to a strong inference that pageant children are more likely to undergo this procedure, much like child actors. *See* Staenberg & Stuart, *supra* note 89.

¹²⁶ *See* *Toddlers & Tiaras*, *supra* note 25.

¹²⁷ Staenberg & Stuart, *supra* note 89, at 22 (discussing child actors and performers who undergo these surgical procedures). In 2008, 4,108 children under the age of eighteen underwent breast augmentation surgery. AM. SOC'Y FOR AESTHETIC PLASTIC SURGERY, *supra* note 125, at 10. According to the study, 50.3% of breast augmentation procedures performed in women under eighteen were performed for purely cosmetic reasons. *Id.* at 12. "The most common procedures sought by teenagers are breast enlargements, nose and ear reshaping and liposuction." *APA Task Force*, *supra* note 109, at 24.

¹²⁸ *See* Staenberg & Stuart, *supra* note 89. Although there are no statistics to assert that fourteen year old pageant girls undergo breast implantation at a higher rate than girls who do not participate in pageants, it can be presumed that this is the case considering pageantry's similarity to child actors and its emphasis on appearing mature and encouraging appearance-altering. *See* Nussbaum, *supra* note 22.

PROTECTING PAGEANT PRINCESSES

757

*3. Parents' Failure to Protect their
Pageant Stars*

Society relies on parents to act as their children's protectors, leaving them to make most personal decisions for their families.¹²⁹ As detailed above,¹³⁰ however, parents fail to protect their kids from pageantry dangers.¹³¹ Parents lured by the potential of success cannot be presumed proper guardians.¹³² Many parents live vicariously through their children and push them towards achievement to buttress their own senses of adequacy or self-worth.¹³³ Others are blinded by the prospects of money and fame,¹³⁴ or in the case of a beauty pageant a crown and a victory.¹³⁵ Oftentimes, acting as the financial manager, parents take the winnings from one pageant victory and reinvest the money to pay the fees associated with the next pageant.¹³⁶ This cycle of gambling the child's earned income leads to financial upset when the child is unable to secure a win at subsequent competitions.¹³⁷

¹²⁹ Krieg, *supra* note 89, at 429.

¹³⁰ See generally *supra* Part I(B)(1-2).

¹³¹ Nussbaum, *supra* note 22. "Charles Dunn, publisher of Pageantry Magazine [stated] 'Every year beauty pageants show off 100,000 children under the age of twelve.' Usually the mothers are the controlling authority over the competitors. The inexperienced mothers seem more pleased with any award the children receives at the pageant and less critical of the child's mistakes on stage contrary to the experienced moms who seem more disappointed that their child receives a lower-classed award than imagined." *Id.*

¹³² Krieg, *supra* note 89, at 429.

¹³³ See *The Child Beauty-Pageant Queens Who Grew Up*, *supra* note 52. In one episode of *Toddlers & Tiaras*, "a mother tells her four-year-old daughter as she is putting false eyelashes on her in preparation for the pageant competition, 'You have a receding hairline.'" Giroux, *supra* note 17.

¹³⁴ See Giroux *supra* note 17. Many parents of child pageant stars live vicariously through their children. Julie Fortie, *Pageants Have Dark Side, But the Kids Are Cute*, CANADA.COM, Aug. 5, 2009, <http://www2.canada.com/scripts/story.html?id=1861516>.

¹³⁵ See Giroux, *supra* note 17.

¹³⁶ See *Living Dolls*, *supra* note 25.

¹³⁷ See *id.*

Stage parents often neglect to put their children's best interests first¹³⁸ and fail to shield them from pageant life's deleterious effects. Some critics argue that pageant parents sacrifice their girls to a "diluted form of child pornography," dressing them to look like grown women in provocative costumes.¹³⁹ Some further contend that a parent is perverse to dismiss her child's youth and to teach her to "convey a sexuality, that, beyond the beauty pageant stage, would cause great alarm in those vested in providing for the public welfare of children."¹⁴⁰ A child in the industry has no recognized rights.¹⁴¹ Thus, if her parents fail to look out for her well being, she has no advocate at all.¹⁴² Children are society's "most vulnerable and precious asset[s],"¹⁴³ and therefore deserve comprehensive protection to compensate for that which is currently lacking.

II. THE GOVERNMENT'S ROLE IN CHILD BEAUTY PAGEANTS

A. Governments' Duties to Protect Children

The Federal Fair Labor Standards Act ("FLSA") sets conditions for child employment.¹⁴⁴ Although pageant contestants practice and perform for many hours a day and collect large sums of prize money,¹⁴⁵ they are not considered "employed" pursuant to the FLSA.¹⁴⁶ Regardless, child pageant participants

¹³⁸ Krieg, *supra* note 89, at 432.

¹³⁹ Charles, *supra* note 53.

¹⁴⁰ David W. Boles, *Pedophilia and Child Beauty Pageant Perversion*, URBAN SEMIOTIC, Aug. 18, 2006, <http://urbansemiotic.com/2006/08/18/pedophilia-and-child-beauty-pageant-perversion/>.

¹⁴¹ Giroux, *supra* note 17.

¹⁴² *Id.*

¹⁴³ *Id.*

¹⁴⁴ Fair Labor Standards Act, 29 U.S.C. § 212 (2004).

¹⁴⁵ *Inside Toddlers & Tiaras*, GOOD MORNING AMERICA, <http://abcnews.go.com/GMA/popup?id=8131172> (last visited Mar.12, 2010). Child pageant winners can collect as much as \$10,000 in prize money for one contest. *Id.*

¹⁴⁶ Fair Labor Standards Act, 29 U.S.C.A. § 203(g) (2004). ("Employ" includes to suffer or permit to work."); Nussbaum, *supra* note 22.

PROTECTING PAGEANT PRINCESSES

759

would not receive protection under the FLSA because the act provides an express exemption for minors who “perform in radio, television, movie or theatrical productions.”¹⁴⁷ Federal regulations do not protect any child who is employed in an artistic capacity.¹⁴⁸ Instead, child performers must depend on state laws for employment protection.¹⁴⁹

The states maintain the power to enact laws for the “protection of the health, safety, morals and welfare of children.”¹⁵⁰ The Supreme Court has emphasized states’ authority to safeguard children, explaining that a “democratic society rests, for its continuance, upon the healthy, well-rounded growth of young people into full maturity as citizens.”¹⁵¹ Accordingly, states have legislated to protect minors’ general health and welfare,¹⁵² particularly with regard to child employment in the entertainment industry.¹⁵³

B. Existing Regulations Protecting Child Entertainers

More than half of the fifty states have enacted laws to protect paid child performers.¹⁵⁴ California, New York and New

¹⁴⁷ Fair Labor Standards Act, 29 U.S.C. § 213(c)(3) (2004).

¹⁴⁸ *Id.*

¹⁴⁹ *Id.*

¹⁵⁰ Rachele Propson, *A Call for Statutory Regulation of Child Athletes*, 41 WAYNE L. REV. 1773, 1791 (1995) (citing *Ex parte Weber*, 86 P. 809 (Cal. 1906); *People v. Ewer*, 36 N.E. 4 (N.Y. 1894)).

¹⁵¹ Propson, *supra* note 150, at 1791–92 (citing *Prince v. Massachusetts*, 321 U.S. 158 (1944)).

¹⁵² Krieg, *supra* note 89, at 448–49. One example is the foster care system. *Id.*

¹⁵³ *Id.*

¹⁵⁴ See United States Department of Labor, Child Entertainment Laws as of January 1, 2010, <http://www.dol.gov/whd/state/childentertain.htm> (last visited Mar. 12, 2010) [hereinafter *Child Entertainment Laws*]. As of February 23, 2009, thirty-four states had enacted regulations for child entertainers. *Id.*; see, e.g., ARK. CODE ANN. § 11-12-104 (1993); CAL. CODE REGS. tit. 8, § 11753(a)–(b) (2008); N.Y. LAB. LAW § 151 (2008). In Texas, a child under fourteen must apply for authorization signed by agencies and parents. *Child Entertainment Laws, supra*, at 4. They must submit proof of

Mexico, for example, have each recognized the high number of child performers within their states and have administered guidelines to safeguard their employed child stars.¹⁵⁵ These states have set forth legislative guidelines to protect minors from the precarious situations that arise in the entertainment industry by prohibiting behaviors that are considered harmful to a child's emotional or physical well being.¹⁵⁶ For instance, child performers are protected from "dangerous stunts, appearing naked or partially naked . . . and participating in sexual scenes."¹⁵⁷ Governments' interests in guarding the health and welfare of their minors allow prohibitions on morally questionable situations.¹⁵⁸

California has the most stringent laws regulating child performers.¹⁵⁹ The state limits the conditions in which a child can work.¹⁶⁰ Before beginning preparation for a performance, a

age and a photograph. *Id.* Their employment contracts are limited to seven years in length and courts are empowered to regulate earnings, requiring some money be set aside in trusts. *Id.*

¹⁵⁵ North Carolina regulates child entertainers as well. *See Child Entertainment Laws*, *supra* note 154, at 3. Before beginning work, a child performer must present proof of age to obtain a Youth Employment Certificate from county social services, and courts are empowered to require a portion of a child's earnings to be set aside in a trust. *Id.*

¹⁵⁶ Nicole Lero, *Protecting Child Actors*, ARTICLESBASE, Dec. 4, 2008, <http://www.articlesbase.com/movies-articles/protecting-child-actors-671071.html>. ("Hollywood and the public have long recognized the special risks child performers are exposed to."); *see* Staenberg & Stuart, *supra* note 89, at 23. In 1939, the California legislature enacted the "Coogan Law," in response to the news that the mother of child star, Jackie Coogan, had spent all of his movie earnings. *Id.*

¹⁵⁷ Lero, *supra* note 156.

¹⁵⁸ *See* Propson, *supra* note 150.

¹⁵⁹ Cianci, *supra* note 104, at 376.

¹⁶⁰ CAL. CODE REGS. tit. 8, § 11753(a)-(b) (2008). ("A minor desiring to be employed in the entertainment industry must obtain an Entertainment Work Permit. The application for permit can be obtained at any of the Division's District offices. The minor must provide the information called for on the application to-wit: his/her name, age, birth date, address, sex, height, weight and color of hair and eyes. In addition, such minor must obtain verification in writing from the appropriate school district of the minor's

PROTECTING PAGEANT PRINCESSES

761

child is required to obtain an Entertainment Work Permit from the Division of Labor Commission.¹⁶¹ The California Labor Commissioner approves employment permits after receiving proper documentation from a child's school district.¹⁶² The Labor Commissioner will only grant permission if the working environment is deemed appropriate for the child.¹⁶³ The permit instructs that minors may not work more than eight hours per day or forty hours per week.¹⁶⁴ There are age-specific guidelines regulating how many hours a child is permitted to work.¹⁶⁵ For example, an infant may not be in any performance before she is fifteen days old,¹⁶⁶ and any infant under six months old may work no longer than twenty minutes at a time.¹⁶⁷ A child performer's income is regulated as well,¹⁶⁸ in order to protect against manipulative employers who might cheat children out of

school record and attendance, and must satisfactorily meet the requirements of that school district with respect to age, school record, attendance and health The division may require in appropriate cases a physical examination of the minor to ensure that the minor's physical condition permits the minor to perform the work or activity called for by the Permit to Employ Minor and Entertainment Work Permit."). *Id.*

¹⁶¹ *Child Entertainment Laws*, *supra* note 154; *see also* CAL. CODE REGS. tit. 8, § 11753(a)-(b) (2008). ("The permit shall be for a period not to exceed six (6) months, and application for renewal must be made in the same manner and under the same conditions as the original permit.").

¹⁶² CAL. CODE REGS. tit. 8, § 11753(a)-(b) (2008).

¹⁶³ Cianci, *supra* note 104, at 377. ("Consent will only be granted by the Labor Commissioner if the work is deemed proper, the conditions of employment are not detrimental to the minor's health, and the minor's education would not be neglected or hampered by such employment.") (quoting Erica Siegel, *When Parental Interference Goes Too Far: The Need For Adequate Protection of Child Entertainers and Athletes*, 18 CARDOZO ARTS & ENT. L.J. 427, 466-67 (2000)).

¹⁶⁴ CAL. LAB. CODE § 1308.7(a).

¹⁶⁵ Cianci, *supra* note 104, at 379.

¹⁶⁶ CAL. CODE REGS. tit. 8, § 11753(a)-(f) (2008)

¹⁶⁷ Cianci, *supra* note 104, at 378 (describing the maximum working time for children as "two hours for a minor under two years of age, three hours for a minor under six years of age, four hours for a minor under nine years of age, five hours for a minor under sixteen years of age").

¹⁶⁸ *See* Siegel, *supra* note 163, at 439.

earned income.¹⁶⁹ Financial regulations further protect children from parents who use their kids' earnings for their own advantage.¹⁷⁰ Parents are required to be on set with their children at all times.¹⁷¹ A studio teacher is assigned to each child and is responsible for ensuring the child's well being.¹⁷² The teacher's responsibilities include submitting reports documenting the child's activities, emotional states and general demeanor.¹⁷³ If the teacher suspects that a situation is damaging to the child's well being, the teacher is authorized to remove the child from the work environment.¹⁷⁴

Similarly, New York has extensive regulations regarding child actors and performers.¹⁷⁵ In 2003, the New York State Legislature passed the Child Performer Education and Trust Act, which received notable applause from the leaders within the entertainment industry.¹⁷⁶ The act expands the scope of regulation,¹⁷⁷ encompassing work permits, trust funds and educational requirements.¹⁷⁸ Minors must obtain employment

¹⁶⁹ *Id.*

¹⁷⁰ See Siegel, *supra* note 163, at 438-39.

¹⁷¹ Cianci, *supra* note 104, at 377.

¹⁷² *Id.* at 378.

¹⁷³ *Id.*

¹⁷⁴ *Id.*

¹⁷⁵ See N.Y. ARTS & CULT. AFF. LAW § 35.01 (2004) ("A child performer's employment permit will only be valid for six months from the date of issuance. The permit application must contain the true and stage name of the child, the age, and the name and address of the child's guardian, along with the written consent of the parent or guardian. Finally, evidence of the child's academic report must be included to ensure the child is performing satisfactorily in school, as determined by the child's school.").

¹⁷⁶ Krieg, *supra* note 89, at 441. The Act's passage received applause from both the president of the Screen Actors Guild, Melissa Gilbert, and the president of the American Federation of Television and Radio Artists, John Connolly.

¹⁷⁷ See *id.*; see also Roger Armbrust, *Governor Pataki Signs Child-Actor Bill: New NYS Law Protects Young Performers' Wages, Education*, BACK STAGE, Oct. 10, 2003, <http://www.allbusiness.com/services/amusement-recreation-services/4570739-1.html>.

¹⁷⁸ N.Y. ARTS & CULT. AFF. LAW § 35.01 (2004); Cianci, *supra* note 104, at 379.

PROTECTING PAGEANT PRINCESSES

763

permits before beginning work.¹⁷⁹ In order to secure a work permit, a child must provide written parental consent, proof of age and a certificate of physical fitness.¹⁸⁰ Permits are not approved for work deemed harmful to the child's welfare, development or education.¹⁸¹ New York law regulates a child performer's income¹⁸² to assure the money is saved or used according to the child's best interests.¹⁸³

New York has also enacted legislation regarding child performers' employers.¹⁸⁴ Employers are required to obtain a certificate of eligibility before hiring children,¹⁸⁵ and subsequently, must keep all minors' permits and certificates on file, open to inspection at all times.¹⁸⁶ The regulations require that no permit will allow a child to participate in any behavior that is "harmful to the welfare, development or proper education of such child."¹⁸⁷ The law further explains that the New York Department of Labor may revoke a child's work permit for good cause shown.¹⁸⁸

Recently, other states have enacted strict legislation controlling child labor in the entertainment industry.¹⁸⁹ For instance, before 2007, New Mexico had loose regulations in

¹⁷⁹ N.Y. LAB. LAW § 151 (2008).

¹⁸⁰ N.Y. LAB. LAW § 151(1)(e) (2008).

¹⁸¹ N.Y. LAB. LAW § 151(1)(e) (2008) ("No permit shall allow a child to participate in an exhibition, rehearsal or performance which is harmful to the welfare, development or proper education of the child. A permit may be revoked by the department for good cause.").

¹⁸² See, e.g., N.Y. EST. POWERS & TRUSTS LAW §§ 7-7.1 (2008).

¹⁸³ See Cianci, *supra* note 104, at 380.

¹⁸⁴ *Id.* at 379-80.

¹⁸⁵ *Id.* at 379.

¹⁸⁶ N.Y. LAB. LAW § 151(3) (2008) ("[F]iles shall be open at all times to the inspection of school attendance and probation officers, the state board of education, and the [Department of Labor]."); N.Y. LAB. LAW § 151(5) (2008) ("Failure by employers to produce either a performer's permit or their own certificate of eligibility upon request by the state's Department of Labor is prima facie evidence of illegal employment.").

¹⁸⁷ N.Y. LAB. LAW § 151(e) (2008).

¹⁸⁸ *Id.*

¹⁸⁹ See Cianci, *supra* note 104, at 380.

place because of a presumption that entertainment productions were already handled in accordance with the minors' best interests.¹⁹⁰ Yet, many out of state production companies traveled to New Mexico to take advantage of the lenient labor laws.¹⁹¹ In 2007, however, the New Mexico State Legislature passed various amendments to the state's Child Labor Act, which brought its regulations more closely in line with those of California and New York.¹⁹² New Mexico now regulates the number of hours children may work and requires work permits, which are issued only if the work is deemed safe.¹⁹³

Under states' child labor laws, child pageant participants are not "working," even though they train and perform for many hours and receive prize money and scholarships.¹⁹⁴ These performing kids, however, deserve the benefits of government protection similar to that enjoyed by their employed counterparts, especially considering the comparable levels of competition and stress inherent in their activities.¹⁹⁵

¹⁹⁰ *Id.*

¹⁹¹ See generally James Hibberd, *CBS Crosses the Line. What's Next?*, A MINOR CONSIDERATION, http://www.minorcon.org/cbs_crosses_the_line.html (last visited Mar. 21, 2010); Jim Benson, *Kid Nation Producer Responds to Critics of New CBS Series*, BROADCASTING & CABLE, July 30, 2010, http://www.broadcastingcable.com/article/109750-Kid_Nation_Producer_Responds_to_Critics_of_New_CBS_Series.php.

¹⁹² 2007 N.M. LAWS CH. 257 (S.B. 175); Cianci, *supra* note 104, at 380.

¹⁹³ 2007 N.M. LAWS CH. 257 (S.B. 175).

¹⁹⁴ See Nussbaum, *supra* note 22.

¹⁹⁵ See Propson, *supra* note 150, at 1786–87 (1995). Child actors also benefit from the interests of performers' rights advocacy groups and talent unions. See Cianci, *supra* note 104, at 382. Groups like the Screen Actors Guild ("SAG") and the American Federation of Television and Radio Artists ("AFTRA") provide support and assistance to children in show business. *Id.* BizParentz Foundation researches industry solutions and creates legislative initiatives to protect child performers' rights. BizParentz Foundation, <http://www.bizparentz.org/> (last visited Mar. 12, 2010). Likewise, SAG works to help children negotiate fair wages and safe working conditions, while also providing industry parents with support and guidance. Screen Actors Guild: Young Performers, <http://www.sag.org/content/young-performers> (last visited Mar. 12, 2010).

PROTECTING PAGEANT PRINCESSES

765

C. Child Pageant Participants are Child Entertainers

Child pageant contestants are entitled to the same protection provided to child actors.¹⁹⁶ The scope of the term “child entertainer” can and should include pageant contestants, despite the lack of a traditional employee-employer relationship. The obstacles facing children in the entertainment industry are the same facing those performing in child beauty pageants: working conditions that test children’s mental and physical coping abilities and greedy or misguided parents.¹⁹⁷ The comparable effects on a child’s mind, body and self-esteem call for state protections similar to those offered through child entertainment labor laws.

Pageant participants who are involved in a performing art that combines modeling, acting, dancing and singing should be considered entertainers.¹⁹⁸ Contestants provide a thrill to viewers by performing in front of large audiences both live and on television.¹⁹⁹ Despite the fact that many people feel disturbed by

¹⁹⁶ Pageant parents argue that pageants foster confidence and self-esteem and they object to government involvement. Michael Inbar, *Parents Defend Putting Their Kids in Beauty Pageants*, TODAYSHOW.COM, Jan. 27, 2009, <http://today.msnbc.msn.com/id/28873086/>. They contend that pageants enable children to conquer shyness and become comfortable in social situations. *Id.* In response to parents’ arguments in support of pageants, Henry A. Giroux states, “as if defining children largely by what they lack and celebrating utterly regressive sexist standards of aesthetic perfection promotes self-esteem.” Giroux, *supra* note 17. Other parents argue that pageants are extracurricular activities, similar to competitive sports. Charles, *supra* note 53. “[A]s far as the participants *themselves* are concerned, this kiddie burlesque has at least the same (if not greater) philosophic value as playing soccer or performing at a piano recital. An adult spectator may not credit it, but, given the porn-dominated zeitgeist, competing for rhinestone crowns by transforming into idealized miniature sexbots is a perfectly valid and fulfilling pursuit that has, *from the perspective of the kid*, nothing to do with seduction or titillation, and everything to do with plain old human creative impulses.” *Cheap Frills*, *supra* note 77.

¹⁹⁷ Krieg, *supra* note 89, at 445.

¹⁹⁸ See *Toddlers & Tiaras*, *supra* note 25.

¹⁹⁹ See *id.*

the images of child beauty queens,²⁰⁰ the ratings for shows like *Toddlers & Tiaras* continue to rise.²⁰¹ As the child pageant circuit gains television viewership, the performers themselves are increasingly viewed as entertainers.²⁰² This increased publicity has contributed to the industry's billion-dollar success.²⁰³ The child beauty pageant has become a Hollywood-like entity and child competitors have become child entertainers. Unfortunately, as child pageants commercialize and become integral parts of show business, the risks to the participating children escalate.²⁰⁴

A child pageant contestant's needs closely resemble those of a child actor, model or singer. Both entertainers and pageant contestants face exploitation by parents, coaches and employers/pageant facilitators. In both industries, the adults involved are focused on the prospect of fame and fortune. Therefore, if child actors, models and singers receive protection under states' entertainment laws, it is logical to extend the same protections to child pageant contestants.²⁰⁵

Parents of serious pageant competitors hire coaches to train

²⁰⁰ See, e.g., *Exploitation in Child Beauty Pageants*, *supra* note 100; Shamus, *supra* note 58; Kinckley, *supra* note 64. People have expressed distaste for *Toddlers & Tiaras* by establishing groups on social networking sites pressuring TLC to drop the show. DeJesus, *supra* note 47. One Facebook group, "Help Ban the TLC Show, *Toddlers & Tiaras*," has more than 5,500 members. *Id.* See Facebook, Help Ban the TLC Show "Toddlers and Tiaras," (search "help ban the TLC show *Toddlers and Tiaras*"; then follow hyperlink under "Groups") (last visited Mar. 5, 2010).

²⁰¹ Memorandum from the Nielsen Company to The Learning Channel (Feb. 23, 2010) (on file with author). "The entertainment value of shows such as '*Toddlers & Tiaras*' seems to be measured in how high their freak quotient can go. Dressing young children in hideous fashion barely suitable for 30-year-olds is both disturbing and fodder for reality-TV voyeurism." Giroux, *supra* note 17.

²⁰² See *Toddlers & Tiaras*, *supra* note 25.

²⁰³ See Powerhouse Books Summary, High Glitz, <http://www.powerhousebooks.com/book/1114> (last visited Mar. 12, 2010).

²⁰⁴ See Giroux, *supra* note 17.

²⁰⁵ See N.Y. ARTS & CULT. AFF. LAW § 35.01 (2004); CAL. CODE REGS. tit. 8, § 11753(a)-(b) (2008); 2007 N.M. LAWS CH. 257 (S.B. 175).

PROTECTING PAGEANT PRINCESSES

767

their daughters in perfecting their pageantry skills.²⁰⁶ Similar to the coaches who work with child actors, these individuals are engaged in a profession in which income is dependent upon the client's achievements.²⁰⁷ A pageant coach's reputation, career and financial means are contingent upon the client's success.²⁰⁸ A coach does not always have the child's best interest in mind while administering guidance and training.²⁰⁹ Specifically, the coach may feel a tension between acting as a positive mentor and a strong urge to see the child proceed to the next level of competition.²¹⁰ Coaches' practices can be borderline destructive, and yet there is no protection available to safeguard the kids. In these situations, parents who desire victories are hesitant to step in and interfere with the coaches' harmful actions.²¹¹

In addition, the pageant circuit's competitive nature matches the environment of auditions and casting calls in the traditional entertainment world. While young girls working in modeling and acting face pressure to be thin and beautiful, the burden of maintaining one's looks and weight for pageantry purposes are arguably worse. Individuality and a unique look are viewed favorably in the traditional entertainment industry,²¹² but the pageant world promotes one standard appearance: "spray-tanned, made-up, and groomed to a glossy perfection."²¹³ To

²⁰⁶ See *Toddlers & Tiaras*, *supra* note 25; *Living Dolls*, *supra* note 25.

²⁰⁷ See generally Propson, *supra* note 150, at 1786–87 (comparing child athletes to child actors in support of notion that child athletes deserve government protection). Although Propson focuses on child athletes, this article uses similar logic to assert that child pageant contestants are in need of government regulation as well.

²⁰⁸ See generally *id.*

²⁰⁹ See *Toddlers & Tiaras*, *supra* note 25.

²¹⁰ See generally Propson, *supra* note 150, at 1786–87.

²¹¹ See *Toddlers & Tiaras: Marissa's Mom*, excerpt (TLC television broadcast 2009).

²¹² See generally Posting of Paige Newman to Test Pattern, MSNBC's Entertainment Blog, <http://testpattern.msnbc.msn.com/archive/2009/05/06/1923490.aspx> (May 6, 2009, 6:00 EST).

²¹³ See *Toddlers & Tiaras*, *supra* note 25; *Living Dolls*, *supra* note 25. Each contestant winds up looking like a clone of her counterparts. See *id.* "There is nothing natural or child-like about these girls anymore. They are

attain this ideal look, parents and coaches alter everything visible on a child's body,²¹⁴ thereby deteriorating her self-esteem.²¹⁵ Just like child actors and dancers, child pageant stars struggle with eating disorders and other psychological difficulties.²¹⁶ Moreover, exhausting days spent rehearsing and performing threaten the health and safety of child pageant stars as they do child actors and dancers.²¹⁷

While states have addressed the harmful effects on child performers, the established protections offer nothing for child pageant participants.²¹⁸ Courts maintain the power to broadly construe the statutory definition of child entertainer, which would enable child pageant performers to enjoy child actors' protections. For example, New York protects children engaged in "artistic or creative services," which include, and are not limited to, acting, dancing, music, comedy and singing.²¹⁹ The statute defines "child performer" as a minor who "agrees to render artistic or creative services."²²⁰ Certainly the pageant child who acts, dances and sings on stage in front of audiences and television cameras is rendering artistic and creative services. Although a pageant participant should be covered under New York's broad child performer definition, she is excluded because she does not work pursuant to a contract.²²¹ Similarly, New

taught to prance down a runway, to smile like a lobotomized zombie and twirl while wearing a ruffled bathing suit. The contests are not about individuality. They're about producing the best show pony that you possibly can." *WE TV*, *supra* note 7.

²¹⁴ "[Pageant girls] look like they were dipped in a mixture of glucose and polyurethane, polished with an orbital waxer, and finished off with a couple of cans of Aquanet." *Cheap Frills*, *supra* note 77.

²¹⁵ See *supra* Part I. B. 1.

²¹⁶ Giroux, *supra* note 17; Krieg, *supra* note 89, at 446-47.

²¹⁷ See generally Staenberg & Stuart, *supra* note 89; *Toddlers & Tiaras*, *supra* note 25.

²¹⁸ Nussbaum, *supra* note 22.

²¹⁹ N.Y. LAB. LAW § 151(1) (2008).

²²⁰ N.Y. LAB. LAW § 151(2) (2008).

²²¹ Now that child pageant contestants star on reality television, some may soon enjoy protections provided to child actors if contractual relationships can be established according to child actor laws already in

PROTECTING PAGEANT PRINCESSES

769

Mexico law defines “performer” as a minor “employed to act” or otherwise one who “*participates* in the performing arts, including motion picture, theatrical, radio, or television productions.”²²² A pageant girl clearly *participates* in the performing arts but because she is not employed, she receives no protection under New Mexico’s law.²²³ This is an inexcusable gap in the law. States must either expand statutory schemes or establish separate and distinct guidelines specific for child beauty pageants and participants.

III. ENDING THE EXPLOITATION

A. North Carolina’s Initial Effort to Examine the Necessity of State Intervention

North Carolina State Representative Annie W. Mobley has initiated the first step in regulating child pageants.²²⁴ On April 9, 2009, Mobley, along with Representative Earline W. Parmon, proposed House Bill 1348, which will establish a study committee to examine child pageant practices.²²⁵ As of April 29, 2009, the bill passed the first reading and was reported favorable by the Committee on Juvenile Justice, Rules Committee, Calendar Committee and Operations of the House.²²⁶ The bill has subsequently been re-referred to these committees.²²⁷ If the bill passes, the Joint Legislative Study Committee will be comprised of ten legislators²²⁸ who will research and make determinations as to child beauty pageant regulation for youth under the age of thirteen.²²⁹ The Committee will address the

place. *See generally* Cianci, *supra* note 104.

²²² 2007 N.M. LAWS Ch. 257 (S.B. 175) (emphasis added).

²²³ *See id.*

²²⁴ *H.R. 1348*, *supra* note 18.

²²⁵ *Id.* (the short title is “Study Regulation/Beauty Pageants/Under 13 Yrs.”).

²²⁶ *Id.*

²²⁷ *Id.*

²²⁸ *Id.*

²²⁹ *Id.*

following six factors: (1) how children under the age of thirteen who participate in beauty pageants are affected, both positively and negatively; (2) whether there is any data regarding regulations of the pageant industry for children under thirteen, within the state of North Carolina; (3) whether there is any legislation adopted by other states regulating children's beauty pageants for youth under the age of thirteen; (4) which agency would be appropriate to regulate beauty pageants for children under the age of thirteen; (5) what criteria should be used to regulate children's beauty pageants, including "minimum age requirements of participants, requirements for parental involvement and any restrictions as related to the use of excessive make up and competition focus areas;" and (6) "[a]ny other issues the Committee considers relevant to the study."²³⁰ The findings of the study will be reported to the 2010 Regular Session of the 2009 General Assembly.²³¹

Although only a study bill, House Bill 1348's proposal is an important step towards protecting North Carolina children swept up in the pageant craze. The established committee will research and analyze information relevant to the pageant industry. The committee will likely consult with child specialists and psychologists in order to determine the developmental effects on pageant participants. The psychologists' reports will educate the committee as to the harm that threatens these children. This information will enable the committee to determine which aspects of pageantry need to be heavily regulated or eliminated altogether. The committee will then research individual pageant organizations within North Carolina to assess whether private organizers' rules are effective and properly followed.²³² The committee will also seek data on whether other states have begun an inquiry into the need for intervention into the pageant industry.²³³ This research will allow the committee to familiarize itself with local and national pageant practices, further guiding

²³⁰ *Id.*

²³¹ *Id.*

²³² *Id.*

²³³ *See id.*

PROTECTING PAGEANT PRINCESSES

771

them in proposing regulation.²³⁴ After studying pageant trends, the committee will be better equipped to determine which agency can best oversee child pageantry and enforce possible future government regulations. The committee members will be cognizant of which specific regulations should be established in order to best protect the children's interests. For example, they will be able to determine whether age requirements or parental guidelines should be imposed. The bill will be the country's first legislative effort in safeguarding minors from the exploitive effects of child pageantry.

B. Suggestions for State Regulation

Should North Carolina find that protections are necessary to safeguard child pageant contestants, the state should implement the following procedures. The regulatory scheme should include provisions for safe working conditions and psychological and emotional counseling. Financial counseling should be provided and encouraged to educate parents as to the ethical and financial wisdom of reinvesting their child's winnings back into the pageant circuit. State governments should institute guidelines for the number of hours that a child may practice, prepare and perform. Lastly, regulations should limit the excessive use of appearance-altering techniques and adult-like costumes.

State governments should institute guidelines governing pageant promoters and coordinators. Organizers should be required to obtain government certification permitting them to work with children. An application process would publicize organizers' affairs and incentivize them to protect children's interests. Public records providing information as to which organizers are well established and adhere to regulations would benefit parents seeking the safest environment for their children. Some states have enacted a bonding law requiring that new pageant organizers entering the industry place a deposit to guarantee the safety and security of their participants.²³⁵ This law

²³⁴ *See id.*

²³⁵ Nussbaum, *supra* note 22.

should be adopted by all states.

States should consider requiring each pageant organizer to establish a safety board to address issues relating to the health and welfare of its participants. These bodies would investigate pageant practices and set forth individual rules specific to their contests. For example, a pageant board would oversee makeup and appearance-altering techniques used and then regulate such practices. Each pageant's board would be required to publicize its guidelines so that organizers would be encouraged to foster healthy environments. Additionally, public guidelines would educate parents about appropriate safeguards for their children.

State legislation should be broad enough to cover the spectrum of child experiences on the pageant circuit.²³⁶ The stress of preparation and performance is unique to each child.²³⁷ Thus, the regulations must adequately address those who thrive and those who face hardship. One way to handle the children's specific needs is to provide state-enforced supervision.²³⁸ The government should require an individual advisor, unaffiliated with the pageant industry, to advocate for each child and represent her best interests. Similar to California's studio teachers,²³⁹ these individuals would be responsible to assess each situation. The child's representative would be in the best position to provide objective judgment on the child's affairs.²⁴⁰

Each child should be required to undergo psychological and emotional testing. Specifically, she should have a thorough interview so that a psychologist can determine whether she copes appropriately with the pageant lifestyle. A psychologist would be able to evaluate whether intense judgment and competition are healthy challenges, or whether they are detrimental to the child's well being. The interview would provide a unique opportunity for the child to express her wishes openly, without her parents' influence. Pageant parents with particularly young children

²³⁶ See generally Lero, *supra* note 156.

²³⁷ *Id.*

²³⁸ See Cianci, *supra* note 104, at 389–90.

²³⁹ See *id.* at 381.

²⁴⁰ See *id.* at 389–90.

PROTECTING PAGEANT PRINCESSES

773

should likewise be required to participate in candid sessions with mental health workers, in order to cultivate communication about the potential risks involved in pageantry. Education and awareness will encourage parents to develop healthy and realistic expectations, while mandatory psychological and emotional evaluations will deter some parents from compelling their children to enter into or continue participation in the pageant circuit.

Further regulations should specifically provide for protection of particularly young children. Infants younger than two weeks old should be prohibited from participating in pageants, much as they are prohibited from acting in California.²⁴¹ Babies between the ages of two weeks and one year should only be permitted to perform for minimal time periods. Pageant preparations should likewise be limited. Make-up and hair extensions should be prohibited for babies younger than two years old and costumes, especially those worn in swimwear competitions, should be regulated. This would prevent children from appearing partially naked, which is prohibited by states' laws governing child actors.²⁴² These suggested regulations would further the interests of child participants by protecting them from exploitation in the pageant world.

IV. CONCLUSION

Society depends on parents to love and supervise their children.²⁴³ When a parent neglects to act in a child's best interest, the state is authorized to intervene and protect the minor.²⁴⁴ It is time for state governments to recognize that this

²⁴¹ See Siegel *supra* note 163, at 453.

²⁴² Lero, *supra* 156.

²⁴³ Siegel, *supra* note 163, at 466 & n.257 (citing E-mail from Paul Petersen, President, A Minor Consideration (Jan. 6, 1999) (on file with the Cardozo Arts & Entertainment Law Journal)). "There are no rules . . . [sic] and the ancient dependency on parental supervision colored with love and genuine sensitivity to the needs of that most precious gift, a child, is demonstrably lacking."

²⁴⁴ Prince v. Massachusetts, 321 U.S. 158 (1944).

broad authority enables them to condemn the exploitation of children in any capacity.²⁴⁵ Government regulations of child beauty pageants are essential to the growth and development of children in order for them to attain high self-esteem and healthy aspirations. States should follow North Carolina's commendable lead and begin protecting pageant princesses through statutory regulation. The states should supervise pageant organizers and promoters, provide safe working conditions and require psychological and financial counseling. Action is necessary not only to protect pageant winners and pageant losers, but to protect all of society's precious children.²⁴⁶

²⁴⁵ *See id.*

²⁴⁶ Propson, *supra* note 150, at 1791-92; Kendrick, *supra* note 11.