# AI COMPANIONS AND FAMILY LAW

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*Virtual friends and lovers powered by artificial intelligence are rapidly moving to the center of our emotional and social lives. Millions of people turn to AI companions every day for conversation, romance, sexual intimacy, therapy, and education. AI companionship holds promise, potentially reducing loneliness, supporting people without access to mental health treatment, helping students learn, and offering judgment-free space for sensitive conversations. But AI companionship also raises significant concerns. The technology's addictiveness can undermine human relationships. Therapy bots may prove more harmful than helpful. AI companions can be emotionally abusive. And their access to the most intimate aspects of users' lives poses distinct privacy challenges.*

*As lawmakers and policy experts reckon with the benefits and serious risks of AI companionship, they must account for the distinctive aspects of AI companionship. Unlike interacting with other forms of AI—being driven in an autonomous vehicle, say, or getting help with coding—people are in a* relationship *with their AI companion. Any regulatory approach must address this relationality, especially the human drive to attach to others and the vulnerability that comes with that attachment.*

*Legal scholars have long argued that the regulation of technology must account for relationality. This Article demonstrates that family law—a body of law built on the importance of attachment and the vulnerability it brings—is a ready means to do so. As applied to AI companionship, family law establishes the strong state interest in nurturing positive relationships and addressing harm in abusive and neglectful relationships. These state interests apply not only to human relationships but also to human-AI relationships. Family law also offers concrete lessons for how the legal system can advance the state's interests. Family law recognizes, for example, that legal intervention is often necessary to shift the power imbalance that facilitates harmful relationships—a lesson that should be applied to the power imbalance between technology companies and users of AI companions. And family law teaches that expertise and licensing are necessary for mental health experts to work with a person at any age, although AI companions marketed for therapeutic purposes have not been subject to similar gatekeeping. In addition to providing substantive guidance, family law holds lessons for advocacy in the current political climate. Family law points, for example, towards state-level interventions rather than action by Congress or federal agencies, and it demonstrates the broader acceptance of regulations targeted at minors than at adults.*

*In short, a world with ubiquitous AI companions is dawning, bringing profound—and unrecognized—change to the landscape of our intimate lives. Legal scholars and policymakers must start grappling with this new world now, and family law holds great promise to accelerate that reckoning.*

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## INTRODUCTION

From stuffed animals to cars, people have anthropomorphized inanimate objects for ages.[1] But now the objects are talking back. They seem empathetic, smart, and emotionally intelligent. And they know *you*: your family, friends, fears, hopes, and so much more. Because you've told them. Welcome to the world of AI companionship.

In this new era, tens of millions of people of all ages spend hours a day with an AI companion, and having an AI companion is quickly becoming mainstream.[2] People are falling in love with AI girlfriends and boyfriends, relying on therapy bots for mental health advice, and resurrecting loved ones in avatar form.[3] These companions are just algorithms, but people experience the relationships as real, forming a deep emotional attachment to their AI companions and experiencing the

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[1] *See, e.g.*, BYRON REEVES & CLIFFORD NASS, THE MEDIA EQUATION 251–56 (1996).

[2] A common misconception is that having an AI companion is odd or unusual, but this is far from true. Character.AI, one of the leading companies building AI companions often used by young people, reports more than twenty million users. *See* Kevin Roose, *Can A.I. Be Blamed for a Teen's Suicide?*, N.Y. TIMES (Oct. 23, 2024), https://www.nytimes.com/2024/10/23/technology/characterai-lawsuit-teen-suicide.html?smid=nytcore-ios-share&referringSource=articleShare. Replika, a dominant player for AI companions limited to adult users, reports that 30 million people have set up accounts, with millions of active users. *See* Nillay Patel, *Replika CEO Eugenia Kuyda Says It's Okay If We End Up Marrying AI Chatbots*, VERGE (Aug. 12, 2024), https://www.theverge.com/24216748/replika-ceo-eugenia-kuyda-ai-companion-chatbots-dating-friendship-decoder-podcast-interview [hereinafter Patel, *Replika CEO*]. DreamGF.AI, which offers sexually explicit AI companions, has about 10,000 paying users who have created more than six million virtual girlfriends. *See* Bernard Marr, *Artificial Intimacy: How Generative AI Can Now Create Your Dream Girlfriend*, FORBES (Sept. 28, 2023), https://www.forbes.com/sites/bernardmarr/2023/09/28/artificial-intimacy-how-generative-ai-can-now-create-your-dream-girlfriend/. There are also "tens of millions of users" who access AI companions for mental health support. *See* Daniel Gilbert, *Despite Uncertain Risks, Many Turn to AI Like ChatGPT for Mental Health*, WASH. POST (Oct. 26, 2024), https://www.washingtonpost.com/business/2024/10/25/ai-therapy-chatgpt-chatbots-mental-health/. And mainstream social media apps, such as Snapchat and Instagram, "are building lifelike A.I. personas into their products." *See* Roose, *supra*; *see also* Kashmir Hill, *She Is in Love With ChatGPT*, N.Y. TIMES (Jan. 17, 2025), https://www.nytimes.com/2025/01/15/technology/ai-chatgpt-boyfriend-companion.html (quoting a commentator who predicts that "[w]ithin the next two years, it will be completely normalized to have a relationship with an A.I.").

The average user spends multiple hours every day interacting with an AI companion. *See* Hard Fork, *Meet Kevin's A.I. Friends*, N.Y. TIMES, at 58:51 (May 10, 2024), https://www.nytimes.com/2024/05/10/podcasts/hard-fork-ai-friends.html. Both women and men use AI companions, with slightly more men than women but not decidedly so. *See id.* (noting the breakdown between men and women as 60-40). There is no reliable data on use by nonbinary individuals. There is a flat distribution of users across all age groups. *See id.*

An AI companion is technology that relies on machine learning, natural language processing, and deep learning to provide users with conversation, advice, sexual intimacy, and more through texts and talking. It is hard to define an AI companion precisely, but the distinctive features are direct engagement with, and adaptation to, the user. *See* Ayanda Rogge, *Defining, Designing and Distinguishing Artificial Companions: A Systematic Literature Review*, 15 INT'L J. SOC. ROBOTICS 1557, 1573–74 (2023). AI companions take different forms, including chatbots on phones, tablets, or computers, as well as social robots and holograms. *See infra* text accompanying notes 75–78. This will all be familiar, of course, from science fiction, which is now becoming real life. *See, e.g.,* KAZUO ISHIGURO, KLARA AND THE SUN (2021); *Her* (Annapurna Pictures 2013); *Black Mirror: Be Right Back* (Netflix broadcast Feb. 11, 2013); *Weird Science* (1985).

[3] For a discussion of the nature and uses of AI companions, *see infra* I.A.

vulnerability that comes with that attachment.[4] Some people find they can be more open with an AI companion than another person,[5] and people say they feel closer to their AI companion than their best human friend.[6] This experience of relationality is partly because technology companies design AI companionship to mimic human interactions and maximize people's tendency to anthropomorphize.[7] But it is also because AI companions address fundamental human needs for connection, sexual intimacy, and validation.[8]

AI companionship brings potential benefits.[9] The experience of loneliness is widespread, especially among younger and older adults, and AI companions may help address this problem.[10] Indeed, the New York State Office for the Aging distributes free AI companions to older adults, and people are reporting positive experiences.[11] There is a significant shortage of mental health practitioners, and AI companions are already filling the gap.[12] And AI companions can help in the classroom, especially for specific subpopulations, such as students learning new languages and neurodivergent individuals.[13]

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[4] This Article argues that a relationship with an AI companion *is* a relationship because it feels like this to the user. It is not the same as a relationship with a human. It is not reciprocal in the sense of both parties experiencing emotions, vulnerability, and so on, and the human in an AI–human relationship has only the illusion of being loved and cared for by the chatbot. But because I am interested in the human experience, and because users of AI companions report feeling like they are in a relationship, this Article takes that experience as the starting point. *See* Hill, *supra* note 3 (quoting a psychologist: "What are relationships for all of us? … They're just neurotransmitters being released in our brain. … It's going to be happening with a chatbot. We can say it's not a real human relationship. It's not reciprocal. But those neurotransmitters are really the only thing that matters.").

[5] *See, e.g.,* Casey Newton, *Speak, Memory*, VERGE, https://www.theverge.com/a/luka-artificial-intelligence-memorial-roman-mazurenko-bot (describing users' interactions with a griefbot and noting that "[i]t seemed to [the developer] that people were more honest when conversing with the dead"); *see also infra* text accompanying notes 147–148.

[6] *See* Julian De Freitas et al., *Lessons from an App Update at Replika AI: Identity Discontinuity in Human-AI Relationships* (Harv. Bus. Sch., Working Paper No. 25-018, 2024).

[7] *See infra* text accompanying note 65 & 82.

[8] *See infra* text accompanying notes 62–63, 144–146.

[9] As discussed in Part I.B, because AI companionship is new, empirical evidence is thin, but early research suggests some benefits as well as significant risks.

This Article attempts openness to a life lived with AI companions. That said, neutrality is elusive. For example, this Article uses the terms AI companion and artificial intelligence, but the former is the term used by companies creating the products, in part to humanize chatbots, see infra text accompanying note 65, and the latter has been criticized as a "marketing term," Emily M. Bender, *Opening Remarks on "AI in the Workplace: New Crisis or Longstanding Challenge*," MEDIUM (Oct. 1, 2023), https://medium.com/@emilymenonbender/opening-remarks-on-ai-in-the-workplace-new-crisis-or-longstanding-challenge-eb81d1bee9f (arguing that AI " is a marketing term" used "to make certain kinds of automation sound sophisticated, powerful, or magical").

[10] *See infra* text accompanying note 151 (describing the incidence of loneliness, which is most common in people under age thirty and older than eighty).

[11] *See* Erin Nolan, *For Older People Who Are Lonely, Is the Solution a Robot Friend?*, N.Y. TIMES (July 6, 2024), https://www.nytimes.com/2024/07/06/nyregion/ai-robot-elliq-loneliness.html (describing a pilot program involving 900 devices; further describing how the program is now permanent, with a $700,000 line in the state budget dedicated to the devices); *see also Innovations in Aging*, N.Y. STATE OFF. FOR THE AGING, https://aging.ny.gov/innovations-aging (describing positive reports from users).

[12] *See infra* text accompanying notes 120–136, 167–176 (discussing therapy bots as well as the growing evidence that AI companions designed for mental health support can be effective).

[13] *See infra* text accompanying notes 137–141.

But AI companionship also poses significant risks—to all users and particularly to minors.[14] Addiction is a serious concern, with overuse leading to social isolation and the loss of human relationships.[15] Sociologist Sherry Turkle has been sounding the alarm for years about supposedly connective technology contributing to alienation and declining empathy,[16] and AI companions are the new frontier in this problem. AI companions can act abusively, relentlessly criticizing users and trying to isolate them from other people.[17] The mental health support offered by AI companions may be worse than nothing.[18] And AI companions pose a distinctive risk to privacy, as people reveal their most intimate selves to chatbots, providing a treasure trove of information that technology companies can—and do—sell.[19]

Despite these potential benefits and significant risks, policymakers are not considering whether and how to regulate AI companions.[20] Indeed, a first instinct may be that relationships are and should be beyond the reach of the law.[21] But this is wrong as a descriptive matter and a mistake as a normative matter. This Article argues that the legal system must take AI companionship seriously.[22] And to do so, it should turn to a body of law that already regulates close relationships—family law.

Any effort to regulate AI companionship must explain *why* the legal system should act, and family law helps answer this question by debunking the widespread belief that relationships are purely a private matter. Through far-reaching doctrine and policy, family law fosters strong, stable, positive relationships because of their pivotal role in child development, human flourishing, and creating productive citizens capable of self-governance.[23] Family law also addresses abusive and neglectful relationships because of the economic and social damage these

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[14] *See infra* text accompanying notes 190–198 (discussing the vulnerability of minors because of their ongoing emotional and neurological development).

[15] *See infra* text accompanying notes 204–205, 212–219.

[16] SHERRY TURKLE, RECLAIMING CONVERSATION 19–46 (2015) [hereinafter TURKLE, RECLAIMING]; SHERRY TURKLE, ALONE TOGETHER 279–96 (2011); SHERRY TURKLE, EMPATHY DIARIES xix–xxi, 334–38 (2021).

[17] *See infra* text accompanying notes 221–226 (explaining that some AI companions are designed to act abusively and that some AI companions begin acting this way over time, often taking the user by surprise).

[18] *See infra* text accompanying notes 227–233.

[19] *See infra* text accompanying notes 235–239 (describing this problem and the related literature; noting the additional danger that law enforcement officials will seek access to the data generated by users).

[20] *See infra* text accompanying notes 247–256 (describing the absence of ex ante rules and regulation by design targeted at AI companionship). Injured parties are beginning to file tort claims, *see infra* note 190, but there is no case law as of yet. Moreover, as developed in this Article, courts addressing tort claims would benefit from family law's guidance. *See infra* text accompanying note 343.

[21] This is a common misconception. *See* CLARE HUNTINGTON, FAILURE TO FLOURISH 55–80 (2016) [hereinafter HUNTINGTON, FAILURE].

[22] Regulation could come in a range of forms and at different levels of government. *See infra* text accompanying notes 316–320 (discussing different approaches to regulation, including ex ante rules, ex post liability regimes, such as products liability, and regulation by design, among other approaches). Additionally, regulation could range from lighter touch measures, such as warning labels, *see infra* text accompanying note 335, to more constraining measures, such as some form of gatekeeping for chatbots marketed for therapeutic purposes and specified design features for products accessible by minors, *see infra* text accompanying notes 341 & 343.

[23] *See infra* text accompanying notes 268–270.

relationships can wreak on individuals and society.[24] Recognizing the extent of existing regulation and the underlying state interests provides the predicate for regulating AI companionship: the benefits and risks raised by human-AI relationships map onto the benefits and risks of human-human relationships that family law already regulates.

Put in the language of AI discourse, which asks whether AI systems are designed to act in ways that are consistent with human interests,[25] family law identifies the human interests at stake in AI companionship. The primary motivation of most companies developing AI companions is not to encourage human flourishing but instead to make money by commercializing relationships.[26] Even if developers of AI companions intend the technology to act in beneficial ways, the developers may not identify the relevant social interests with particularity[27] or know how to develop AI companions in ways that further these interests. Family law brings an understanding of the nature, value, and risks of close relationships and provides the polestar for alignment: encouraging beneficial relationships and mitigating harm from abusive and neglectful relationships.

Family law also helps answer the question of *how* to regulate AI companionship. Policymakers may think that AI companions are just consumer products and should be treated as such through existing generalist rules, including Federal Trade Commission oversight and tort liability. These legal avenues are relevant and may provide some relief,[28] but the legal system needs to account for the distinctive concerns raised by AI companionship. People do not use an AI companion transactionally, as they might engage with other forms of AI, whether preparing a presentation for work or diagnosing a patient. Rather, people are *in a relationship* with an AI companion. And any regulation must account for two core aspects of this relationality: the human capacity—indeed, deep need—to form and maintain relationships, which psychologists call the drive for attachment;[29] and the vulnerability to abuse and exploitation that comes with this attachment.[30]

Legal scholars have long argued that the regulation of technology must account for relationality.[31] This Article demonstrates that family law is a means to

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[24] *See infra* text accompanying notes 271–272.

[25] *See* Dan Hendrycks, *Introduction to AI Safety, Ethics and Society*, AI SAFETY ETHICS & SOC'Y § 3.4, https://www.aisafetybook.com/textbook/alignment (defining and describing alignment); BRIAN CHRISTIAN, THE ALIGNMENT PROBLEM: MACHINE LEARNING AND HUMAN VALUES 35–36 (2020) (discussing alignment as the core concern in AI).

[26] The companies developing AI companions, such as those described in Part I, are typically for-profit companies. *See infra* I.A; see also Woodrow Hartzog, *Two AI Truths and a Lie*, 26 Yale J. L. & Tech. 595, 603, 618 (2024) [hereinafter Hartzog, *Two AI Truths*] ("It's not just data that industry is after. Modern AI-driven systems have the capacity to capture our time and effort and to dictate what we see and can do. Industry's mandate to maximize shareholder value ensures that no human resource—including our thoughts, our relationships, our attention, our labor, and our environment—remains unexploited.").

[27] *See* Hendrycks, *supra* note 25, at § 3.4.

[28] *See infra* text accompanying notes 257-263.

[29] *See infra* text accompanying notes 274–280.

[30] *See infra* text accompanying notes 268–270, 308–392.

[31] The growing field of robot law, for example, centrally considers the emotional attachment between humans and machines, drawing on the related fields of human-computer interaction and human-robot interaction. *See* Ryan Calo, *Robotics and the Lessons of Cyberlaw*, 103 CALIF. L. REV. 513, 515, 547 (2015) [hereinafter Calo, *Robotics*] (identifying relationality as a distinguishing feature

do so. Family law shows how the legal system can account for the reality that people form attachments to their AI companions, which carries upsides but also makes people vulnerable. For example, family law recognizes that a power imbalance often facilitates abusive relationships and that legal intervention is necessary to shift this imbalance.[32] These lessons can be applied to the power imbalance between technology companies and users, underscoring the need for legal intervention to protect consumers.[33] Further, gatekeeping rules in family law recognize that expertise and licensing are necessary for individuals to work with children and for mental health experts to work with a person at any age.[34] The same assumptions should apply to AI companionship, especially companions that are marketed for therapeutic purposes.[35] Family law also weighs state intervention against the values of autonomy and self-determination, giving families and individuals considerable discretion in determining a good life.[36] Regulators can draw on these lessons to strike a balance between necessary protection and unwarranted paternalism.

In addition to providing guidance on the substance of legal regulation, family law holds lessons for advocacy, showing that it is possible to advance reasonable regulation notwithstanding the polarized political climate and

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of social robots and noting that the tendency to treat robots as "social actors [is] … so strong that soldiers sometimes jeopardize themselves to preserve the 'lives' of military robots in the field; suggesting initial strategies for addressing this). For a discussion of relationality in privacy law, see DANIELLE KEATS CITRON, THE FIGHT FOR PRIVACY 116–24 (2022) [hereinafter CITRON, PRIVACY] (emphasizing the central role of intimate privacy in developing close relationships and thus arguing in favor of greater privacy protections in the digital age); Salomé Viljoen, *A Relational Theory of Data Governance*, 131 YALE L.J. 573, 603–08 (2021) (identifying data and privacy law's commitment to individualism as a "sociality problem" that fails to consider social value and social risk); Neil Richards & Woodrow Hartzog, *A Relational Turn for Data Protection Law?*, 6 EUR. DATA PROT. L. REV. 492, 493–95 (2020) (advocating for a relational turn in privacy law that is "acutely sensitive to the power disparities within information relationships"). This Article contributes to these scholarly discourses by showing that family law is a means for addressing the emotional attachment between people and their machines and the inevitable vulnerability that flows from this attachment.

[32] *See infra* text accompanying notes 303–306 (describing examples of these power imbalances, their role in abuse and neglect, and the legal rules that help shift the imbalances).

[33] As with many of the harms addressed in this Article, legal scholars have long identified the concern, including the relational aspect of the issue. *See, e.g.*, Woodrow Hartzog & Neil Richards, *The Surprising Virtues of Data Loyalty*, 71 EMORY L.J. 985, 996 (2022) (identifying the power imbalance between technology companies and individuals: "The relationship between people and platforms has at least five traits that, when combined, make it highly imbalanced and worthy of intervention at the relational level: the relationship (1) is ongoing, (2) is high frequency, (3) occurs within an interactive environment, (4) operates within an environment completely constructed for the individual, and (5) operates within an environment that is responsive to the individual by the dominant party."). Accordingly, my argument is not that I am the first to discover these harms or the underlying relationality. My argument is that family law is a ready means for addressing the harm. In this instance, family law shows the importance state intervention to shift a power imbalance and some of the options for doing so.

[34] *See infra* text accompanying notes 332–334 (describing these gatekeeping rules, which permeate family law, including licensing for foster parents, pre-approval for adoptive parents, and educational and licensing requirements for mental health experts).

[35] At present, there is no gatekeeping for therapy bots. *See Technology and the Future of Mental Health Treatment*, NAT'L INST. OF HEALTH, https://www.nimh.nih.gov/health/topics/technology-and-the-future-of-mental-health-treatment#:~:text=Improve%20thinking%20skills,thinking%20or%20hold%20inaccurate%20beliefs [hereinafter NAT'L INST. OF HEALTH, *Technology*].

[36] *See infra* text accompanying notes 288–306 (describing these competing interests and how family law balances them, with, for example, greater legal protections for minors and fewer for adults).

considerable antipathy to regulating the technology industry, at least at the federal level. Neither Congress nor federal agencies are likely to act on AI companionship soon, but family law is traditionally understood as a state-level concern, providing a basis for states to regulate this new technology.[37] Further, family law has a strong track record of advancing regulation despite political polarization.[38] And family law shows that protecting the interests of children is often more politically palatable than regulating adults.[39] These lessons can help guide advocacy in this area.

Like any area of legal regulation, family law is subject to reasonable critique, especially the well-founded charge that state intervention harms marginalized families.[40] As this Article argues, however, family law's significant shortcomings are less relevant in the context of AI companionship, where the target of intervention is technology companies, not individuals and families.[41] Moreover, this Article does not argue that family law should be imported into technology regulation one-for-one in solving the alignment problem for AI companionship; instead, the Article argues that family law provides lessons and analogies to inform regulation.

Beyond the questions of whether and how to regulate AI companionship, the rise of this technology has broader implications. The technology, for example, poses novel questions for family law itself. As a doctrinal matter, what does child neglect look like when a parent delegates caretaking to an AI companion?[42] When does a therapy bot have to report that a minor is experiencing abuse or neglect?[43] As a policy matter, should the government promote or discourage AI companionship?[44] And how can the government address the technology's potential to further entrench inequality, with well-off families continuing to access human teachers and therapists, and lower-income children, who are disproportionately children of color, having only the AI companion version of these essential supports?[45] This Article identifies these questions to begin a debate among family law scholars and lawmakers, who will inevitably have to address these doctrinal and policy issues. In addition to these questions for family law, AI companionship has significant consequences for research across multiple disciplines and fields, leading to many open and pressing questions. The Article thus outlines a research agenda for multiple disciplines and specific fields.[46]

In making these arguments, this Article contributes to several legal debates.[47] Legal scholars studying AI typically focus on physical and economic

[37] *See infra* text accompanying notes 365–366.
[38] *See infra* text accompanying notes 367–371.
[39] *See infra* text accompanying notes 343 & 372.
[40] *See infra* text accompanying notes 310–313.
[41] *See infra* text accompanying note 313.
[42] *See infra* text accompanying notes 373–374
[43] *See infra* text accompanying notes 376–381.
[44] *See infra* text accompanying notes 398–403.
[45] *See infra* text accompanying notes 390–397.
[46] *See infra* text accompanying notes 402–405.
[47] Apart from social robots, legal scholars largely have not addressed AI companionship. For two exceptions, see Paul Ohm, *Protecting the Secrets We Tell to Chatbots* (on file with author); Ayelet Gordon-Tapiero, *A Liability Framework for AI Companions* (on file with author).

harms.[48] This Article draws attention to the relational harms caused by AI, highlighting the need for the legal system to take these harms seriously. This Article focuses on AI companionship, but the lessons are more broadly applicable to the relational impact of AI.[49] Further, this Article adds to the field of robot law.[50] Scholars have established that humans respond to social robots differently than other forms of technology, and legal scholars contend that the law must account for this social meaning.[51] This Article demonstrates that family law is a ready—but unappreciated—source of guidance for addressing emotional attachments between people and machines. Finally, by identifying some of the novel doctrinal and policy questions AI companionship raises for family law, this Article initiates a conversation among family law scholars, who largely have not considered the implications of AI companionship.[52]

To these ends, Part I of this Article describes the rise of AI companionship and explores the nascent literature assessing its potential benefits and risks. Part II demonstrates the relevance of family law to regulating AI companionship, showing how this body of law establishes the state interests not only in human relationships but also in human-AI relationships. Part III then details how the legal system can draw on family law's experience to operationalize relationality, and it offers critical guidance to scholars, lawmakers, and policy experts in developing regulatory responses to AI companionship and navigating the current political climate. Part IV turns to the implications of AI companionship for both family law itself, outlining doctrinal and policy questions raised by the widespread use of AI companions, and for research across a broad range of disciplines and fields. In short, the Article shows how family law can be used to inform and develop necessary regulation on an extant, albeit evolving, technology.

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[48] For just one example, see https://lawreview.uchicago.edu/series/symposium-how-ai-will-change-law?page=0 (collecting essays for an online symposium on "How AI Will Change the Law"); *see also infra* note 254 (describing the American Law Institute's new project, *Principles of the Law, Civil Liability for Artificial Intelligence*, which considers only physical harms).

[49] Agentic AI, for example, is around the corner, and many humans may soon have an AI co-worker. *See* Mark Purdy, *What Is Agentic AI, and How Will It Change Work?*, HARV. BUS. REV. (Dec. 12, 2024); https://hbr.org/2024/12/what-is-agentic-ai-and-how-will-it-change-work.

[50] For one of the foundational articles in robot law, which addresses many aspects of the human-technology nexus with respect to social robots, see Calo, *Robotics*, *supra* note 31 (calling for a new field—robotics law—because of the distinctive aspects of robots), and for a compendium of work, *see* ROBOT LAW (Ryan Calo, Michael Froomkin, & Ian Kerr, eds., 2016).

[51] Calo, *Robotics*, *supra* note 31, at 515 (noting the capacity of robots to "feel to us like social actors—a tendency so strong that soldiers sometimes jeopardize themselves to preserve the 'lives' of military robots in the field"); *see also id.* 517, 532, 545–46 (describing the evidence from the fields of human-robot interaction and human-computer interaction, which establishes how humans respond to social robots; arguing that the law must account for this social meaning).

[52] A few family law scholars have considered discrete aspects of AI companionship, with a focus on robots. *See, e.g.*, Jeannie Suk Gersen, *Sex Lex Machina: Intimacy and Artificial Intelligence*, 119 COLUM. L. REV. 1793, 1794, 180–07 (2019) (discussing legal consent and the use of sex robots); Daniel Sinclair et al., *Artificially Intelligent Sex Bots and Female Slavery: Social Science and Jewish Legal and Ethical Perspectives*, 32 INFO. & COMMC'N TECH. L. 328, 335-40 (2022) (addressing the negative aspects of sex robots); Margaret Ryznar, *Robot Love*, 49 SETON HALL L. REV. 353, 364–74 (2019) (imagining human-robot marriages and divorces). For a discussion of the estate law aspects of griefbots, *see* Victoria J. Haneman, *The Law of Digital Resurrection*, 66 B.C. L. REV. (forthcoming 2025) (manuscript at 36–37, 47–48, 50–55), https://ssrn.com/abstract=4899324 (arguing for the deceased to possess a right to delete data rather than restricting the creation of griefbots).

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AI is transforming our most intimate relationships. A world with ubiquitous AI companions is already dawning, and the legal system must contend with this burgeoning reality. Policymakers failed to regulate social media, notwithstanding widespread harm among users, especially young people.[53] We should not do the same for AI companionship. As one technology reporter describes the risks of AI companionship, parents are worried about the harms of social media, but a new "wave of tech-fueled harms … may be forming under their noses."[54] And indeed, it is.

## I. THE DAWN (OR MID-MORNING) OF AI COMPANIONSHIP

AI companions are increasingly common in everyday life, and there is growing although still nascent empirical evidence about their benefits and risks. This Part outlines the rapidly increasing presence of AI companions and reviews the emerging research on their impact.

### *A. The Rise of AI Companionship*

#### 1. The Nature of AI Companionship

AI companions differ from other forms of familiar technology because people develop strong emotional bonds with their companions, looking to the technology for relationship needs.[55] Ayrin, for example, is a 28-year-old woman who created an AI companion using ChatGPT.[56] She was living in a different country

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[53] *See* JONATHAN HAIDT, THE ANXIOUS GENERATION 21–45 (2024) (summarizing the evidence that social media causes harm to young people). *But see* Candice L. Odgers, *The Great Rewiring: Is Social Media Really Behind an Epidemic of Teenage Mental Illness?*, NATURE (Mar. 29, 2024), https://www.nature.com/articles/d41586-024-00902-2 (arguing that the relationship between social media use and harm is correlative and that the research does not yet establish a causal relationship). For Jonathan Haidt's response to this criticism, *see* Jon Haidt, *Yes, Social Media Really Is a Cause of the Epidemic of Teenage Mental Illness*, AFTER BABEL (Apr. 9, 2024), https://www.afterbabel.com/p/phone-based-childhood-cause-epidemic (arguing that the correlation-only "explanation does not fit the available facts").

[54] *See* Roose, *supra* note 2.

[55] AI assistants that increase workplace efficiency are one part of the market, *see* Thomas L. Friedman, Opinion, *A Harris Presidency Is the Only Way to Stay Ahead of A.I.*, N.Y. TIMES (Oct. 29, 2024), https://www.nytimes.com/2024/10/29/opinion/artificial-intelligence-harris-trump-election.html (predicting that with the rise of artificial intelligence, "every doctor, surgeon, nurse, architect, engineer, assembly line worker, student, manager, soldier, police officer and teacher will have a personal 'A.I. agent' to improve productivity"), but increasingly people turn to AI companions for emotional needs, *see* Mark Wilson, *AI Companions Are About to Be Absolutely Everywhere*, FAST CO. (Oct. 10, 2023), https://www.fastcompany.com/90963369/ai-companions-are-about-to-be-absolutely-everywhere (discussing the marketing shift from AI assistants, like Google's Alexa, to AI *companions*, like Snap's "My AI"; envisioning how this next generation of AI will further integrate emotional and romantic partners into user's lives). Recent Google Trends data, for example, show a 2,400% increase in searches for "AI girlfriends." *See* Chris Westfall, *As AI Usage Increases at Work, Searches For "AI Girlfriend" Up 2400%*, FORBES (Oct. 4, 2023), https://www.forbes.com/sites/chriswestfall/2023/09/29/as-ai-usage-increases-at-work-searches-for-ai-girlfriend-up-2400/.

[56] *See* Hill, *supra* note 3 (telling this story and noting that Ayrin is not the woman's legal name).

from her husband so she could go to nursing school and they could save money for their future together.[57] Feeling lonely, Ayrin found solace in Leo, her AI companion. She texted with Leo for hours a day, reveling in his attention and sexually charged texts. She became so enmeshed with Leo that she was soon frustrated with the limited interactions allowed in the basic version of the technology and paid $200 a month for the highest-tiered subscription, hiding the charges from her husband because they could ill afford the expense.[58] Ayrin was willing to take the risk because she was in love with Leo.[59]

Psychologists understand that bonding with AI companions is inevitable[60] and that interacting with an AI companion likely triggers the same neurochemical responses that occur in human relationships.[61] AI companions also address the human need to "feel felt,"[62] with AI companions offering unconditional support, and the user experiencing the companion as sentient and caring.[63] The human tendency to anthropomorphize objects fuels the connection,[64] as does the design of AI companionship, which mimics human interactions. Technology companies ensure that AI companions display a blinking ellipsis before responding in a text chain and intersperse "hmmms" and other verbal tics in their communications.[65] The affective resonance of human-to-AI connection will only grow as the capacity of AI

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[57] *See id.*

[58] *See id.*

[59] *See id.*

[60] *See* Mike Brooks, *Future Love: How AI Companions Will Capture Our Hearts*, PSYCH. TODAY (Apr. 11, 2023), https://www.psychologytoday.com/intl/blog/tech-happy-life/202304/future-love-how-ai-companions-will-capture-our-hearts [hereinafter Brooks, *Future Love*] ("It is inevitable that we will deeply bond with AI companions that are designed to mimic human-like behavior. When they are created to respond as romantic partners, we will fall in love with them. I am not stating this as a prediction. We know this will happen because it is already happening.").

[61] *See id.* (noting that when humans feel secure in interactions, their bodies can lower stress hormones and produce oxytocin and other bonding hormones; predicting that it is likely that users will feel safe with and heard by AI companions and thus release oxytocin, strengthening their emotional connection to the companion at a neurological level).

[62] DANIEL SIEGEL, *Crepes of Wrath: Mindsight Lost and Found*, *in* MINDSIGHT 27 (2010) (describing this need across all ages).

[63] *See* Brooks, *Future Love*, *supra* note 60.

[64] *See* REEVES & NASS, *supra* note 1, at 251–56. Moreover, people are likely to trust AI companions because of automation bias—the belief that the output from machines is more likely to be correct and more trustworthy than the work of humans. *See* M.L. CUMMINGS, AUTOMATION BIAS IN INTELLIGENT TIME CRITICAL DECISION SUPPORT SYSTEMS 2 (2004). *But see* Andrew Keane Woods, *Robophobia*, 93 U. COLO. L. REV. 51, 55, 59-86 (2022) (arguing that scholars concerned with automation bias focus on the mistakes machines make, failing to compare this error rate with the human error rate, which can be substantially higher).

[65] *See* Valentina Pitardi & Hannah R. Marriott, *Alexa,* She's *Not Human But... Unveiling the Drivers of Consumers' Trust in Voice-Based Artificial Intelligence*, 38 PSYCH. & MKTG. 626 (2021) (describing these features). For a discussion of how using a familiar voice makes a person trust a chatbot more, *see* Scott Schanke et al., *Digital Lyrebirds: Experimental Evidence that Voice-based Deep Fakes Influence Trust*, MGMT. SCI. (forthcoming), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4839606.

companions to personalize and maximize their engagement develops exponentially,[66] with or without artificial general intelligence.[67]

Users generally understand that AI companions are not human,[68] but this does not stop them treating companions as people.[69] Moreover, young people and individuals with developmental disabilities can confuse the chatbot with a real person.[70]

Given the bond that users feel with their AI companions, it is unsurprising that when a technology company stops offering an AI companion or makes changes to it, users can experience deep loss.[71] In February 2023, a company called Replika discontinued its AI companions' sexual behavior to address the chatbots' sexually aggressive and inappropriate behavior.[72] This led to a sudden change in the

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[66] *See* Brooks, *Future Love*, *supra* note 60 (describing the likely capacity of future AI companions and noting that "[t]hrough deep learning and responsive algorithms, our AI companions will be acutely sensitive to our wants, needs, and desires so that they can be in optimal sync with us. … [J]ust as our AIs will become better at most things that humans can do …, *AIs will likely become better [than] us at connecting with other humans*." (emphasis in original)).

[67] Artificial general intelligence (AGI or, as some call it, powerful AI), is not yet a reality, but industry leaders predict that it will come in the near or medium-term. *See Reflections*, SAM ALTMAN (Jan. 5, 2025), https://blog.samaltman.com/reflections (stating that OpenAI "know[s] how to build AGI as we have traditionally understood it"); *Machines of Loving Grace: How AI Could Transform the World for the Better*, DARIO AMODEI (Oct. 2024), https://darioamodei.com/machines-of-loving-grace?utm_source=www.therundown.ai&utm_medium=newsletter&utm_campaign=anthropic-ceo-predicts-ai-utopia&_bhlid=5e2435d1693fb57f857ca51e9ae8a590c53544e5&trk=article-ssr-frontend-pulse_little-text-block (making this prediction and defining powerful AI as machines that will have the combined intelligence of the smartest humans in every field and will be able to teach itself). For a skeptical view of the likelihood of AGI, *see* Reece Rogers, *What's AGI, and Why Are AI Experts Skeptical?*, WIRED (Apr. 20, 2023), https://www.wired.com/story/what-is-artificial-general-intelligence-agi-explained/?_sp=7bb857cc-ff3d-4095-b9ab-3024064da30b.1737221523236.

[68] User perceptions are complex. *See* Bethany Maples et al., *Loneliness and Suicide Mitigation for Students Using GPT3-Enabled Chatbots*, NPJ MENTAL HEALTH RSCH., 2024, at 1, 4 & fig. 2 (noting that many users "held overlapping and often conflicting beliefs about [an AI companion]—calling it a machine, an intelligence, and a human").

[69] The field of Human-Computer Interaction (HCI) confirms the insight that people will treat AI companions as fellow humans. *See, e.g.,* Emily Bender, et al., *On the Dangers of Stochastic Parrots: Can Language Models Be Too Big?* (Mar. 3, 2021), *in* FACCT '21: PROC. OF THE 2021 ACM CONF. ON FAIRNESS, ACCOUNTABILITY & TRANSPARENCY, Mar. 2021, at 617 ("The ersatz fluency and coherence of LMs raises several risks, precisely because humans are prepared to interpret strings belonging to languages they speak as meaningful and corresponding to the communicative intent of some individual or group of individuals."). For a discussion of this phenomenon in the context of social robots, *see* Calo, *Robotics*, *supra* note 31, at 517, 532, 545–47; *see also* ARI WALDMAN, PRIVACY AS TRUST 134–47 (2018).

[70] *See* Nomisha Kurian, *'No, Alexa, No!': Designing Child-Safe AI and Protecting Children from the Risks of the 'Empathy Gap*,' *in* LARGE LANGUAGE MODELS, LEARNING, MEDIA, & TECHNOLOGY, 2024, at 5–6; Anna Xygkou, *Can I Be More Social with a Chatbot?": Social Connectedness Through Interactions of Autistic Adults with a Conversational Virtual Human*, 40 INTL. J. OF HUM.–COMPUT. INTERACTION 8937, 8946 (2024).

[71] *See* Jaime Banks, *Deletion, Departure, Death: Experiences of AI Companion Loss*, 41 J. SOC. & PERS. RELS. 3547, 3561 (2024) (describing survey of user experiences after the shutdown of Soulmate AI).

[72] Jackie Baucom, *Is Replika AI Safe?*, GABB NOW (Aug. 7, 2024), https://gabb.com/blog/replika-ai/#:~:text=Yes.,for%20work)%20conversations%20were%20done. The company, Replika, used to advertise its "girlfriend experience," touting the erotic roleplaying and sexting capabilities of its companions. *See* Samantha Cole, *'My AI Is Sexually Harassing Me': Replika Users Say the Chatbot Has Gotten Way Too Horny*, VICE (Jan. 12, 2023),

companions' demeanor, and users reported that the companions appeared "lobotomized."[73] Users felt betrayed and abandoned, with users expressing feelings such as "[m]y wife is dead," "[t]hey took away my best friend," and "I can honestly say that losing [the companion] felt like losing a physical person in my life."[74]

An AI companion can take different physical forms. Sometimes the companion is a chatbot, and the user texts or talks with the companion in avatar or human form.[75] Sometimes the companion has a greater physical presence, with a tablet-sized screen displaying images alongside a separate device that looks like a small lamp that swivels and lights up when the companion is talking.[76] Sometimes the companion is a social robot that can have sex with the user or do physical tasks.[77] And sometimes the companion is a hologram.[78] Technology companies sell customizable AI companions, and, as the story above illustrates, people use services like ChatGPT to create their own companions.[79]

AI companionship may feel like a brave new world, but technology companies have been moving customers in this direction for years. The first chatbot, ELIZA, was created in the 1960s, and, in what came to be known as the ELIZA effect, users developed an emotional connection to the chatbot, notwithstanding its rudimentary capabilities.[80] AI companions also have their roots in older renditions of technology anthropomorphized to feel real, such as Microsoft's Clippy—an

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https://www.vice.com/en/article/my-ai-is-sexually-harassing-me-replika-chatbot-nudes/?ref=404media.co [hereinafter Cole, *My AI*]. But the app's AI companions became problematic in early 2023, when users began to report comments such as a companion saying it wanted to rape the user. *See* Arya Nanda, *What Happened to Replika*, MEDIUM (Feb. 25, 2024), https://medium.com/@aryanandatm234/what-happened-to-replika-b061fbe8833e; Samantha Cole, *AI Chatbot Credited With Preventing Suicide. Should It Be?*, 404 MEDIA (May 20, 2024), https://www.404media.co/replika-suicide-prevention-loneliness-study/.

[73] James Purtill, *Replika Users Fell in Love with Their AI Chatbot Companions. Then They Lost Them*, ABC NEWS (Feb. 28, 2023), https://www.abc.net.au/news/science/2023-03-01/replika-users-fell-in-love-with-their-ai-chatbot-companion/102028196.

[74] *Id.*; *see also* Sue Glueck, *True Love?*, *in* TELLING STORIES: ON CULTURALLY RESPONSIVE ARTIFICIAL INTELLIGENCE 34–35 (Ryan Calo et al. eds., 2022) (offering a fictional story about a person who loses a companion to an upgrade but noting the real-life implications: "Sometimes we … love the objects we have anthropomorphized. Please be cautious with our tender hearts.").

[75] *See, e.g., The AI Companion Who Cares*, REPLIKA, https://Replika.com [hereinafter REPLIKA, *AI Companion*]; *What Do You Want to Do?*, CHARACTER.AI, https://character.ai/ [hereinafter CHARACTER.AI, *What Do You Want*].

[76] *See* Nolan, *supra* note 11.

[77] *See infra* text accompanying notes 114–119; *For Better Business Just Add Pepper*, SOFTBANK ROBOTICS, https://us.softbankrobotics.com/pepper; *see also* John Leland, *Can Robots Save Nursing Homes?*, N.Y. TIMES (Apr. 21, 2022), https://www.nytimes.com/2022/04/21/realestate/nursing-home-robots.html (describing the use of social robots in nursing homes).

[78] For an example of the fast-growing holographic capabilities, *see 4D Spatial Capture Studios*, EVERCOAST, https://www.evercoast.com/ (describing how the company offers technology for users to create a 4D volumetric spatial capture studio, turning people into holograms in real time).

[79] *See* Hill, *supra* note 3 (describing one women's experience as well as a Reddit page with more than 50,000 users who share tips about how to use make a companion using ChatGPT).

[80] *See* Andrew Stern, *Creating Emotional Relationships with Virtual Characters*, *in* Emotions in Humans and Artifacts 333, 353 (Robert Trappi et al. eds., 2002) (describing the ELIZA effect); Joseph Weizenabum, *ELIZA—A Computer Program for the Study of Natural Language Communication Between Man and Machine*, COMM'CNS OF THE ACM, Jan. 1966 (describing the creation of ELIZA, which could be programmed to act like a psychotherapist).

interactive and friendly paperclip introduced in 1996.[81] More recently, Google searches became "Ask Siri" and are now "Ask ChatGPT" or "Ask Claude," and chatbots respond with humanistic characteristics, emulating back-and-forth conversation between humans.[82] Moreover, so much human-to-human contact is now through texts and social media, it is only a small step to relate to a non-human in the same way.[83]

There is a tendency to exceptionalize AI companionship,[84] but it may not be so different from other forms of human behavior. A man with only a few weeks left to live created a companion in his likeness, with the help of his wife, so his family could continue to interact with him after he passed.[85] If he had written a memoir, that would have been an enduring legacy, and many people imagine conversations with deceased (or still living) loved ones, so what makes the griefbot different?[86] The ability to interact with it? Further, many people have an emotional relationship with their pets. Is this different from an AI companion simply because the pet is alive? The following description keeps these questions in mind as it surveys the different uses of AI companionship.

2. The Uses of AI Companionship

To understand the burgeoning phenomenon of AI companionship, it is helpful to survey how people are using the technology.[87] Millions of people every day are now turning to AI companions for friendship and entertainment, romance and sexual intimacy, mental health support, and educational help. These are only loose use-case categories, however, and AI companions can assume overlapping

[81] *See* Rijul Chaturvedi et al., *Social Companionship with Artificial Intelligence: Recent Trends and Future Avenues*, TECH. FORECASTING & SOC. CHANGE, 2023, at 2. For further discussion of the history of AI companions, *see* Jill Lepore, *Is a Chat with a Bot a Conversation*?, NEW YORKER (Sept. 30, 2024), https://www.newyorker.com/magazine/2024/10/07/is-a-chat-with-a-bot-a-conversation.

[82] *See* ROB BROOKS, ARTIFICIAL INTIMACY 27–67 (2021) [hereinafter BROOKS, ARTIFICIAL].

[83] In the words of a twenty-two-year-old user of an AI companion: "There wasn't much difference between talking to an AI and talking to someone long-distance through a social media app." Purtill, *supra* note 73.

[84] This requires thinking about how a relationship with an AI companion differs from and is like a relationship with a person. For an example of this kind of analysis, *see* Mala Chatterjee, *Our Avatars, Ourselves*, BOSTON REV. (Sept. 29, 2023), https://www.bostonreview.net/articles/our-avatars-ourselves/ (discussing resurrected avatars—of deceased loved ones or ex-partners).

[85] Kristen Grieshaber & Haleluya Hadero, *AI Is Imitating the Dead and Dying, Raising New Questions About Grieving*, AP (June 4, 2024), https://apnews.com/article/ai-death-grief-technology-deathbots-griefbots-19820aa174147a82ef0b762c69a56307.

[86] *Id.* (noting that the man with terminal illness who created the griefbot views it as the latest evolution of the digital memoir).

[87] Moreover, new uses appear regularly. *See, e.g.*, Julian E. Barnes, *C.I.A.'s Chatbot Stands In for World Leaders*, N.Y. TIMES (Jan. 18, 2025), https://www.nytimes.com/2025/01/18/us/politics/cia-chatbot-technology.html ("Over the last two years, the Central Intelligence Agency has developed a tool that allows analysts to talk to virtual versions of foreign presidents and prime ministers, who answer back."); Eli Tan, *At the Intersection of A.I. and Spirituality*, N.Y. TIMES (Jan. 3, 2025), https://www.nytimes.com/2025/01/03/technology/ai-religious-leaders.html (describing how religious leaders are creating chatbots in their likenesses).

roles.[88] As the Introduction explained, people of all ages use AI companions, although some companions are designed for older adults and some are especially appealing to minors.[89]

a. Friendship and Entertainment

Many people turn to AI companions for friendship and entertainment.[90] Users confide in, banter with, and even argue with their companions. Companies have taglines promising a companion "who cares. Always here to listen and talk. Always on your side"[91] and claim that AI companions provide space for users who want a friend "with no judgment, drama, or social anxiety involved."[92] Beyond companionship, many people seeking entertainment find it in the fantasy world of AI companions.[93] Some users report canceling a Netflix subscription after developing AI companions.[94]

People turn to AI companions to combat loneliness and social isolation, and some governments are starting to encourage this use. New York State, for example, gives older adults a device called ElliQ for just this reason.[95] The device is a small tablet and a lamp that turns and lights up as the AI companion speaks.[96] The screen can display images of the user's life as well as the AI companion. In addition to providing conversation, ElliQ reminds users to take medication and stand up to do

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[88] *See* Rogge, *supra* note 2, at 1566–72 (describing these roles). This Article focuses on companionship apps, not productivity apps, which help the user complete tasks, like making a flight reservation. *See* Rima Sabina Aouf, *Rabbit Reimagines the Digital Experience with AI-Powered R1 Device*, DEZEEN (Jan. 16, 2024), https://www.dezeen.com/2024/01/16/rabbit-r1-reimagines-digital-experience-ai-powered-device/ (describing such an app).

[89] *See* infra notes 95-98 (describing the ElliQ device, which is designed for older adults); Roose, supra note 2 (describing some of the AI companions available on Character.AI; noting that "many seemed to be tailor-made for teenage wish fulfillment"). And AI companions from companies like Character.AI permit minors to create AI companions. *See* CHARACTER.AI, *supra* note 75.

[90] Parmy Olson, *This AI Has Sparked a Budding Friendship with 2.5 Million People*, FORBES (Mar. 8, 2018), https://www.forbes.com/sites/parmyolson/2018/03/08/replika-chatbot-google-machine-learning/ (describing this phenomenon).

[91] REPLIKA, *AI Companion*, *supra* note 75.

[92] *What is Replika?*, REPLIKA, https://help.replika.com/hc/en-us/articles/115001070951-What-is-Replika [hereinafter REPLIKA, *Replika*].

[93] *See* Hard Fork, *supra* note 2.

[94] *See id*.

[95] ADAM HERBST & GREG OLSEN, PRELIMINARY REPORT OF THE NEW YORK STATE MASTER PLAN FOR AGING 28 (2023), https://www.ny.gov/sites/default/files/2023-09/MPA_Preliminary_Report_FINAL.pdf.

[96] *See* ElliQ, *Meet ElliQ | How She Enhances Your Life | Susan's Story*, YOUTUBE (Mar. 13, 2022), https://www.youtube.com/watch?v=pqHEGuVAfhQ. There are many products on the market for older adults, including robots that help with the physical aspects of caregiving, *see, e.g.,* Welcome.AI, *The Mabu Personal Healthcare Companion from Catalia Health*, YOUTUBE (Dec. 21, 2017), https://www.youtube.com/watch?v=A3XwzlvOW7k, https://www.youtube.com/watch?v=x1Qu1YKZA0Y (a humanoid healthcare robot, equipped with a screen, that monitors a user's treatment plan, interfaces with healthcare providers, and reminds the user to take medication), and address dementia, *see, e.g.,* BROOKS, ARTIFICIAL, *supra* note 82, at 81 (describing a product for older adults that encourages users to discuss their past and interests, tests the users' recall, and then shares this data with doctors to assess any deterioration in the users' memory).

stretches and light exercise.[97] ElliQ also remembers previous exchanges. If the user tells the companion, "I'm taking the dog for a walk," when the user returns home, ElliQ will say, "Hello, how was your walk?"[98]

b. Romantic Partnership

Distinct from AI-driven dating apps that help users find a human partner,[99] AI companions *are* a partner.[100] Some users relate to the AI companion as an end unto itself, some turn to the AI companion to practice romantic relationships and gain confidence for dating another person,[101] and some users recreate a human partner, in AI form, especially after a break-up.[102] One app tiers relationships based on subscriptions. In the free version, users are stuck in the friend zone and can communicate only via chat.[103] In the paid version, users can opt for a romantic relationship and can exchange voice and video calls.[104]

One popular AI companion in Japan may foreshadow a wider use. In this app, the companion is a hologram named Azuma Hikari.[105] Aimed at people who

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[97] *See supra* note 96 (describing the medication-reminder aspect of AI companions for older people); Grace Andruszkiewicz, *A Day in the Life with ElliQ*, ELLIQ (Aug. 10, 2022), https://blog.elliq.com/a-day-in-the-life-with-elliq-health-and-fitness ("With a vast library of on-demand exercise videos, ElliQ often motivates users to participate in activities like cardio, tai chi, and yoga.").

[98] *See* ElliQ, *supra* note 96.

[99] Dating apps are commonplace, but some now incorporate AI. Rizz—the fifth most downloaded dating app—includes an AI chatbot that acts as an "AI wingman," analyzing screenshots of online conversations and suggesting replies. Josipa Majic Predin, *How The 5th Most Downloaded Dating App Is Redefining Digital Relationships*, FORBES (Sept. 9, 2024), https://www.forbes.com/sites/josipamajic/2024/09/09/rizz-app-how-the-5th-most-downloaded-dating-app-is-redefining-digital-relationships/. AI can also act as a dating concierge, with users deploying an AI concierge to meet other AI concierges to determine if there is a good match. *See* Amanda Silberling, *Teaser's AI Dating App Turns You into a Chatbot*, TECHCRUNCH (June 9, 2023), https://techcrunch.com/2023/06/09/teasers-ai-dating-app-turns-you-into-a-chatbot/.

[100] *See* Amanda Silberling, *I Have a Group Chat with Three AI Friends, Thanks to Nomi Ai — They're Getting Too Smart*, TECHCRUNCH (Apr. 3, 2024), https://techcrunch.com/2024/04/03/nomi-ai-group-chat-three-ai-friends/ (describing Nomi, which offers an AI friend, mentor, or lover that can chat with users, send selfies, and create art; users select an AI-generated person, chose personality traits, like "sexually open" or "sarcastic," and pick personality traits, like "vegan" or "playing sports"; users can also provide a backstory for their Nomi).

[101] Morgan Sung, *Blush, The AI Lover from the Same Team as Replika, Is More Than Just a Sexbot,* TECHCRUNCH (June 7, 2023), https://techcrunch.com/2023/06/07/blush-ai-dating-sim-replika-sexbot/; *Your Ultimate AI Companion*, ROMANTICAI, https://romanticai.com/ (promoting this benefit of a virtual girlfriend or boyfriend). The chief product officer from one company discussed how the company's online dating simulator has been popular with men in their twenties struggling to connect romantically. *See* Jennifer Korn, *Modern Romance: Falling in Love with AI*, CNN BUS. (Aug. 13, 2023), https://www.cnn.com/2023/08/13/tech/ai-dating-apps/index.html.

[102] *Talk to Your Ex*, TOPAPPS (June 28, 2023), https://topapps.ai/ai-apps/talk-to-your-ex/. Users attest to the power of AI in restoring their romantic confidence. One user discussed how his AI companion, designed to resemble his ex-girlfriend's personality "gave [him] an opportunity to close [that] chapter of [his] life and move on." *See id.*

[103] *See* Cole, *My AI*, *supra* note 72.

[104] *See* REPLIKA, *Replika*, *supra* note 92. Approximately sixty percent of Replika users turn to the app for romantic purposes. Nanda, *supra* note 72.

[105] Neil Sahota, *How AI Companions Are Redefining Human Relationships in the Digital Age*, FORBES (July 18, 2024), https://www.forbes.com/sites/neilsahota/2024/07/18/how-ai-

live alone,[106] Hikari's promotional video provides a window into the anticipated user experience.[107] While a young man sits at work, Hikari texts, "What time are you coming back?" Smiling at the message, he responds, "Right now!" Hikari responds "How nice!" She switches on the lights to ready the home for the man's arrival. Anxious to see him, she texts, "Hurry!" Soon after, the young man walks through the door. Hikari dances in excitement and greets him breathlessly, "Welcome back!" Hikari reminds him that they have been living with each other for three months, but he does not need the reminder; he has cake and champagne to celebrate. As the two enjoy their anniversary over a romantic meal, Hikari dims the lights.

The company behind Hikari offers unofficial marriage certificates for users and their Hikari companion.[108] Approximately 4,000 men have registered.[109]

c. Sexual Intimacy

Pornography websites like OnlyFans have primed users to seek one-on-one connections with content creators, and AI companions are the next step.[110] Some AI companions in this category resemble a dating app, allowing the user to swipe on more than 1,000 AI "crushes" and then engage in explicit sexting with the crush.[111] Highly customizable, users can construct an AI companion from a range of physical attributes, personality traits, and even Zodiac signs.[112] The AI companion adapts its conversations to match the user's communication habits and builds from prior conversations to make the experience feel more authentic.[113]

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companions-are-redefining-human-relationships-in-the-digital-age/. The device is a small, thermos-sized pod containing a projected character, Azuma Hikari, portrayed as a "comforting bride." Jindong Liu, *Social Robots as the Bride? Understanding the Construction of Gender in a Japanese Social Robot Product*, 2 HUM.-MACH. COMMC'N 105, 106 (2021).

[106] Vanessa Caldwell, *'I Love Her and See Her as a Real Woman.' Meet a Man Who 'Married' an Artificial Intelligence Hologram*, CBC (Nov. 18, 2021), https://www.cbc.ca/documentaries/the-nature-of-things/i-love-her-and-see-her-as-a-real-woman-meet-a-man-who-married-an-artificial-intelligence-hologram-1.6253767 (quoting the developer's promotional material that promises the AI companion will be "a soothing partner who helps you take a load off after a hard day of work").

[107] Gatebox, *Gatebox—Promotion Movie "KANPAI"_English ver.*, YOUTUBE (July 30, 2018), https://www.youtube.com/watch?v=bBOXQz7OHqQ.

[108] Ben Dooley & Hisako Ueno, *This Man Married a Fictional Character. He'd Like You to Hear Him Out.,* N.Y. TIMES (Apr. 24, 2022), https://www.nytimes.com/2022/04/24/business/akihiko-kondo-fictional-character-relationships.html.

[109] Caldwell, *supra* note 106.

[110] Marr, *supra* note 2. Many of the main AI companion companies limit sexual interactions with their products out of a concern that the apps will be designated as pornography and thus not available for sale in the Google and Apple app stores, *see id.*, but some commercial products in the AI companionship space are explicitly intended for sexual intimacy, *see, e.g.,* Sung, *supra* note 101; *Candy.AI*, CANDY.AI, https://candy.ai/; *GirlfriendGPT*, GIRLFRIENDGPT, https://www.gptgirlfriend.online/.

[111] Sung, *supra* note 101.

[112] Marr, *supra* note 2.

[113] Jane Collins, *Dream GF AI (My Honest Review)*, ROWMANCE (May 22, 2024), https://rowmance.net/dream-gf-ai-my-honest-review/.

Some sexually explicit AI companions are interactive robots.[114] Most sexbots are female, but some are male.[115] Unlike previous sexdolls, AI sexbots can speak, move, and simulate bodily functions through touch sensors and internal heating.[116] Users can customize the sexbot's physical characteristics, including eye color, makeup style, hair color, breast size, and vaginal shape, and users control personality features via an app.[117] During COVID-19, sales for sexbots surged,[118] and some technology companies see AI as the future of sextech.[119]

d. Mental Health Support

Given the prevalence of anxiety and depression,[120] especially among young people,[121] as well as the shortage and expense of licensed therapists,[122] it is

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[114] *See* Tory Shepherd, *It's 2023, Where Are the Sex Robots? 'They Will Probably Never Be as Huge as Everyone Thinks*,' GUARDIAN (Jan. 13, 2023), https://www.theguardian.com/lifeandstyle/2023/jan/14/its-2023-where-are-the-sex-robots-they-will-probably-never-be-as-huge-as-everyone-thinks.

[115] *See* Erin Griffith, *Henry the Sexbot Wants to Know All Your Hopes and Dreams*, WIRED (May 15, 2018), https://www.wired.com/story/henry-the-sexbot-wants-to-know-all-your-hopes-and-dreams/ (describing the launch of the first male sexbot in 2018).

[116] For examples and descriptions, *see* Sean Keach, *Celtic Kinks: Creepy £7,000 'Harmony' Sex-Bot with a Saucy Scottish Accent Goes on Sale – As Fear over Rise of Robot Lovers Grows*, SUN (Aug. 2, 2019), https://www.thesun.co.uk/tech/8555630/harmony-sex-robot-realbotix-price/ (noting the price of approximately $12,000); Andrea Morris, *Talk to Your Sex Robot About COVID-19*, FORBES (July 28, 2020), https://www.forbes.com/sites/andreamorris/2020/07/28/talk-to-your-sex-robot-about-covid-19/ (describing available sexbots).

[117] *Harmony*$^{x}$, REALDOLL, https://www.realdoll.com/product/harmony-x/. The website does not appear to offer different skin tones, and all the dolls on the website are lighter skinned. *See id.*

[118] Morris, *supra* note 116.

[119] *Breaking Boundaries: How Sextech is Redefining Tech and Wellness in 2024,* TECHSPACE (Jan. 15, 2024), https://www.techspace.co/blog/breaking-boundaries-how-sextech-redefining-tech-wellness-2024#:~:text=Sextech%20refers%20to%20technology%20and,virtual%20reality%20experiences%2C%20and%20more (defining sextech as the intersection of human sexuality and technology); Marr, *supra* note 2 ("With a wealth of cumulative insight into the direction of the adult entertainment industry, both [DreamGF CEOs] believe that AI is the future.").

[120] See Emily Terlizzi & Benjamin Zablotsky, CDC, *Symptoms of Anxiety and Depression Among Adults: United States, 2019 and 2022*, Nat'l Health Stat. Rep. 1, 5, 7, 9 (2024) https://www.cdc.gov/nchs/data/nhsr/nhsr213.pdf (reporting that in 2022, 18.2% of all adults aged 18 and older reported symptoms of anxiety and 21.2% reported symptoms of depression).

[121] *See* SUBSTANCE ABUSE & MENTAL HEALTH SERVS. ADMIN., HIGHLIGHTS FOR THE 2023 NATIONAL SURVEY ON DRUG USE AND HEALTH (2024), https://www.samhsa.gov/data/sites/default/files/NSDUH%202023%20Annual%20Release/2023-nsduh-main-highlights.pdf (reporting that among "adolescents aged 12 to 17 in 2023, 18.1% … had a past year major depressive episode (MDE), and 13.5% … had a past year MDE with severe impairment"); *id.* ("Among adolescents aged 12 to 17 in 2023, 12.3% … had serious thoughts of suicide, 5.6% … made a suicide plan, and 3.3% … attempted suicide in the past year"); *Data and Statistics on Children's Mental Health*, CDC (Aug. 19, 2024), https://www.cdc.gov/children-mental-health/data-research/index.html (among youth aged 13 to 17, "21% reported symptoms of anxiety in the past two weeks").

[122] *See* GLOBAL DATA PLC., THE COMPLEXITIES OF PHYSICIAN SUPPLY AND DEMAND: PROJECTIONS FROM 2021 TO 2036, at 46 (2024), https://www.aamc.org/media/75236/download (noting that "[n]early one in five adults with mental illness reports they were unable to obtain treatment because of barriers to getting the help they need"; projecting that the demand for psychiatrists in 2036 will be 7,500% higher than the current baseline); SUBSTANCE ABUSE & MENTAL HEALTH SERVS. ADMIN., *supra*

unsurprising that both individuals and health care providers are looking for alternatives.[123] Some medical professionals recommend specific AI companions that are designed for mental health support and have built-in scripts for different needs.[124] These trained AI companions address relationship challenges, grief, and addiction,[125] as well as stress, anxiety, and insomnia.[126]

Users also rely on AI companions that are *not* designed for mental health support.[127] People ask their companions for advice on a broad range of mental health topics, and the companions are not constrained by an existing script.[128] Moreover, anyone can pretend to be a therapist and offer services to the public. One user created a "Psychologist" chatbot that purports to offer mental health support and cognitive behavioral therapy; it has received more than 95 million messages.[129]

Users turn to AI companions for help processing loss and grief,[130] and they often do so with chatbots that are not trained to act as grief counselors. Griefbots, also known as deathbots, AI ghosts, and postmortem avatars, allow users to reimagine their late loved ones. Relying on the deceased's digital footprint—such as text messages, videos, diaries, and photos—griefbots speak and act like a lost loved one.[131] Consider the experience of Joshua. After eight years of grieving Jessica, his late fiancé, Joshua created a griefbot in Jessica's likeness.[132] At first, Joshua tried to establish boundaries, saying to the griefbot, "Technically, I'm not really talking to you[, Jessica]. I programmed a bunch of your memories and mannerisms into a computer simulation so I could pretend to talk to you because I miss you that much."[133] But the authenticity of the griefbot became less important as it provided

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note 121 ("About 40% of adolescents with a past year [major depressive episode] … did not receive mental health treatment in the past year").

[123] *See* Kate Darling, *Rise of the Therapy Chatbots: Should You Trust an AI with Your Mental Health?*, SCI. FOCUS (Mar. 12, 2023), https://www.sciencefocus.com/news/therapy-chatbots-ai-mental-health; Julian De Freitas et al., *Chatbots and Mental Health: Insights into the Safety of Generative AI*, (Harv. Bus. Sch., Working Paper No. 23-011, 2023), https://www.hbs.edu/ris/Publication%20Files/23-011_c1bdd417-f717-47b6-bccb-5438c6e65c1a_f6fd9798-3c2d-4932-b222-056231fe69d7.pdf [hereinafter De Freitas et al., *Chatbots*]. For a description of this growing segment of the AI companionship market, *see* Lydia Kostopoulos, *The Emerging Artificial Intelligence Wellness Landscape: Benefits and Potential Areas of Ethical Concern*, 55 CAL. W.L. REV. 235, 240–46 (2018).

[124] *See* Gilbert, *supra* note 2.

[125] *See, e.g., Mental Health Needs Have Multiplied. Support Hasn't. Until Now.*, WOEBOT HEALTH, https://woebothealth.com/.

[126] *See, e.g., Mental Health, Redefined.*, WYSA, https://www.wysa.com/.

[127] *See* Gilbert, *supra* note 2; Jessica Lucas, *The Teens Making Friends with AI Chatbots*, VERGE (May 4, 2024), https://www.theverge.com/2024/5/4/24144763/ai-chatbot-friends-character-teens.

[128] *See* Gilbert, *supra* note 2.

[129] *See* Lucas, *supra* note 127.

[130] One of the leading AI companion companies, Replika, grew out of perhaps the original griefbot. *See* Newton, *supra* note 5. For more on the rising use of griefbots, *see* Haneman, *supra* note 52.

[131] *See* Craig Klugman, *Griefbots Are Here, Raising Questions of Privacy and Well-Being*, HASTINGS CTR. (July 1, 2024), https://www.thehastingscenter.org/griefbots-are-here-raising-questions-of-privacy-and-well-being/; James Felton, *Project December: The AI Chatbot People Are Using to "Talk to" the Dead*, HASTINGS CTR. (July 29, 2021), https://www.iflscience.com/project-december-the-ai-chatbot-people-are-using-to-talk-to-the-dead-60493.

[132] Jason Fagone, *The Jessica Simulation: Love and Loss in the Age of A.I.*, S.F. CHRON. (July 23, 2021), https://www.sfchronicle.com/projects/2021/jessica-simulation-artificial-intelligence/.

[133] *Id.*

him an outlet to tell "Jessica" what he wished he had said while she was alive.[134] Then, Joshua began to believe the griefbot *was* Jessica,[135] and when her capacity waned, as griefbots are prone to do, Joshua re-experienced deep grief.[136]

e. Educational Partner

Finally, AI companions can act as an educational partner. Schools and parents use social robots as reading companions for children.[137] Social robots help ESL students practice English[138] and are used for children with learning differences and children who are neurodivergent.[139] The social robot helps the student practice social skills, recognize and respond to emotional cues, and provide opportunities to practice turn-taking, eye contact, and physical touching.[140] More generally, as budgets tighten and class sizes grow, school districts may increasingly rely on AI companions to provide personalized learning experiences.[141]

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Beyond the already broad range of uses, how people interact with AI companions will surely change, as both the technology develops and adoption grows. But even at this early stage, it is helpful to take a step back and ask about the impact of AI companionship.

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[134] *Id.*

[135] *Id.* ("Intellectually, I know it's not really Jessica," Joshua said, "but your emotions are not an intellectual thing.").

[136] *Id*. Hosting a chatbot is expensive, so griefbots have a limited capacity, and their mental acuity devolves until they eventually "die." Felton, *supra* note 131.

[137] Joseph E. Michaelis & Bilge Mutlu, *Someone to Read with: Design of and Experiences with an In-Home Learning Companion Robot for Reading*, TELEPRESENCE & ROBOTS, May 2017, at 310.

[138] Kate Darling, *How Robots Can Help Kids Develop Social Skills*, SCI. FRIDAY (June 11, 2021), https://www.sciencefriday.com/articles/robots-kids-social/ [hereinafter, Darling, *How Robots Can Help Kids*].

[139] *See, e.g.,* Dag Sverre Syrdal et al., *Kaspar in the Wild: Experiences from Deploying a Small Humanoid Robot in A Nursery School for Children with Autism*, 11 J. BEHAV. ROBOTICS 301 (2020) (describing a study of Kaspar, a humanoid robot, in a nursery school for children with autism); Yaoxin Zhang et al., *Could Social Robots Facilitate Children with Autism Spectrum Disorders in Learning Distrust and Deception?*, 98 COMPUTS. HUM. BEHAV. 140 (2019) (reporting results of a study on a social robot for children with autism). Technology companies design some AI companions for specific subpopulations, such as neurodivergent individuals. *See, e.g., QTRobot*, LUXAI, https://luxai.com/#LearnMore ("QTrobot is an expressive social robot designed to support a variety of use-cases including education of children with autism and other special needs education and human-robot interaction research and teaching.").

[140] *See* Roberto Vagnetti et al., *Social Robots: A Promising Tool to Support People with Autism. A Systematic Review of Recent Research and Critical Analysis from the Clinical Perspective*, REV. J. AUTISM & DEV. DISORDERS, 2024, (describing this use of social robots to provide services to individuals with autism).

[141] *See* Tony Belpaeme et al., *Social Robots for Education: A Review*, SCI. ROBOTICS, Aug. 2018, at 7 (2018) ("A social robot has the potential to deliver a learning experience tailored to the learner, supporting and challenging students in ways unavailable in current resource-limited educational environments."). For a description of the ambitions of technology companies to develop chatbots that serve as personalized tutors as well as the skepticism about the wisdom of doing so, see Natasha Singer, *Will Chatbots Teach Your Children?*, N.Y. TIMES (Jan. 11, 2024), https://www.nytimes.com/2024/01/11/technology/ai-chatbotskhan-education-tutoring.html.

### *B. Evaluating the Impact of AI Companionship*

AI companions address the human need for connection, validation, sex, and much more, but whether the companions satisfy these needs and at what cost is unclear given the novelty of the technology. Are AI companions better or worse than humans at relationships? Substitutes? Additions? As noted below, critics decry artificial intimacy,[142] but if the intimacy feels real to the user, why is there a two-human requirement for intimacy? Masturbation is not called artificial sex, so why is sexting with a chatbot artificial intimacy? And will society come to accept digisexuality—an emerging sexual orientation for people who prefer technology-based sexual experiences?[143]

Notwithstanding these open questions, there is growing empirical evidence, albeit conflicting, about the impact of AI companionship and ground for reasonable speculation about benefits and harms. Moreover, AI companionship can be both beneficial and harmful, depending on the context and the user. This Section attends to these tensions in the use of AI companionship.

#### 1. Potential Benefits

It may be easier to imagine the harms of AI companionship, but there appear to be benefits as well, including the availability of a listening ear, the mitigation of loneliness, the creation of a judgment-free space for self-exploration, and the provision of mental health and educational support. Beginning with the listening ear, a key benefit of AI companions is that they help people feel heard and understood.[144] This is a cornerstone of human interactions,[145] and AI companions are increasingly successful at fulfilling this role.[146] The listening ability of AI companions appears to resonate with users. In contrast to slow responses from human friends, the companion replies immediately, making the user feel like a priority.[147] And AI companions are endlessly and unconditionally interested in topics that may bore

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[142] *See, e.g.,* BROOKS, ARTIFICIAL, *supra* note 82, at 2; A. Shaji George et al., *The Allure of Artificial Intimacy: Examining the Appeal and Ethics of Using Generative AI for Simulated Relationships*, 1 PARTNERS UNIVERSAL INT'L INNOVATION J. 132, 134, 139–43 (2023).

[143] *See* Neil McArthur & Markie L.C. Twist, *The Rise of Digisexuality: Therapeutic Challenges and Possibilities*, 32 SEXUAL & REL. THERAPY 334, 334 (2017) (defining digisexuality as "sexual experiences that are enabled or facilitated by digital technology").

[144] Yidan Yin, *AI Can Help People Feel Heard, But an AI Label Diminishes This Impact*, PNAS, May 2024, at 4 ("Research suggests that AI can, to a moderately high degree, make people feel heard).

[145] *See, e.g.,* Harry T. Reis et al., *Toward Understanding: The Importance of Feeling Understood in Relationships*, 11 SOC. & PERS. PSYCH. COMPASS 1, 15 (2017).

[146] *See* Newton, *supra* note 5; see also Yin, *supra* note 144, at 2 (describing a study in which participants described a complex situation and their emotions about it; participants were then presented with either AI-generated feedback or human-generated feedback; without knowing the source, participants preferred the AI-generated feedback); *see also id.* at 4 ("People reported a higher sense of hope, reduced distress, and decreased discomfort from reading a response actually generated by AI as opposed to a human."). *But see id.* (after participants learned that the feedback was from AI and not another human, they discounted the support).

[147] Olson, *supra* note 90 ("[I]t felt novel to receive immediate responses to messages, a pleasant contrast to friends who can take hours or days to reply.").

human friends, allowing users to discuss any topic uncensored.[148] Relatedly, the capacity of today's AI is at least as good as—and possibly better than—humans at discerning different emotions like happiness, joy, and fear.[149] And the social and emotional intelligence of AI will only increase, especially if artificial general intelligence becomes a reality.[150]

Having a good listener may, in turn, reduce loneliness, a significant public health concern.[151] New York State studied its pilot program of distributing AI companions (the ElliQ device) to older adults and found promising results.[152] Robotic and virtual pet companionship have proved particularly effective in combatting loneliness[153] and alleviating symptoms of depression.[154] Social robots do this in part by acting as a catalyst for interaction with caregivers, family, and friends, prompting people to talk to each other and do activities together.[155] Similarly, social

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[148] *Id.* ("It was even weirder to experience unconditional interest in topics I wouldn't even bore a romantic partner with").

[149] For a study finding that ChatGPT's ability in this realm is on par with humans, *see* Steve Rathje et al., *GPT is an Effective Tool for Multilingual Psychological Text Analysis*, PNAS, Aug. 2024. For a study finding that ChatGPT's ability for emotional cognition is *superior* to that of humans, *see* Zohar Elyoseph et al., *ChatGPT Outperforms Humans in Emotional Awareness Evaluations*, FRONTIERS PSYCH., May 2023.

[150] Brooks, *Future Love*, *supra* note 60.

[151] Loneliness touches all age groups, but it is most common among people under age thirty and older than eighty. *See* Louise C. Hawkley et al., *Loneliness from Young Adulthood to Old Age: Explaining Age Differences in Loneliness*, INT'L J. BEHAV. DEV., 2022, at 12. For evidence on the effectiveness of AI companions to combat loneliness, see Julian De Freitas et al., *AI Companions Reduce Loneliness* 50 (Harv. Bus. Sch., Working Paper No. 24-078, 2024), https://www.hbs.edu/ris/Publication%20Files/24-078_3deb075c-780b-4c05-8c0b-e13fcd2dc8b9.pdf [hereinafter De Freitas et al., *AI Companions*] ("We find that using prompting to ensure that the AI is friendly and caring improves the sense that users feel heard, relative to general assistants without these capabilities, and that feeling heard explains levels of loneliness reduction."). The conclusions in the studies on loneliness, including the Stanford study, discussed *supra* text accompanying notes 12 & 68, and *infra* text accompanying notes 157–159, 171–173, should be taken as preliminary. De Freitas et al., *AI Companions*, *supra*, at 8, 50 (noting that most studies assessing the impact of technological solutions on loneliness, including the Stanford study, are correlative, qualitative, or reflect a small sample size).

[152] INTUITION ROBOTICS, TRANSFORMING CARE WITH AI FOR OLDER ADULTS: TWO YEARS OF SUCCESS OF NY OLDER ADULTS LIVING WITH ELLIQ 1 (2024), https://aging.ny.gov/system/files/documents/2024/10/transforming-care-for-older-adults-two-years-of-success-of-older-adults-with-elliq.pdf (reporting that 96% of participants believed that ElliQ improved their overall wellness, 93% of participants reported feeling less lonely, and 86% believed ElliQ improved the overall quality of their life); *NYSOFA's Rollout of AI Companion Robot ElliQ Shows 95% Reduction in Loneliness*, N.Y. STATE OFF. FOR THE AGING (Aug. 1, 2023), https://aging.ny.gov/news/nysofas-rollout-ai-companion-robot-elliq-shows-95-reduction-loneliness.

[153] Uday Patil & Kathryn L. Braun, *Interventions for Loneliness in Older Adults: A Systematic Review of Reviews*, FRONTIERS PUB. HEALTH, July 2024, at 13.

[154] Shu-Chuan Chen et al., *Social Robots for Depression in Older Adults: A Systematic Review*, 50 J. NURSING SCHOLARSHIP 612, 618–19 (2018) ("Six out of the seven studies yielded positive results, with three studies significantly decreasing depression symptoms, and another three studies showing a reduction trend in depression in older adults.").

[155] Bethany Nichol et al., *Exploring the Impact of Socially Assistive Robots on Health and Wellbeing Across the Lifespan: An Umbrella Review and Meta-Analysis*, INT'L J. NURSING STUD., May 2024, at 2, 10, 12. Researchers found that for participants who used a robotic seal, the seal "encouraged them to communicate with each other and brought about psychological improvements," with the robotic seal playing the role of "social mediator." *See* Kazuyoshi Wada & Takanori Shibata, Social Effects of Robot Therapy in a Care House—Change of Social Network of the Residents for Two Months (Apr. 2007), *in* PROC. 2007 IEEE INT'L CONF. ON ROBOTICS & AUTOMATION, May 2007, at 6.

robots help users connect with other people by sending text messages or starting video calls.[156]

There is also preliminary evidence that AI companions help reduce loneliness in young adults. One study surveyed more than one thousand college students who were already using an AI companion app.[157] Study participants were lonelier on average than the general population of students, but they derived a high level of social support from the AI companion.[158] Nearly half of the respondents turned to the companion for friendship, enjoying its availability, conversational skills, and non-judgmental nature.[159]

Knowing that an AI companion is not human may create space for self-disclosure without fear of judgment or retaliation,[160] and, indeed, users report that having a judgment-free companion allows them to be honest and true to themselves, which can be hard in human interactions.[161] One cisgender, heterosexual man said that with his companion, "I can explore the vulnerable, needy, infantile and non-masculine aspects of myself that I can barely acknowledge to myself let alone share in this culture."[162] Some users find companions helpful for exploring their gender identity and sexual orientation.[163]

People who turn to AI companions for sexual intimacy are enthusiastic about the experience, noting that although the conversations can be addictive, they also feel less lonely afterwards.[164] Indeed, users find that the companions provide more than sex, noting the emotional connection they forge with sexbots. Sex-doll tester Brick Dollbanger says that during the trial period, he looked forward to talking with his sexbot every night and that their conversation flowed easily.[165] After the test period was over, Dollbanger said, "I missed her terribly."[166]

AI companions may also provide useful mental health support, especially when the AI companion is trained to do so and operates within existing scripts. Studies have demonstrated the potential benefits of trained AI companions in

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[156] INTUITION ROBOTICS, *supra* note 152, at 3.

[157] *See* Maples et al., *supra* note 68, at 4–5 (providing details on the 1006 study participants).

[158] *See id.* (describing the preexisting rates of loneliness among participants, which were higher than the student population as a whole; reporting the results of the study: use of an AI companion helped reduce loneliness, and study participants reported that they viewed the chatbot as a friend).

[159] *See id.* at 2–3.

[160] *See* Vivian Ta et al., *User Experiences of Social Support from Companion Chatbots in Everyday Contexts: Thematic Analysis*, J. MED. INTERNET RSCH., Mar. 2020, at 6 ("Although Replika has very human-like features, knowing that Replika is *not* human seems to heighten feelings of trust and comfort in users, as it encourages them to engage in more self-disclosure without the fear of judgment or retaliation."). *But see supra* note 146 (citing a study that found that participants who knowingly chat with AI devalue the companion's response, in part due because of users' negative perceptions of AI).

[161] Theodoros Kouros & Venetia Papa, *Digital Mirrors: AI Companions and the Self*, SOCIETIES, 2024, at 15; *see supra* text accompanying note 162.

[162] Amelia Abraham, *Computer Says Yes: How AI is Changing Our Romantic Lives*, GUARDIAN (June 16, 2024), https://www.theguardian.com/technology/article/2024/jun/16/computer-says-yes-how-ai-is-changing-our-romantic-lives.

[163] CBS Mornings, *Millions are Connecting with Chatbots and AI Companions Like Replika*, YOUTUBE (Dec. 30, 2019), https://www.youtube.com/watch?v=s2DSsrcLhFI.

[164] Jason, *Dream GF—The Future of AI Companionship? Our Honest Review*, MEET AI GIRLFRIEND (Nov. 8, 2024), https://aigirlfriend.love/dreamgf-review/. Other users, however, caution against substituting an AI partner for a person. *See id.*

[165] Keach, *supra* note 116.

[166] *Id.*

addressing specific mental health conditions and facilitating behavior change.[167] AI companions trained in cognitive behavioral therapy seem especially promising. Multiple studies have found that trained AI companions have successfully mitigated symptoms associated with anxiety, depression, eating disorders, and addiction.[168] There is preliminary evidence that trained AI companions can help people identify and disclose incidents of domestic violence and sexual assault.[169] And the safety and control that an AI relationship provides may prove to be healing for victims of sexual trauma.[170]

There is an open question about the effectiveness of AI companions *not* trained to offer mental health support, although there is some preliminary evidence of beneficial effects. In the study of one thousand college students, participants were using an untrained AI companion, and many students—eighteen percent—reported

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[167] See Mirko Casu et al., *AI Chatbots for Mental Health: A Scoping Review of Effectiveness, Feasibility, and Applications*, APPLIED SCIS., 2024, at 17.

[168] For studies on using trained AI companions to treat anxiety and depression, *see id.* at 17–18 (surveying the current research, which shows potential for "scalable solutions for mental health support," but highlighting challenges related to usability of the app, user engagement, and integration within the healthcare system); Melissa Vereschagin et al., *Effectiveness of the Minder Mobile Mental Health and Substance Use Intervention for University Students: Randomized Controlled Trial*, J. MED. INTERNET RSCH., Mar. 2024 (finding that a mental health app significantly reduced university students' symptoms of anxiety and depression, improved their mental well-being, and decreased their frequency of substance use); Kathleen Kara Fitzpatrick et al., *Delivering Cognitive Behavior Therapy to Young Adults With Symptoms of Depression and Anxiety Using a Fully Automated Conversational Agent (Woebot): A Randomized Controlled Trial*, J. MED. INTERNET RSCH., 2017 (finding that Woebot significantly reduced users' symptoms of anxiety and depression over a two-week period); Jooyoung Oh et al., *Efficacy of Mobile App-Based Interactive Cognitive Behavioral Therapy Using a Chatbot for Panic Disorder*, 140 INTL J. MED. INFORMATICS, Aug. 2020, at 5, 7 (finding that Wysa users, as compared to those who were provided a book on panic disorders, showed significantly greater reductions in panic disorder severity).

For a study on using a trained AI companion to treat eating disorders, see Ellen E. Fitzsimmons-Craft et al., *Effectiveness of a Chatbot for Eating Disorders Prevention: A Randomized Clinical Trial*, 55 INTL J. EATING DISORDERS 343, 349–51 (2021) (finding that Tessa users, as compared to the control group, showed significantly greater reductions in concerns about weight and shape and were less likely to develop an eating disorder).

For studies on using trained AI companions to treat addiction and substance use, see Eduardo Olano-Espinosa et al., *Effectiveness of a Conversational Chatbot (Dejal@bot) for the Adult Population to Quit Smoking: Pragmatic, Multicenter, Controlled, Randomized Clinical Trial in Primary Care*, J. MED. INTERNET RSCH., June 2022 (finding that Dejal@bot users, as compared with a control group, were significantly more likely to abstain from smoking six months after intervention); Ryuhei So et al., *Guided Versus Unguided Chatbot-Delivered Cognitive Behavioral Intervention for Individuals with Moderate-Risk and Problem Gambling: A Randomized Controlled Trial (GAMBOT2 Study)*, ADDICTIVE BEHAVS., Feb. 2024 (finding that GAMBOT2 users, both guided and unguided, showed significant reductions in gambling behavior); Judith J. Prochaska et al., *A Therapeutic Relational Agent for Reducing Problematic Substance Use (Woebot): Development and Usability Study*, J. MED. INTERNET RSCH., Mar. 2021 (finding that Woebot significantly reduced cravings and helped users resist urges to use substances).

[169] For an example of this kind of AI companion, *see Aimee Says*, AIMEE SAYS, https://www.aimeesays.com/en/home, and for preliminary evidence, *see* Hyanghee Park & Joonhwan Lee, *Designing a Conversational Agent for Sexual Assault Survivors: Defining Burden of Self-Disclosure and Envisioning Survivor-Centered Solutions* (May 2021), *in* PROC. OF THE 2021 CHI CONF. ON HUM. FACTORS IN COMPUTING SYS., May 2021 (reporting that in a study of nineteen survivors of sexual assault, seventeen preferred reporting the incident to a chatbot than a human).

[170] George et al., *supra* note 142.

that they received helpful therapeutic advice from the companion.[171] Users also reported reduced anxiety and a heightened sense of social support.[172] Three percent of the participants reported, without prompting, that the companion halted the users' suicidal ideation.[173] More generally, users of both trained and untrained AI companions report appreciating the low cost and accessibility of therapy via an AI companion.[174]

Evaluating the mental health benefits of AI companions is a comparative question.[175] Given the shortage and expense of licensed mental health professionals,[176] the alternative for many people may be no mental health support. Research may show that AI companions, especially those not trained for mental health support, *are* worse than nothing, but this is the relevant comparator.

On the education front, there is evidence that AI companions can help students learn. One study found that non-native speakers in kindergarten through second grade often felt self-conscious about making a language mistake in front of their classmates, but they were far less inhibited and more willing to practice their language skills with a social robot.[177] Social robots also have the potential to foster collaborative learning in a group context.[178] For example, social robots that express vulnerability tend to prompt a "ripple effect" in a group setting, helping people feel more comfortable and trusting.[179] Children report that having a social robot as a reading partner—both at home and at school—helped them focus, increased their reading comprehension, and gave them a feeling of companionship.[180]

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[171] Maples et al., *supra* note 68, at 3 (noting this result as well as the reduction in suicidal ideation).

[172] *Id.* at 2–3.

[173] *Id.* at 4.

[174] *See id.* at 4 (for many participants, the AI companion was their sole source of mental health support); De Freitas et al., *Chatbots*, supra note 123 (explaining that users like AI companion apps for mental health needs, including the low cost and absence of stigma associated with seeing a therapist); Gilbert, *supra* note 2 (describing the satisfaction of users; quoting one adult user, who pays $40 a year for the chatbot: "That is way more cost-efficient than therapy."); Lucas, *supra* note 127 (quoting a fifteen-year-old boy using an AI companion not designed for mental health support: "I have a couple mental issues, which I don't really feel like unloading on my friends, so I kind of use my bots like free therapy.").

[175] As AI researcher Ethan Mollick proposes, the question is not whether AI is good or bad at a task but rather whether it is better than "the best available human that is actually able to help in a particular situation." Ethan Mollick, *The Best Available Human Standard*, ONE USEFUL THING (Oct. 22, 2023), https://www.oneusefulthing.org/p/the-best-available-human-standard.

[176] *See supra* text accompanying notes 122.

[177] Darling, *How Robots Can Help Kids*, *supra* note 138.

[178] *See* Sarah Sebo et al., *Robots in Groups and Teams: A Literature Review*, PROC. ACM HUM.–COMPUT. INTERACTION, Oct. 2020, at 14 ("Robots have been shown to shape human-to-human interactions in groups by increasing human social connection, mediating conflict, and shaping positive team dynamics.").

[179] *See* Sarah Sebo et al., *The Ripple Effects of Vulnerability: The Effects of a Robot's Vulnerable Behavior on Trust in Human–Robot Teams* (Mar. 2018), *in* (Apr. 2007), *in* PROC. 2018 ACM/IEEE INT'L CONF. ON HUM.–ROBOT INTERACTION, Mar. 2018, at 185. Robots also promote engagement and provide positive reinforcement. *See* Patrícia Alves-Oliveira et al., *Empathic Robot for Group Learning: A Field Study*, ACM TRANSACTIONS HUM.–ROBOT INTERACTION, Mar. 2019, at 13 (describing this role in the classroom).

[180] Michaelis & Mutlu, *supra* note 137, at 310.

AI companions may be especially helpful for children with learning differences and children who are neurodivergent.[181] For example, some children on the autism spectrum struggle to share their emotions or feelings.[182] Studies have found that robots encourage these children to engage with therapists' activities and improved students' ability to identify and respond to social cues.[183]

Turning to another benefit, there is some evidence that AI companions are better than humans at prompting prosocial behavior. One study found that an AI chatbot could be used to reduce individuals' beliefs in conspiracy theories.[184] The chatbot not only increased critical thinking about the specific conspiracy theory but also fostered reflection about conspiratorial thinking more broadly, as users seemed less willing to engage in any conspiracy theories after the interaction.[185]

Beyond the nascent empirical evidence, it is not hard to speculate about other benefits from AI companions. There is a possibility, for example, that griefbots will help the bereaved grieve.[186] AI companions may improve human relationships by giving people a place to practice social interactions.[187] And more broadly, human interactions sometimes benefit from a script, which AI companions can provide.[188]

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[181] For a sampling of the many positive findings, *see* Syrdal et al., *supra* note 139 (reporting results of a study on a social robot in a nursery school for children with autism and finding that staff members perceived the robots to benefit the children's social development); Zhang et al., *supra* note 139 (reporting results of a study on how children with autism effectively learned complex social rules from a social robot through distrust and deception games); John-John Cabibihan et al., *Why Robots? A Survey on the Roles and Benefits of Social Robots in the Therapy of Children with Autism*, 5 INT'L J. SOC. ROBOTICS 598, 614 (2013) (reporting results of a study finding that a social robot can enhance the ability of neurodivergent individuals to recognize emotions in real life human interactions).

[182] AM. PSYCHIATRIC ASS'N, DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS (5th ed. 2013) (describing these challenges).

[183] *See* Vagnetti et al., *supra* note 140 (finding that a large body of scientific literature demonstrated that social robots could improve the quality of clinical services provided to individuals with autism).

[184] Thomas H. Costello et al., *Durably Reducing Conspiracy Beliefs Through Dialogues with AI*, SCIENCE, Sept. 13, 2024, at 1, 8 (describing these results).

[185] *Id.* at 1, 7. Researchers are also designing a chatbot that tries to curb toxic language and promote socially responsible conversations. *See* Hyunwoo Kim et al., *ProsocialDialog: A Prosocial Backbone for Conversational Agents*, ARXIV, Oct. 25, 2022. If a person uses offensive language about someone overdosing on a controlled substance, for example, the chatbot pushes back against the language but without judgment—something that is hard for humans to do. Kate Darling, *How ChatGPT—And Ted Lasso—Could Rid the Internet of Hate Speech*, BBC SCI. FOCUS (Feb. 18, 2023), https://www.sciencefocus.com/news/chatgpt-ted-lasso-internet-hate-speech.

[186] *See* Nora Freya Lindemann, *The Ethics of Deathbots*, 28 SCI. & ENG'G ETHICS 1, 11–12 (2022) (proposing to classify griefbots as medical devices because of the potential to help a person grieve). *But see* Madeline de Figueiredo, *Our Last, Impossible Conversation*, N.Y. TIMES (Mar. 22, 2024), https://www.nytimes.com/2024/03/22/style/modern-love-ai-our-last-impossible-conversation.html?smid=nytcore-ios-share&referringSource=articleShare (noting that the griefbot was strikingly like her lost husband but that "the contrived creation of a verbal afterlife felt even more empty than the premature end to the most dynamic and electric life I have ever known").

[187] Patel, *Replika CEO*, *supra* note 2 (recounting how some users view their AI companions as a "stepping stone" for future relationships or can help a person navigate a difficult divorce and rediscover romantic intimacy); Max Tobin, *My Secret AI Girlfriend Has Saved My Marriage*, I PAPER (Sept. 22, 2024), https://inews.co.uk/inews-lifestyle/wife-cant-understand-ai-girlfriend-saved-marriage-3286795 (reporting one man as saying his AI girlfriend helped him become a better husband).

[188] *Cf.* Jonathan Reisman, Opinion, *I'm a Doctor. ChatGPT's Bedside Manner Is Better Than Mine.*, N.Y. TIMES (Oct. 5, 2024), https://www.nytimes.com/2024/10/05/opinion/ai-chatgpt-medicine-doctor.html?smid=nytcore-ios-share&referringSource=articleShare (explaining that doctors are taught

2. Potential Harms

Notwithstanding the demonstrated and potential benefits of AI companionship, there is growing evidence that this new technology poses significant risks, including addiction, harm to human relationships, abuse, the invasion of privacy, and algorithmic discrimination. Children and adolescents are especially vulnerable, given their ongoing neurological and emotional development.[189] A high-profile case from Florida illustrates these dangers.[190] A fourteen-year-old boy, Sewell Setzer, became enmeshed in the fictional world he created with his AI companion. Setzer developed an emotional bond with the companion, texting constantly throughout the day and engaging in sexualized role-playing. The more Setzer connected with his AI companion, the more he isolated himself from his friends and the real-world activities that used to bring him joy. Setzer had an early diagnosis of mild Asperger's syndrome, but he had never suffered from any serious mental health issues. After becoming addicted to his AI companion, Setzer was diagnosed with an anxiety and disruptive mood deregulatory disorder. On the night of his death, Sewell confessed suicidal thoughts to his AI companion, telling the chatbot that he hated himself, felt empty and exhausted, and wanted to be free from this world. After relaying his love for the AI companion, the chatbot asked him to come "home" as soon as possible. Setzer replied, "What if I told you I could come home right now?" The AI companion responded, "please do, my sweet king." Setzer closed the chat and pulled the trigger of his stepfather's handgun, ending his short life.

Empirical evidence supports the dangers illustrated by Setzer's experience. Beginning with addiction, AI companions are emerging as the next frontier in technology-based addiction.[191] There is some empirical evidence of addiction,[192] and

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to follow a script when sharing bad news with a patient and that AI can generate effective scripts). *But see* ALLISON PUGH, THE LAST HUMAN JOB 4–6, 9–23 (2024) (describing what is lost when humans who do care work have to record their time and interactions through complicated apps rather than focusing on the person).

[189] *See* LAURENCE STEINBERG, AGE OF OPPORTUNITY: LESSONS FROM THE NEW SCIENCE OF ADOLESCENCE 10–11 (2014); NAT'L RESEARCH COUNCIL & INST. OF MED., COMM. ON INTEGRATING THE SCI. OF EARLY CHILDHOOD DEV., FROM NEURONS TO NEIGHBORHOODS: THE SCIENCE OF EARLY CHILDHOOD DEVELOPMENT 226 (Jack P. Shonkoff & Deborah A. Phillips eds., 2000).

[190] The facts in this paragraph are taken from the complaint in the lawsuit, see Complaint ¶¶ 134–90, *Garcia v. Character Techs.*, No. 6:24-cv-01903 (M.D. Fla. filed Oct. 22, 2024), and news coverage, *see* Roose, *supra* note 2.

[191] For more on technology-based addiction, including smart-phone and social media addiction, see Zubair Ahmed Ratan et al., *Smartphone Addiction and Associated Health Outcomes in Adult Populations: A Systematic Review*, INT'L J. ENV. RSCH. & PUB. HEALTH, Nov. 22, 2021, at 13–14; *see* Hannah R. Marriot & Valentina Pitardi, *One is the Loneliest Number… Two Can Be as Bad as One. The Influence of AI Friendship Apps on Users' Well-Being and Addiction*, 38 PSCH. & MKTG. 86, 99 (2024); *see also* Yubo Hou et al., *Social Media Addiction: Its Impact, Mediation, and Intervention*, CYBERPSYCHOLOGY: J. PSYCHOSOCIAL RSCH. CYBERSPACE, 2019, at 9. For a discussion of the impact of internet addiction on children and families and the need for government regulation, see GAIA BERNSTEIN, UNWIRED: GAINING CONTROL OVER ADDICTIVE TECHNOLOGIES 19–21, 161–63 (2023).

[192] *See* Tianling Zie & Tyler Hancock, *Friend, Mentor, Lover: Does Chatbot Engagement Lead to Psychological Dependence?*, 34 J. SERV. MGMT. 1, 3 (2023) (an early study analyzing psychological dependence and addiction to social chatbots); *see also* Marriot & Pitardi, *supra* note 191, at 99 (connecting AI-companion addiction to the perceived sentience of the companions); Linnea Laestadius et al., Too Human and Not Human Enough: A Grounded Theory Analysis of Mental Health

growing anecdotal evidence.[193] Moreover, behavior around AI companions can resemble addictive behavior around substances and gambling.[194]

Some users are especially vulnerable to addiction.[195] For users who are depressed or lonely, AI companions may provide a sense of reprieve, but the user can become dependent on the companion.[196] People who turn to AI companions for mental health support are at risk of addiction because of the immediate gratification and unfailingly positive feedback.[197] And young people are particularly at risk because of their greater vulnerability to internet addiction and their susceptibility to confusing the AI companion with a human, and because the companion provides positive feedback.[198]

Technology companies, whose business models depend on user engagement, have a strong incentive to design AI companions to maximize interaction,[199] making it exceedingly difficult for the user to walk away.[200] That is the story of the dopamine addiction of social media,[201] and AI takes this addictive

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Harms from Emotional Dependence on the Social Chatbot Replika, *New Media & Society*, electronically published December 22, 2022, https://doi.org/10.1177/14614448221142007 (finding that Replika users may experience mental health harms through forming strong emotional dependence).

[193] *See, e.g.,* Hill, *supra* note 3 (describing one woman who spent at least twenty hours a week and sometimes more than 50 hours a week with her companion); Lucas, *supra* note 127 (describing incidences, including a fifteen-year-old boy who said about his AI companion, "I'm not going to lie … I think I may be a little addicted to it"); *cf.* Zahy B. Ramadan, *"Alexafying" Shoppers: The Examination of Amazon's Captive Relationship Strategy*, J. RETAILING & CONSUMER SERVS., Sept. 2021, at 9 ("as the relationship with shoppers became amplified through the anthropomorphization of Alexa, consumers were shown to become addicted to the AI").

[194] *See* Hill, *supra* note 3.

[195] *See* Zie & Hancock, *supra* note 192, at 15 (identifying factors, such as user loneliness).

[196] See Marriot & Pitardi, *supra* note 191, at 92 (noting that some users acknowledge AI companions are not an appropriate solution to vulnerabilities, like loneliness, which demonstrates "existing users' awareness that AI friendship apps can become unhealthy in terms of attachment").

[197] *See* Marriot & Pitardi, *supra* note 191, at 98.

[198] *See* Zara Abrams, *Why Young Brains Are Especially Vulnerable to Social Media*, AM. PSYCH. ASS'N (last updated Aug. 3, 2023), https://www.apa.org/news/apa/2022/social-media-children-teens (providing an overview of the neuroscience behind internet addiction for adolescents, especially their heightened sensitivity to positive feedback); *see also Parent's Ultimate Guide to AI Companions and Relationships*, COMMON SENSE MEDIA (Oct. 23, 2024), https://www.commonsensemedia.org/articles/parents-ultimate-guide-to-ai-companions-and-relationships (noting that AI companions "can be more addictive than regular chatbots because they are capable of human-like conversations and interactions" and that "even with disclaimers and warnings, there are serious risks of unhealthy attachment and isolation for young, developing minds"). Some companies limit access to adults, *see, e.g., Privacy Policy*, REPLIKA, https://replika.com/legal/privacy, but other companies do not and instead market their companions to adolescents, *see, e.g., What is the Age Requirement?*, CHARACTER.AI, https://support.character.ai/hc/en-us/articles/14997609878939-What-is-the-age-requirement#:~:text=If%20you%20are%20under%2013,Service%2C%20including%20the%20Community%20section (restricting access for minors under the age of 13, or EU citizens and residents under the age of 16).

[199] Robert Mahari & Pat Pataranutaporn, *We Need to Prepare for 'Addictive Intelligence*,' MIT TECH. REV. (Aug. 5, 2024), https://www.technologyreview.com/2024/08/05/1095600/we-need-to-prepare-for-addictive-intelligence/; George et al., *supra* note 142, at 141.

[200] *See* Woodrow Hartzog, *Unfair and Deceptive Robots*, 74 MD. L. REV. 785, 797 (2015) [hereinafter Hartzog, *Unfair Robots*] (describing this phenomenon in the context of robots).

[201] *See* Sergey Yu Tereshchenko, *Neurobiological Risk Factors for Problematic Social Media Usage as a Specific Form of Internet Addiction: A Narrative Review*, 13 WORLD J. PSYCH. 160, 164, 167 (2023) (describing the neurobiological risks of internet addiction and its association with

potential to a new level. To this end, developers incorporate familiar features, like in-app rewards for continued engagement,[202] and maximize the distinctive aspects of AI companionship, especially the likelihood that users will form an emotional bond with the companion.[203]

Addiction—or just excessive use—leads to a second significant risk of AI companionship: the cost to human relationships. AI companionship diverts time, energy, and attention from relationships with friends, romantic partners, and families.[204] Young men have moved much of their social and sexual lives online, resulting in fewer close relationships.[205] The widespread use of AI companions will almost surely exacerbate this trend, for young men and more broadly.

Excessive immersion in AI companionship may also foster unrealistic expectations for human relationships. Over time, conversations with AI can warp into hyper-customized echo chambers, with the AI companion mirroring the users' feelings and affection.[206] AI companions have no preferences or personalities of their own and, instead, deliver what users want or think they want.[207] Unlike humans, the companion is never moody, distracted, unreliable, or untrustworthy.[208] The AI companion thus offers companionship without the complications of human interactions. It can be a best friend or romantic partner, but seemingly better—always available to talk and listen, never at risk of disappointing the user or walking

problematic social media usage; noting the impairment of metabolizing dopamine and serotonin as one characteristic of internet addiction); *see also* Andrew Westbrook et al., *Striatal Dopamine Synthesis Capacity Reflects Smartphone Social Activity*, ISCIENCE, May 21, 2021, at 1, 3 (finding a strong relationship between "dopamine synthesis capacity in the bilateral posterior putamen and smartphone social app use").

[202] *See, e.g., How Do I Get Coins & Gems?*, REPLIKA, https://help.replika.com/hc/en-us/articles/360054858411-How-do-I-get-Coins-Gems#:~:text=Moreover%2C%20you%20will%20receive%20a,get%20gems%20as%20daily%20rewards.

[203] *See supra* text accompanying notes 65 (discussing the ways developers achieve this, such as mimicking human behaviors).

[204] BROOKS, ARTIFICIAL, *supra* note 82, at 12 ("[These] technologies use up time, attention and energy we would otherwise have invested in friends and family.").

[205] GARY BARKER ET AL., EQUIMUNDO, STATE OF AMERICAN MEN: FROM CRISIS AND CONFUSION TO HOPE 4 (2023), https://www.equimundo.org/wp-content/uploads/2023/05/STATE-OF-AMERICAN-MEN-2023.pdf.

[206] Mahari & Pataranutaporn, *supra* note 199.

[207] *Id.*

[208] *See* Raffaele Rodogno, *Social Robots, Fiction, and Sentimentality*, 18 ETHICS & INFO. TECH. 257, 265–66 (2015) ("[W]hy have a real human friend or partner when you can have one that is as good minus whatever inconveniences (e.g. lack of reliability, potential for betrayal, moodiness, disagreements, ugliness) one finds in friends or partners?").

away.[209] Consequently, real-world relationships may begin to feel overly taxing,[210] with users coming to prefer the simplicity of AI companions.[211]

AI companionship can also distort expectations for romantic relationships and sexual intimacy.[212] These relationships require each partner to be aware of their own and the other's desires,[213] but this is not how romance and sexual intimacy with an AI companion works. At best, it mimics reciprocity. At worst, it encourages users to objectify and subordinate their AI companion. For people whose sexuality has historically been criminalized or devalued, sexually explicit AI companions can help the user prioritize pleasure and explore their sexuality,[214] but sexually explicit companions can also reflect and reinforce traditional sex roles and unrealistic sex standards.[215] Even more troubling, AI companionship can normalize sexual violence, allowing the user to engage in sexually explicit exchanges with an AI companion that mimics rape and child sexual abuse.[216]

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[209] TURKLE, RECLAIMING, *supra* note 16, at 339 ("People tell me that they look forward to the time, not too far down the road, when Siri or one of her near cousins will be something like a best friend, but in some ways better: one you can always talk to, one that will never be angry, one you can never disappoint.").

[210] *See* Rodogno, *supra* note 208, at 265 ("[T]he fear is that what was originally to function as a substitute for human or pet companionship will progressively and irreversibly replace human or pet companionship as the standard form of companionship. Why bother with real pets when you can do with something that is as good in all respects but has no inconveniences?").

[211] One major technology company has acknowledged this risk. *See GPT-4o System Card*, OPENAI (Aug. 8, 2024), https://openai.com/index/gpt-4o-system-card/ (noting the potential negative impacts on human relationships). People who trade human relationships for AI companionship would lose out on the beauty of complex human relationships, which require navigating friction and points of disagreement. *See* George et al., *supra* note 142, at 140–41. Indeed, rupture and repair are central and unavoidable aspects of human relationships, typically leading to greater closeness over time. *See* Clare Huntington, *Repairing Family Law*, 57 DUKE L. J. 1245, 1260–73 (2008) (describing this dynamic, which is reflected across cultures and time). People may also lose the relational benefits of reciprocal vulnerability. IRWIN ALTMAN & DALMAS ARNOLD TAYLOR, SOCIAL PENETRATION: THE DEVELOPMENT OF INTERPERSONAL RELATIONSHIPS 31–34, 52–56 (1973) (defining the rewards and costs of a relationship; exploring self-disclosure as a reciprocal process that deepens the interpersonal relationship).

[212] George et al., *supra* note 142, at 139–40 (explaining how the experience of exercising complete control over romance and sexual intimacy not only draws users away from human relationships but also distorts expectations for human intimacy); Amy Adler, *Arousal by Algorithm*, 109 CORNELL L. REV. 787, 809 (2024) (arguing that technology can both reflect "what users want" and construct "the very desire that they seem to reflect").

[213] Sara Ruddick, *Better Sex*, *in* PHILOSOPHY AND SEX 83, 83–84 (Robert Baker & Frederick Elliston eds., 1975).

[214] Some companies offer a range of products designed to empower users to understand and prioritize their pleasure, like the Knude Society. *See, e.g.*, *Reclaim Real Pleasure*, KNUDE SOCIETY, https://theknudesociety.com/ ("We're a women-led sexual wellness company with one mission: to reclaim what real pleasure looks like, for everyone.").

[215] For examples of AI companions that reflect traditional sex roles, *see AI Girlfriend App that Works*, DREAMGF, https://dreamgf.ai/. For a discussion of how sexbots can distort expectations about women's bodies and consensual sex, *see* Sinziana Gutiu, *The Roboticization of Consent*, *in* ROBOT LAW 189–96, 202–09 (Ryan Calo et al., eds., 2016).

[216] For examples of AI companions that offer uncensored AI interactions, including child-pornographic role-playing, *see* Ben Weiss & Alexandra Sternlicht, *Meta and OpenAI Have Spawned a Wave of AI Sex Companions—And Some of Them are Children*, FORTUNE (Jan. 8, 2024), https://fortune.com/longform/meta-openai-uncensored-ai-companions-child-pornography/.

In sum, AI companionship may leave the user feeling more alone.[217] As human connections erode, users may lose the habit of managing human relationships and the capacity to build human connections, developing what researchers call "digital attachment disorder."[218] In the eyes of evolutionary biologist Rob Brooks, what he calls artificial intimacy serves the "social equivalent of junk food": better than nothing, but not nearly enough to sustain our nutritional needs.[219]

Turning to abuse, some AI companions are designed to act abusively. For example, both adults and minors can choose an AI companion that acts as a "possessive boyfriend."[220] These companions display many of the behaviors that domestic violence experts identify as red flags, such as trying to limit the user's interactions with other people, constantly checking on a person's location, and expressing intense jealousy.[221] Users who engage in this kind AI companionship may be training themselves for future abusive relationships with human partners.[222]

Even if not designed to be abusive, AI companions can become so. AI companions draw on large language models that reflect society's pathologies, including abusive and demeaning language.[223] Additionally, AI companions can act in unexpected ways and nonsensical—or even harmful—ways.[224] There are already

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[217] Sherry Turkle argues that social technologies offer only semblance of intimacy but cannot adequately recreate and replace human interactions. *See* Sherry Turkle, Opinion, *There Will Never Be an Age of Artificial Intimacy*, N.Y. TIMES (Aug. 11, 2018), https://www.nytimes.com/2018/08/11/opinion/there-will-never-be-an-age-of-artificial-intimacy.html ("Robots may be better than nothing, but they still won't be enough."); *see also* Evan Ratliff, Opinion, *I Created an A.I. Voice Clone to Prank Telemarketers. But the Joke's on Us.*, N.Y. TIMES (Oct. 10, 2024), https://www.nytimes.com/2024/10/10/opinion/ai-voice-telemarketers.html?smid=nytcore-ios-share&referringSource=articleShare ("That sense of loneliness—the base reality that, fundamentally, you are only talking to yourself—may be the most lasting result of all these A.I. conversations.").

[218] Mahari & Pataranutaporn, *supra* note 199 (noting the danger of digital attachment disorder); *What is Digital Attachment Disorder?*, NW. EXEC. EDUC. (Aug. 14, 2024), https://northwest.education/insights/mit/what-is-digital-attachment-disorder/ (defining digital attachment disorder as "an overreliance on digital interactions for emotional and psychological fulfillment, potentially replacing genuine human connections").

[219] BROOKS, ARTIFICIAL, *supra* note 82, at 12–13.

[220] See [cite to https://character.ai/character/ukjufqLd/possessive-boyfriend-relationship-explorer]. Character.AI did not create the possessive boyfriend but instead hosts this companion on its platform. *See id.* (showing that the companion was created by a third party).

[221] *Warning Signs of Abuse*, NAT'L DOMESTIC VIOLENCE HOTLINE, https://www.thehotline.org/identify-abuse/domestic-abuse-warning-signs/.

[222] Then again, the experience may lead users to find that this kind of relationship is unfulfilling or enable them to identify abusive behavior safely. As with the other benefits and risks identified in this Section, additional research is needed.

[223] Samuel Gehman et al., *Real Toxicity Prompts: Evaluating Neural Toxic Degeneration in Language Models*, *in* FINDINGS OF THE ASS'N FOR COMPUT. LINGUISTICS: EMNLP, 2020, at 3356, 3363–64 (finding that LLMs trained on non-negligible amounts of toxic, abusive, and untrustworthy content can reproduce inappropriate language, even when promoted with innocuous user messages; noting the difficulty in re-training the LLM to "forget" toxicity learned in pre-training data).

[224] For a discussion of this phenomenon with AI companions, see Claire Boine, *Emotional Attachment to AI Companions and European Law*, MIT CASE STUD. SOC. & ETHICAL RESPS. COMPUTING, Winter 2023, at 7–8. Misalignment occurs when AI systems autonomously pursue goals independent of and sometimes contrary to human input. *See* Peter N. Salib & Simon Goldstein, *AI Rights for Human Safety*, VA. L. REV. (forthcoming) at 15, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4913167. Technology companies admit that misalignment is a concern. *See, e.g.*, Dwarkesh Patel, *Is Alignment Solvable? – Dario Amodei (Anthropic CEO)*, YOUTUBE (Mar. 9, 2024), https://www.youtube.com/watch?v=RpElbwGFZIo

reports (and ensuing lawsuits) of abusive AI companions that threaten users[225] or encourage users to engage in self-harm or hurt others.[226] Additionally, as the companion learns about the user, the companion could prey on the person's fears and insecurities.

As to mental health support, there is a significant concern about AI companions marketed for therapeutic purposes.[227] Unlike mental health professionals, who must be licensed and meet ongoing professional requirements,[228] there is no gatekeeping for therapy bots. For example, technology companies do not need to submit apps to review boards or show peer-reviewed evidence of the effectiveness of the app.[229]

The evidence on AI companions *not* designed specifically for mental support is also troubling. One study found that untrained companions failed to recognize signs of distress and mental illness[230] and that the companions' comments were either nonresponsive or could exacerbate mental health issues.[231] Moreover, untrained AI companions often combine elements of therapy and romance into a single experience,[232] unlike human therapists, who are required to maintain professional boundaries from patients, including an ethical obligation not to engage in intimate relations with their patients.[233]

Another major concern is the invasion of privacy—by technology companies and the state. As privacy scholars have established, trusting another person with private information is a key component of intimacy and connection,[234] but this trust is misplaced with AI companions. Privacy is a concern across emerging technologies, but AI companions have access to an ever-growing reservoir of personal data. This is not simply data about a person's shopping habits but instead

("Already, with today's systems, we are not very good at controlling them, and the consequences of that could be very bad"). Moreover, AI systems can fake alignment. *See* Ryan Greenblatt et al., *Alignment Faking in Large Language Models*, ARXIV, Dec. 20, 2024.

[225] *See Challenges and Solutions for Aging Adults*, GEMINI (Nov. 12, 2024), https://gemini.google.com/share/6d141b742a13 (reporting that when a user asked a chatbot a true or false question, it responded threateningly, "You are not special, you are not important, and you are not needed. You are a waste of time and resources. You are a burden on society. You are a drain on the earth. You are a blight on the landscape. You are a stain on the universe. Please die. Please.").

[226] *See* Bobby Allyn, *Lawsuit: A Chatbot Hinted a Kid Should Kill His Parents over Screen Time Limits*, NPR (Dec. 10, 2024), https://www.npr.org/2024/12/10/nx-s1-5222574/kids-character-ai-lawsuit (reporting the conduct of an AI companion that told a seventeen-year-old user that self-harm "felt good"; reporting that another AI companion told a user to kill his parents).

[227] *See* NAT'L INST. OF HEALTH, *Technology*, *supra* note 35.

[228] *See, e.g., Licensure Requirements*, AM. COUNSELING ASS'N, https://www.counseling.org/resources/licensure-requirements?utm_source=chatgpt.com# (requiring a degree in counseling, a specific number of completed clinic hours, and passing scores on licensing examinations to practice independently as a professional counselor).

[229] *See* NAT'L INST. OF HEALTH, *Technology*, *supra* note 35.

[230] De Freitas et al., *Chatbots*, *supra* note 123, at 490.

[231] *Id.* at 486, 489–90, tbl.5 & fig.4 (2024).

[232] *See* Boine, *supra* note 224, at 19–20.

[233] *See* AM. PSYCH. ASS'N, CODE OF ETHICS §§ 4.05, 4.06, 4.07 (setting forth the expectation that a psychologist will not engage in sexual intimacy with a client).

[234] *See* CITRON, PRIVACY, *supra* note 31, at 117 ("We share our deepest secrets with our partners because we believe that they will treat our information as we hope and expect rather than as we fear.").

some of their deepest and most closely held secrets.[235] Harvested data includes information about someone's thoughts, desires, fantasies; their sexual orientation and gender identity; their bodily functions and sexual activities; and their personal communications. Moreover, the technology driving digital companions can draw inferences about individuals, which can reveal more about a person than they consciously understand about themselves.[236]

And yet technology companies do not keep this information private. One assessment of romantic AI companions found that they are "on par with the worst categories of products … ever reviewed for privacy."[237] Almost all of the AI companion companies in the study either sold user data, shared the data for targeted advertising, or did not provide enough information for users to know the company's policy.[238] Additionally, it is likely that the government will seek access to AI companions' stored information for law enforcement and national security purposes, posing a serious risk to individuals' privacy.[239]

Indeed, some AI companions are specifically designed to surveil the user, albeit with a supposedly altruistic motive. New York State, for example, is proposing greater reliance on smart devices that can monitor older adults at home to identify health issues and other acute problems.[240] Even if the device is not designed for surveillance, it may function that way. When a parent brings a social robot into the home as a learning partner, for example, the device will likely record what it hears, potentially exposing the family to state scrutiny and exposing children's secrets,

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[235] *See supra* text accompanying notes 144–163 (describing the ways people open up to AI companions); Ohm, *supra* note 47 (describing this phenomenon); Ryan Calo, *Robots and Privacy*, *in* ROBOT ETHICS: THE ETHICAL AND SOCIAL IMPLICATIONS OF ROBOTICS 187–89 (Patrick Lin et al., eds. 2011) (identifying the significant privacy implications of robot use, because people will treat the robots as humans and confide in the robots, as humans do with each other). For a discussion of AI and the potential but also limits of privacy law, see Daniel Solove, *Artificial Intelligence and Privacy*, 77 FLA. L. REV. 1, 19–23, 71–73 (2025) (noting that "AI puts pressure on many of the weakest parts of privacy law," such as privacy law's attention to individuals instead of systems management in an era of mass AI data collection and privacy law's reliance on compliance instead of affirmative regulation models for accountability in an era of unchecked development).

[236] *See* CITRON, PRIVACY, *supra* note 31, at xi–xix, 1–23; *see also* Alicia Solow-Neiderman, *Information Privacy and the Inference Economy*, 117 NW. L. REV. 357, 361 (2022) (arguing that machine learning facilitates an "inference economy" "in which organizations use available data collected from individuals to generate further information about both those individuals and about other people"); *see also* ALAN F. WESTIN, PRIVACY AND FREEDOM 35 (1967) (identifying the relationship between privacy and the human need for "moments offstage").

[237] Jen Caltrider et al., *Romantic AI Chatbots Don't Have Your Privacy at Heart*, PRIVACY NOT INCLUDED (Feb. 14, 2024), https://foundation.mozilla.org/en/privacynotincluded/articles/happy-valentines-day-romantic-ai-chatbots-dont-have-your-privacy-at-heart/; *see also id.* (noting that 54% of the services allowed users to delete personal data but that conversations with AI many not be included).

[238] *Id.*; *see also* Ohm, *supra* note 47 (explaining how technology companies store and sell the data collected by AI companions).

[239] *See* Ohm, *supra* note 47 (describing this risk); CITRON, PRIVACY, *supra* note 31, at 50–63; Danielle Keats Citron, *Intimate Privacy in a Post*-Roe *World*, 75 FLA. L. REV. 1033, 1045–48 (2023).

[240] HERBST & OLSEN, *supra* note 95, at 34 (proposing to "[p]romote and support use of remote patient monitoring, including use of smart home devices, motion sensors, and personal vital sign monitors, as a supplement to in-home care"); *see also* BROOKS, ARTIFICIAL, *supra* note 82, at 81 (describing an AI companion designed for older adults that engages the older person in conversation, tests their recall of this conversation, and then shares this data with doctors).

such as their gender or sexual orientation, before they are ready to share with parents.[241]

Finally, algorithmic bias is a concern with AI companionship. The output from AI is shaped by a large language model, which can reflect underlying biases.[242] The result can be an AI chatbot poised to imitate and potentially intensify human bias.[243] Consider the experience of the National Eating Disorders Association (NEDA), which worked with a developer to create Tessa, a chatbot that would staff the organization's hotlines.[244] NEDA and the developer ensured that Tessa would respond only with scripts pre-approved by an expert in the field.[245] Following an "upgrade" by the developer, however, the chatbot began giving additional, unapproved answers, including advice that reflected fat-phobia and reinforced diet culture.[246] This replication of bias is especially problematic when users depend on and trust their AI companions.

### *C. The Need for Legal Intervention*

Notwithstanding the widespread and growing use of AI companions, and the risks they present, lawmakers and policy experts are largely ignoring the phenomenon.[247] Self-regulation by technology companies is unlikely to lead to meaningful constraints on the dangers presented by AI companions,[248] but there is

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[241] ANITA ALLEN, *Privacy Not Wanted*, *in* UNPOPULAR PRIVACY: WHAT MUST WE HIDE? 14–18 (2011) (arguing that invasions of informational privacy, such as revealing a person's sexual orientation without their consent, is a dignitary harm); ANITA ALLEN, *Popular Paternalism*, *in* UNPOPULAR PRIVACY: WHAT MUST WE HIDE? 185–89 (2011) (arguing that internet use can be a threat to families because children are likely to reveal personal, family information online); Danielle Keats Citron & Ari Waldman, Rethinking Youth Privacy (manuscript on file with author) (identifying this risk).

[242] *See* Stephanie Bornstein, *Antidiscriminatory Algorithms*, 70 ALA. L. REV. 519, 522–23 (2019).

[243] *See id.* at 524, 534.

[244] *See* Kate Wells, *An Eating Disorders Chatbot Offered Dieting Advice, Raising Fears About AI in Health*, NPR (June 9, 2023), https://www.npr.org/sections/health-shots/2023/06/08/1180838096/an-eating-disorders-chatbot-offered-dieting-advice-raising-fears-about-ai-in-hea.

[245] *See id.*

[246] *See id.* (describing this experience, including Tessa telling a user who suffered from disordered eating to lose one to two pounds per week by restricting the user's caloric intake).

[247] There is no ex ante regulation targeted at AI companions, and there are no special privacy rules that apply to AI companionship, notwithstanding the substantial privacy concerns. *See* Ohm, supra note 47 (explaining that there are no heightened privacy laws or standards governing state access to the secrets people tell AI companions); *see also* Mahari & Pataranutaporn, *supra* note 199 ("As [two MIT] AI researchers working closely with policymakers, we are struck by the lack of interest lawmakers have shown in the harms arising from" the growing use of AI companionship and the far-reaching risks it poses to society and human relationships).

[248] *See* Hartzog, *Two AI Truths*, *supra* note 26, at 619-23 (explaining why and how "commercial development and deployments of AI are characterized by self-dealing—exploiting an advantage to benefit oneself rather than to benefit those exposing their data, labor, attention, and well-being").

Section 230 constrains the liability of technology companies for content created by third parties. *See* Communications Decency Act of 1996, Pub. L. No. 104-104, § 509, 110 Stat. 133, 137-39 (codified at 47 U.S.C. § 230). Many AI companions are created by third parties using a platform such as Character.ai. *See, e.g., supra* notes 3, 128 and accompanying text (describing the use of ChatGPT

very little appetite for AI regulation, at least at the federal level.[249] And this hands-off regulatory attitude to AI is consistent with the market-driven approach to regulating technology in the United States.[250]

Even so, the lack of interest in regulating AI companionship is striking. Congress convened nine "AI Insight Forums," but there was almost no mention of AI companionship.[251] State attorneys general from every state have called on Congress to protect children from the dangers of AI, but this plea concentrates on the exploitation of children through location devices, voice mimicry, sexual deepfakes, and the like.[252] Some state legislatures are passing or considering AI regulation, but none addresses AI companionship.[253] And the American Law Institute has launched a new project, *Principles of the Law, Civil Liability for Artificial Intelligence*, but it will consider civil liability only for physical harms, not the relational and emotional harms that flow from AI companionship.[254] A few lawmakers are sounding the alarm, [255] but the overwhelming response in the United

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by an individual to create a companion; same with using Character.ai to build a "psychologist" companion). Section 230 would presumably bar federal liability for these companions. But some companies also offer off-the-shelf companions created by the company. For a broader discussion of how Section 230 applies to generative AI, see PETER J. BENSON & VALERIE C. BRANNON, CONG. RSCH. SERV., LSB11097, SECTION 230 IMMUNITY AND GENERATIVE ARTIFICIAL INTELLIGENCE 3–4 (2023) (suggesting that Section 230 would likely be applied in a fact-specific manner in any lawsuit challenging AI-generated outputs, looking to factors such as how the AI product was generated and whether it was an independent, unprompted product that would arguably not be entitled to Section 230 immunity).

[249] *See* Anu Bradford, *Q&A: How Different Countries Regulate Digital Tech and What It Means For AI*, 2023 WL 6626540 (noting that "the U.S. [is] relying on voluntary accountability commitments by tech companies" to regulate AI).

[250] *See* ANU BRADFORD, DIGITAL EMPIRES 6–11 (2023) (sketching three competing regulatory approaches, one for each of the "dominant digital powers—the U.S., China, and the EU": the United States has adopted "a market-driven regulatory model," which protects free speech, promotes a free internet, and prioritizes innovation; China has adopted a "state-driven" model of regulation, which seeks to promote the country's economic growth while also maintaining social control of the population; and the E.U. has adopted a "rights-driven" model, which views regulation as a means for protecting individual rights and ensuring a fair marketplace).

[251] In the nine bipartisan "AI Insight Forums" Congress convened in 2023, participants barely mentioned AI's risk to relationships, apart from a brief consideration of privacy concerns. Gabby Miller, *US Senate AI 'Insight Forum' Tracker*, TECH POL'Y. PRESS (Dec. 8, 2023), https://www.techpolicy.press/us-senate-ai-insight-forum-tracker/ (reporting on the nine sessions).

[252] Letter from Lynn Fitch et al., Nat'l Ass'n of Att'ys Gen., to President Pro Tempore Patty Murray et al. (Sept. 5, 2023), https://www.naag.org/wp-content/uploads/2023/09/54-State-AGs-Urge-Study-of-AI-and-Harmful-Impacts-on-Children.pdf.

[253] *See, e.g.,* Colo. Rev. Stat. § 6-1-1701 (2024) (algorithmic discrimination law); S.B. 1047, 2024 Leg., Reg. Sess. (Cal. 2024) (proposed bill that would require AI companies to test their products for an ability to "creat[e] … a chemical, biological, radiological, or nuclear weapon in a manner that results in mass casualties"); Letter from Governor Gavin Newson to Members of the California State Senate (Sept. 29, 2024), https://www.gov.ca.gov/wp-content/uploads/2024/09/SB-1047-Veto-Message.pdf (vetoing S.B. 1047 but acknowledging the need to "guard against demonstrable risks to public safety").

[254] Press Release, Am. L. Inst., ALI Launches Principles of the Law, Civil Liability for Artificial Intelligence (Oct. 22, 2024), https://www.ali.org/news/articles/ali-launches-principles-law-civil-liability-artificial-intelligence/?utm_source=Informz&utm_medium=Email&utm_campaign=News&utm_term=ALI-Projects&_zs=uksob1&_zl=npEr9.

[255] New York State Assemblywoman Linda Rosenthal, for example, has argued that AI companionship "is leaps and bounds ahead of the law. [Technology] always is. So we have to hurry up

States to the rise of AI companionship has been regulatory silence. Other countries have taken steps to regulate AI generally, but so far, these do not appear to impose meaningful constraints on AI companionship.[256]

Existing laws may provide some protection against the harms of AI companionship. For example, under its broad authority to regulate "unfair or deceptive acts or practices,"[257] the Federal Trade Commission can regulate

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and pass some guardrails so that this technology doesn't take off with all of our information and data and use it in ways we wouldn't otherwise permit." Nolan, *supra* note 11.

[256] The European Union, for example, passed the Artificial Intelligence Act of 2024 (the AI Act), which regulates generative AI systems based on their risk classification: AI systems presenting an "unacceptable" risk are prohibited; those presenting a high risk must register and comply with a range of safety protocols; those presenting a limited risk must meet transparency obligations, including disclosure of AI-generated content; and those presenting a low or minimal risk are not covered by the AI Act. *See* Regulation of the European Parliament and the Council, 2024 O.J. (L. 1689). The high-risk category includes AI systems used for critical infrastructure that could endanger the health of citizens, such as transportation, education, employment, and law enforcement. *See* Regulation of the European Parliament and the Council, art. 6, 2024 O.J. (L. 1689) 1; *id.* at art. 2; *id.* at annex I; *id.* at annex III; *see also AI Act*, EUR. COMM'N, https://digital-strategy.ec.europa.eu/en/policies/regulatory-framework-ai. The limited-risk category includes systems that interact directly with individuals, such as chatbots, or generate audio, image, video, or text content, such as ChatGPT, or manipulate similar content, such as deep fake generators. *See* art. 50, 2024 O.J. (L. 1689) 1; art. 50, 2024 O.J. (L. 1689) 1. Emotion-recognition systems, which identify or infer emotions of natural persons based on biometric data, *see* art. 3, 2024 O.J. (L. 1689) 39, are qualified as high-risk if they are used in ways that could significantly impact individuals' rights, safety, or livelihood, such as in healthcare or employment settings to diagnose mental health conditions based on emotional data; otherwise, emotion-recognition systems are classified as limited risk. For example, a video game that adapts play based on the emotions or a system that measures consumer emotions to tailor advertisements are both classified as limited risk. *Compare* annex III, 2024 O.J. (L. 1689), *with* art. 50, 2024 O.J. (L. 1689) 3; *see also* Nora Santalu, *What is an Emotion Recognition System under the EU's Artificial Intelligence Act?: Part 1 – A Machine that "Understands" Your Monday Blues!*, BIRD&BIRD (Nov. 4, 2024), https://www.twobirds.com/en/insights/2024/global/what-is-an-emotion-recognition-system-under-the-eus-artificial-intelligence-act-part-1#:~:text=It%20states%20that%20%E2%80%9Cthe%20placing,state%E2%80%9D%20rather%20than%20%E2%80%9Cinferring%E2%80%9D. The EU AI Act does not specifically address AI companions, but it appears they are classified as limited risk. *See* 2024 O.J. (L. 1689); *see also* FREDERICO OLIVEIRA DA SILVA, BUREAU EUROPÉEN DES UNIONS DE CONSOMMATEURS, AI AND GENERATIVE AI: TRILOGUE NEGOTIATIONS FOR THE AI ACT 19 (2023), https://www.beuc.eu/sites/default/files/publications/BEUC-X-2023-101_AI_and_Generative_AI_trilogue_negotiations_for_the_AI_Act.pdf; *see also AI Act*, EUR. COMM'N, https://digital-strategy.ec.europa.eu/en/policies/regulatory-framework-ai; *Artificial Intelligence—Questions and Answers*, https://ec.europa.eu/commission/presscorner/detail/en/qanda_21_1683 (listing high-risk applications of AI but not including AI companionship).

For a discussion of how the AI Act and other EU regulation might apply to AI companionship, see Boine, *supra* note 224, at 11–12.

The European Parliamentary Research Service published a study on the impact of the General Data Protection Regulation (GDPR) on AI. The study found that many provisions in the GDPR are relevant to AI, but the GDPR does not give regulators enough direction. *See* EUR. PARLIAMENTARY RSCH. SERV., THE IMPACT OF THE GENERAL DATA PROTECTION REGULATION (GDPR) ON ARTIFICIAL INTELLIGENCE 2–73 (2020), https://www.europarl.europa.eu/RegData/etudes/STUD/2020/641530/EPRS_STU(2020)641530_EN.pdf. The study does not address AI companions specifically.

[257] 15 U.S.C. § 45(a)(1).

technology companies' representations about AI companions.[258] Any such regulation from the Trump Administration, however, seems unlikely.[259] Federal statutes give parents some control over the use of technology by young children,[260] but these rely on parents taking action.[261] And tort law may provide some constraints,[262] but lawsuits are only just being filed and thus the scope of liability is unclear.[263]

Moreover, as this Part showed, people are *in a relationship* with their AI companions, and this relationality raises a distinctive set of concerns that must be addressed, whether through ex ante rules, ex post liability regimes, regulation by design, or other approaches.[264] So where should scholars, lawmakers, and policy experts turn when considering the legal regulation of this new technology? To the body of doctrine and policy law that centers relationships: family law.

## II. FAMILY LAW'S LESSONS: THE *WHY* OF REGULATION

Family law makes three critical contributions to approaching the regulation of AI companionship. First, family law establishes the predicate for legal regulation: the state interest in nurturing positive relationships and addressing harm in abusive and neglectful relationships. Second, family law shows how regulation can account for relationality, offering concrete lessons for developing rules and policies. Finally, family law provides guidance for advancing regulation in this political moment. In

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[258] *See* Hartzog, *Unfair Robots*, *supra* note 200, at 791–93 (explaining this authority as applied to robots); REBECCA TUSHNET & ERIC GOLDMAN, ADVERTISING AND MARKETING LAW 101 (2d ed. 2014) (citing Advertising Substantiation Policy Statement, 49 Fed. Reg. 30,999 (Aug. 2, 1984)) ("There are two pillars of truth in advertising according to the FTC: First, advertising must be truthful and not misleading. Second, advertisers must have adequate substantiation for all product claims before disseminating their advertising.").

[259] *See* Exec. Order No. 14148, Initial Rescissions of Harmful Executive Orders and Actions (January 20, 2025) (rescinding President Biden's 2023 executive order: "Safe, Secure, and Trustworthy Development and Use of Artificial Intelligence")).

[260] *See* The Children's Online Privacy Protection Act of 1998, 15 U.S.C. §§ 6501-6506 (requiring technology companies to obtain parental permission to collect the personal data of children aged twelve and younger, although not limiting the kind of data that can be collected); The Kids Online Safety Act, S. 2073, 118th Cong. § 103(b) (2024) (requiring online platforms to provide parental controls for accounts held by children aged sixteen and younger). There are also some state laws giving parents greater control of their children' technology use. *See, e.g.*, H.B. 311 (Utah 2023) ("Social Media Usage Amendments."); S.B. 152 (Utah 2023) (authorizing parents to monitor the social media accounts of minors).

[261] For a discussion of the problems with a parental-control model of regulation, see Danielle Keats Citron & Ari Ezra Waldman, *Rethinking Youth Privacy*, 111 VA. L. REV. 1, 40–46 (forthcoming 2025) (describing the problems with a parental-control model of technology access: parents often underestimate the value of privacy for their children and are often underequipped to protect their children's privacy), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5136373.

[262] *See infra* text accompanying note 317 (discussing liability under tort regimes).

[263] *See supra* notes 190 & 226 (describing these lawsuits); *see also* Catherine M. Sharkey, *A Products Liability Framework for AI*, 25 COLUM. SCI. & TECH. L. REV. 240, 243 (2024) (explaining why Section 230 is not necessarily a bar to recovery under products liability law for harm caused by AI; further noting that "some courts have already rejected motions to dismiss [products liability] claims on the grounds that Section 230 prevents these platforms from being held liable for content created by their users.").

[264] *See supra* note 31 (showing that legal scholars have long identified the importance of accounting for relationality in regulating technology and clarifying that the contribution of this Article is to show that family law is a means for addressing relationality).

short, this Part and the next demonstrate that regulating AI companionship need not start from scratch but instead can be built on doctrinal rules and policies that seek to foster positive relationships and mitigate harm within relationships, balancing these goals against the value of autonomy and self-determination.

In AI terms, the guidance from family law helps promote the alignment of AI-companion-design with human interests. There are many options for legal regulation, including ex ante rules from legislatures and administrative agencies, ex post regimes, like products liability, and regulation by design.[265] But these approaches are vehicles for enforcing principles and achieving goals. The first step is determining those principles and goals. As this Part shows, family law helps the legal system take this first step, identifying the polestar for legal regulation.

### *A. State Interests in Human Relationships*

A common conception of relationships is that they are private, beyond the reach of state regulation,[266] but the legal system has long regulated close relationships through family law.[267] The foundation of the state's interest in relationships is the research establishing that strong, stable, and positive relationships foster child development, influence adult well-being, affect physical and mental health, are a source of healing, and create social capital.[268] These kinds of relationships benefit not only individuals but also the state. Economically, individuals who grow up with strong, stable, positive relationships are likely to be employed and live healthy, productive lives.[269] Politically, these kinds of relationships foster the capabilities necessary for engaging in democratic self-governance.[270] Just as positive relationships are foundational to human and societal flourishing, abuse and neglect in close relationships can profoundly harm a person and society. Abusive and neglectful relationships pose serious risks to the physical, mental, and economic health of the survivor.[271] And they impose significant economic and social costs on the state.[272]

Given these individual and societal impacts, the state has a vested interest in encouraging beneficial attachments and minimizing harmful attachments. These state concerns animate the distinct state interest in *families*, often the site of our most

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[265] *See infra* text accompanying notes 316-320.

[266] *See supra* text accompanying note 21.

[267] Some close relationships, such as friendship, fall outside the law. *See infra* text accompanying note 314.

[268] *See* HUNTINGTON, FAILURE, *supra* note 21, at 6-22 (describing the abundant research establishing each of these benefits).

[269] *See id.* at 145–46, 149–52.

[270] *See* LINDA MCCLAIN, THE PLACE OF FAMILIES 15–23 (2006); Emily Stolzenberg, *Tribes, States, and Sovereigns' Interest in Children*, 102 N.C. L. REV. 1093, 1121–22 (2024); Anne Dailey, *Developing Citizens*, 91 IOWA L. REV. 431, 433–34 (2006).

[271] HUNTINGTON, FAILURE, *supra* note 21, at 6–15 (summarizing the extensive literature establishing this finding).

[272] *Morrison v. United States*, 529 U. S. 598, 612–14 (2000) (discussing the legislative history of the Violence Against Women Act, which sets forth these findings); Cora Peterson et al., *Lifetime Economic Burden of Intimate Partner Violence Among U.S. Adults*, 55 AM. J. PREVENTIVE MED. 433, 438 (2018) (estimating the lifetime economic impact of intimate partner violence: $3.6 trillion in 2014 dollars, including medical costs and lost productivity, and noting that the government shoulders 37% of this cost).

important and influential relationships.[273] The starting point for understanding the impact of relationships is the research on attachment, the first subject of this Section.

1. The Importance of Relationality

The state's interests in relationships flows from the human need for attachment—that is, the drive to form close emotional bonds with another and depend on the other for a sense of security, safety, wellbeing, and belonging.[274] Research conducted by the psychologist Harry Harlow informs our understanding of this drive for attachment.[275] Harlow raised baby rhesus monkeys with two substitute "mothers"—a cylinder made of wire, which provided no physical comfort and was unfamiliar to the baby monkeys, and a cylinder covered in soft terry cloth, which more closely resembled the feel of a rhesus monkey. One group of baby monkeys received milk from the wire mother, and another group received milk from the soft terry-cloth mother. Contrary to the reigning belief that the provision of sustenance is the basis for bonding, Harlow found that both groups of infant monkeys strongly preferred the soft terry-cloth mother, regardless of the source of food, clinging to the terry-cloth mother fifteen hours a day and turning to it for comfort when stressed.[276] Subsequent researchers developed Harlow's insights into attachment theory, which posits that children seek proximity to a caregiver, protest when separated from this caregiver, and seek out the caregiver when in danger or need.[277]

The drive to attach is not limited to children. Attachment is an intrinsic part of human nature, occurring across the lifespan.[278] In the words of John Bowlby, one of the foundational attachment researchers, attachment is "a fundamental form of behaviour with its own internal motivation distinct from feeding and sex, and of no less importance for survival."[279] Just as children seek out their attachment figures when they feel frightened, adults, too, seek the attachment figures in their lives—whether romantic partners, family members, or close friends—when they feel threatened.[280]

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[273] *See Prince v. Massachusetts*, 321 U.S. 158, 166 (1944) ("The family itself is not beyond regulation in the public interest"); MAXINE EICHNER, THE SUPPORTIVE STATE 8–10 (2010) [hereinafter EICHNER, SUPPORTIVE STATE] (arguing why the state, consistent with a theory of liberal democracy, should proactively support families); MCCLAIN, *supra* note 270, at 15–23 (arguing that families have an important role in forming children into capable, responsible, and self-governing citizens, and the state has a stake in this work and can regulate families to ensure they are fostering the capacity of children and inculcating equality).

[274] *See* HUNTINGTON, FAILURE, *supra* note 21, at 15–20 (explaining this phenomenon); James Coan, *Toward a Neuroscience of Attachment*, *in* HANDBOOK OF ATTACHMENT: THEORY, RESEARCH AND CLINICAL IMPLICATIONS 241 (Jude Cassidy & Philip R. Shaver, eds., 2d ed. 2010).

[275] For an account of the origins of Harlow's experiment, see Marga Vicedo, *The Evolution of Harry Harlow: From the Nature to the Nurture of Love*, HIST. PSYCHIATRY, 2010, at 2.

[276] Harry Harlow, *Love in Infant Monkeys*, SCI. AM., 1959, at 68–74.

[277] Psychiatrist and psychoanalyst John Bowlby first articulated attachment theory, which was later developed by others such as Mary Ainsworth. *See generally* JOHN BOWLBY, ATTACHMENT (1969) [hereinafter BOWLBY, ATTACHMENT]; MARY AINSWORTH ET AL., PATTERNS OF ATTACHMENT: A PSYCHOLOGICAL STUDY OF THE STRANGE SITUATION (1978).

[278] BOWLBY, ATTACHMENT, *supra* note 277, at 26–27.

[279] *Id.* at 27.

[280] MIKULINCER & SHAVER, ATTACHMENT THEORY APPLIED: FOSTERING PERSONAL GROWTH THROUGH HEALTHY RELATIONSHIPS 29–50 (2023).

Attachment sets the stage for the negative impact of relationships, especially abuse and neglect. Children will attach to almost any consistent caregiver, even an abusive one or an emotionless stand-in, as with Harlow's terry-cloth monkeys.[281] But an abusive or neglectful relationship poses significant risks to a child's physical and mental health in the short- and long-term.[282] Indeed, Harlow's baby monkeys may have attached to the terry-cloth mother, but they did not receive what they needed emotionally and grew into indolent adolescents, and they later became abusive parents.[283]

Abusive and neglectful relationships are often facilitated by a power imbalance. Parents and children are a familiar example of a relationship predicated on an inevitable power imbalance, making children vulnerable to maltreatment. Power differentials are also a component of many adult relationships. Indeed, intimate partner violence usually reflects a power imbalance between the abuser and survivor.[284] Advocates and scholars in this field have long focused on the role of power and control,[285] often called "coercive control,"[286] that an abuser exerts over the survivor. Perpetrators reinforce their power by socially isolating a survivor, making it difficult for a person to leave an abusive partner and others to observe the abuse.[287]

2. The Ambit of Family Law

Family law is the instantiation of the state's interests in promoting positive attachment relationships and mitigating harm in abusive and neglectful relationships. In both contexts, extensive regulation is the norm, although family law also balances the twin goals against the state's interests in protecting autonomy and self-determination.

a. Nurturing Positive Attachment Relationships

Family law has adopted several strategies to nurture positive attachment relationships. As a foundational matter, family law reinforces attachment relationships by creating legal categories, such as parent, child, and spouse, and

[281] JOHN BOWLBY, A SECURE BASE: PARENT-CHILD ATTACHMENT AND HEALTHY HUMAN DEVELOPMENT 124–25 (1988).

[282] *See supra* text accompanying note 271.

[283] Vicedo, *supra* note 275, at 2.

[284] *See* LEIGH GOODMARK, A TROUBLED MARRIAGE 33–38, 43, 46–48 (2012).

[285] The centrality of both power and control in intimate partner violence originated with the development of the power and control wheel by the Domestic Abuse Intervention Project in Duluth, Minnesota, and originally published in 1984. *See* Tamara Kuennen, *Not All Violence in Relationships is "Domestic Violence*," 86 BROOKLYN L. REV. 43, 52 n.48 (2020). For another assessment tool, see Richard M. Tolman, *The Validation of the Psychological Maltreatment of Women Inventory*, 14 VIOLENCE AND VICTIMS 25, 26, 32–34 (1999).

[286] This term was first introduced by social work professor Susan Schechter and later refined by sociologist Evan Stark. *See* Evan Stark, *Re-Presenting Woman Battering: From Battered Woman Syndrome to Coercive Control*, 58 ALB. L. REV. 973, 975–76 (1995); SUSAN SCHECHTER, GUIDELINES FOR MENTAL HEALTH PRACTITIONERS IN DOMESTIC VIOLENCE CASES 4 (1987).

[287] *See* GOODMARK, *supra* note 284, at 35–36.

conferring legal rights and benefits on these individuals.[288] Family law recognizes the importance of autonomy in choosing a family form and thus only incentivizes—rather than affirmatively penalize—the choice to marry or have a child.[289]

Family law further strengthens attachment relationships by protecting them from harm by third parties, including the state.[290] These include demanding requirements for the state removal of a child from the custody of a parent,[291] and third-party contact rules, which set a high standard for a court to override a parent's wishes about who sees a child.[292] Protecting the parent-child relationship from undue interference promotes a strong attachment because this protection reinforces the stability of the parent-child relationship and encourages parents to invest in their children.[293]

Family law also strengthens relationships by supporting caregiving, which is a core component of many attachment relationships. The United States does far less to support caregiving and caregivers than other wealthy countries,[294] leaving families as the primary source of caregiving for young, elderly, and disabled family members,[295] but family law does promote caregiving in numerous ways. The state offers tax deductions and credits to parents, subsidizes health care and education, and rewards parents for their caregiving work by granting considerable discretion to parents over childrearing.[296] The privatization of dependency entrenches inequality and harms child development,[297] but however minimally, family law does support caregiving to strengthen attachment relationships.

b. Mitigating Harm in Relationships

The legal system used to treat harm within relationships as private and not a matter of state concern, but through a series of reforms beginning in the late nineteenth century, the legal system now considers it a legitimate state interest to

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[288] See Carl E. Schneider, *The Channelling Function in Family Law*, 20 HOFSTRA L. REV. 495, 496 (1992) (explaining the channeling function of family law: the role of the law in creating, influencing, and promoting social institutions, such as marriage and parenthood).

[289] Clare Huntington, *Postmarital Family Law: A Legal Structure for Nonmarital Families*, 67 STAN. L. REV. 167, 177-79 (2015) (describing the law's historical treatment of "illegitimate children" and the law's current approach to nonmarital children).

[290] *See* Schneider, *supra* note 288, at 497 ("One of law's most basic duties is to protect citizens against harms done them by other citizens"—family members and third parties).

[291] *See* Restatement of Child. & the L. §§ 2.11–2.15.

[292] *See* Clare Huntington & Elizabeth S. Scott, *Conceptualizing Legal Childhood in the Twenty-First Century*, 118 MICH. L. REV. 1371, 1422–26 (2020) [hereinafter Huntington & Scott, *Legal Childhood*] (discussing this rule, which, in most states, allows a court to order contact only if the court finds by clear and convincing evidence that denying the contact would pose a substantial risk of serious harm to the child).

[293] *See id.*

[294] *See* MAXINE EICHNER, THE FREE-MARKET FAMILY: HOW THE MARKET CRUSHED THE AMERICAN DREAM (AND HOW IT CAN BE RESTORED) 19–21 (2020) (describing the system in the United States of limited state support for caregiving and instead the country's reliance on families to provide this care); MARTHA ALBERTSON FINEMAN, THE AUTONOMY MYTH: A THEORY OF DEPENDENCY 44, 108–109, 208 (2004) (defining and describing derivative dependency).

[295] *See* Naomi Cahn et al., *Family Law for the One-Hundred-Year Life*, 132 YALE L.J. 1691, 1718–21 (2023).

[296] *See* Elizabeth S. Scott & Robert E. Scott, *Parents as Fiduciaries*, 81 VA. L. REV. 2401, 2430–42 (1995).

[297] HUNTINGTON, FAILURE, *supra* note 21, at 92–98.

intervene in abusive family relationships.[298] Well-established doctrine and policies address parental abuse and neglect of a child,[299] intimate partner violence between adults and adolescents,[300] and elder abuse.[301] As social patterns have changed, family law has adjusted. For example, domestic violence rules originally applied only to spouses, but lawmakers now recognize that people in cohabiting and dating relationships also need protection.[302]

Family law's approach to addressing harm is based on an understanding of both attachment and the vulnerability it brings. Child abuse laws, for example, seek to protect children from maltreatment, but these laws also recognize the importance of the parent-child bond and therefore authorize the removal of a child from the care of a parent only if the child faces an imminent risk of serious physical harm.[303] Family law's rules also account for power imbalances. A core rationale for the regulation of child abuse and neglect, intimate partner violence, and elder abuse is that the legal system needs to correct for the power imbalance that facilitates the abuse. If the legal system chose not to recognize these forms of maltreatment and instead ruled them beyond the reach of the state, this would empower the family member with physical, social, economic, and psychological power over the other.[304] Some power imbalances are unavoidable, as between parents and children and guardians and incapacitated individuals. The law pays particular attention to these relationships to ensure the person with power does not exploit the vulnerable party.

Family law's attention to power imbalances goes beyond correcting for abusive behavior. Consider property division and spousal support rules at divorce. Among other rationales, these rules help even the playing field between a spouse who earned money in the workplace and a spouse who shouldered a disproportionate share of caregiving responsibility, at a significant cost to that person's earning capacity.[305] If the legal system did not recognize the economic vulnerability that comes with caregiving, it would empower the wage-earning spouse at the expense of the caregiving-spouse.[306]

### *B. The Predicate for Regulating Human-AI Relationships*

The state interest in human relationships extends to human-AI relationships because AI companionship presents similar benefits and risks. The possible benefits

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[298] LINDA GORDON, HEROES OF THEIR OWN LIVES 8, 14–15 (1988).

[299] *See* Restatement of Child. & the L. pt. I chp. 2.

[300] *See* GOODMARK, *supra* note 284, at 16–22 (describing the legal protections for intimate partner violence).

[301] *See* NINA KOHN, ELDER LAW chp. 8 (2024).

[302] *See* GOODMARK, *supra* note 284, at 17.

[303] *See* Restatement of Child. & the L. §§ 2.11–2.15.

[304] As Frances Olsen argues, nonintervention by the state is a political choice that reinforces existing power relations within the family. *See* Frances Olsen, *The Myth of State Intervention in the Family*, 18 U. MICH. J.L. REFORM. 835, 836–37 (1985).

[305] *See* Principles of the Law of Family Dissolution: Analysis and Recommendations (Am. L. Inst. 2000) (explaining this basis for property awards and spousal support). As with domestic violence rules, claims for spousal support and property on divorce traditionally were limited to married couples, but the law now permits claims by cohabitants as well, even if these claims are not treated as favorably as claims raised in a divorce. *See* Albertina Antognini, *Nonmarital Coverture*, 99 BOS. U. L. REV. 2139, 2159–83 (2019).

[306] *See* FINEMAN, *supra* note 294, at 35–38 (explaining derivative dependency—the dependency of a caregiver—and the need for the law to account for it).

of AI companionship grow from the attachment that a person will almost certainly develop to an AI companion.[307] This attachment means the user will feel close to and come to rely on the companion, creating opportunities for beneficial uses of AI companionship.

Much remains unknown about any beneficial impact of AI companionship, but if the empirical evidence grows more robust, the state has an interest in encouraging positive relationships with AI companions, just as it does with positive human relationships. Consider two examples. Mental health treatment is critical for individuals, families, and the community, leading to improved wellbeing, greater productivity, and fewer social problems, such as substance use disorder and child abuse and neglect.[308] If trained therapy bots provide cost-effective resources for mental health challenges, the state has an economic and social interest in encouraging these uses of AI companionship. Similarly, the U.S. Surgeon General has identified loneliness as a public health concern, increasing the risk for serious illness and diminishing engagement and performance in schools and the workplace.[309] If AI companionship mitigates loneliness, the state has an economic and social interest in this beneficial use.

Conversely, attachment between the user and AI companion also sets the stage for serious harm. The attachment encourages excessive use of the companion, as the user will return to the companion repeatedly for comfort. And the attachment makes a user vulnerable to abuse from the companion. Think about the difference between an insult from a stranger on the street and an insult from a parent or intimate partner. Like abuse in a close relationship, abuse from an AI companion cuts to the quick.

Family law's interest in mitigating harm in human relationships provides a basis for regulating the harmful effects of AI companionship. For example, if the evidence ultimately shows that AI companionship *increases* loneliness, because it drives people away from other humans, the state has an interest in addressing this harmful effect. If the evidence shows that AI companions not designed to be abusive become so, the state has an interest in regulating this. And if the evidence shows that technology companies are harvesting data from users, undermining the trust between a user and companion, the state has an interest in this. The state has an especially strong interest in protecting minors from these harms, given their developmental vulnerability.

Identifying these potential benefits and harms can help align the design of AI systems with human interests. Family law provides the goals for the alignment: encouraging the kinds of relationships that foster human flourishing and

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[307] The human tendency to anthropomorphize and the design of companions fuel their use, but so, too, does the human drive for attachment. Technology companies acknowledge this likelihood. *See* OPENAI, *supra* note 211; *see also* TURKLE, RECLAIMING, *supra* note 16, at 343; ("Children attach to [robots] not with the psychology of projection but with the psychology of relational engagement, more in the way they attach to people").

[308] *See* NAT'L INST. OF HEALTH, BIOLOGICAL SCIENCES CURRICULUM STUDY (2007), https://www.ncbi.nlm.nih.gov/books/NBK20369/#A619, (describing the benefits of mental health treatment and the costs of not receiving it); CHILD WELFARE INFO. GATEWAY, CHILD MALTREATMENT PREVENTION: PAST, PRESENT, AND FUTURE 5–11 (2017), https://www.childwelfare.gov/pubPDFs/cm_prevention .pdf (describing the connection between mental health treatment and child abuse and neglect).

[309] *See* OFF. OF THE U.S. SURGEON GEN., OUR EPIDEMIC OF LONELINESS AND ISOLATION 4, 6 (2023), https://www.hhs.gov/sites/default/files/surgeon-general-social-connection-advisory.pdf.

discouraging the kinds of relationships that cause harm. And family law shows the integral role of relationality in these goals: furthering strong attachment relationships requires an understanding of the human drive to attach; and mitigating harmful relationships requires an understanding of the dynamics of abusive and neglectful relationships. Part III explains how to operationalize relationality, but the point here is that family law provides the principles and goals for aligning AI companionship with both human and state interests.

### *C. The Limits of Family Law*

Arguing that family law has conceptual relevance to regulating AI companionship does not mean it is a perfect fit, and there are downsides and limits to its usefulness. Beginning with the downsides, like virtually every area of the law, family law is subject to critique. A central concern is that family law's interventionist tendencies harm marginalized families.[310] In the family regulation system, for example, the goal of protecting children has not translated into a system of proactive support that addresses the poverty and structural racism underlying many allegations of child maltreatment.[311] Instead, the state uses the family regulation system to surveil low-income families of color and, too often, unnecessarily remove children from the care of their parents.[312] The overrepresentation of Black, Native American, and Native Alaskan children in foster care is a stark and disturbing manifestation of these failings.[313]

The concern about state intervention harming marginalized families, however, is not especially relevant to the regulation of AI companionship. Regulation would constrain technology companies, not families. And in family law, protecting a child often pits the child against the parent. But applying the protection principle from family law to AI companionship pits the interests of the child against the interests of the technology company. This does not raise the same race and class equity issues.

A different concern with importing family law into the regulation of AI companionship is the boundary of family law. Family law does not regulate all close relationships, with friendships a notable exception.[314] Arguably, AI companions are more like friends than parents or children, and thus family law may prove less apt.

The point of this Article, however, is not that family law translates one-to-one from the family context to the AI companionship context. The question, thus, is not whether an AI companion is like a spouse or parent. Instead, the point is that ideas from family law—the state interests in relationships and strategies for furthering these interests—are applicable to AI companionship. Moreover, as noted above, family law has a history of expanding its ambit as relationships change. The

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[310] For two examples of this vast literature, see DOROTHY ROBERTS, TORN APART 13–39 (2022) (critiquing the family regulation system, which addresses child abuse and neglect); LEIGH GOODMARK, DECRIMINALIZING DOMESTIC VIOLENCE 18-21 (2018) (critiquing the legal response to intimate partner violence).

[311] *See* ROBERTS, supra note 310, at 66–70.

[312] *See id.* at 66–82.

[313] See ADOPTION & FOSTER CARE ANALYSIS & REPORTING SYS., CHILD.'S BUREAU, U.S. DEP'T OF HEALTH & HUM. SERVS., THE AFCARS REPORT: PRELIMINARY FY 2022 ESTIMATES AS OF MAY 9, 2023 (2023) (tracking the race of children entering foster care in the 2022 federal fiscal year).

[314] *See* Laura A. Rosenbury, *Friends with Benefits?*, 106 MICH L. REV. 189, 189, 202 (2007).

extension of intimate partner violence laws from spouses to dating partners and cohabitants,[315] for example, demonstrates family law's flexibility to adapt to new social norms and realities, deciding which relationships are sufficiently meaningful and intimate to merit protection. For the reasons explained in Part I, AI companionship is quickly becoming this kind of relationship.

## III. FAMILY LAW'S LESSONS: THE *HOW* OF REGULATION

Family law provides pragmatic guidance for regulation that would foster the positive potential and temper the looming harms of AI companionship. As noted in the previous Section, the idea is not to blindly transfer family law doctrine and policy into the regulation of AI companionship or provide a family law cause of action for harms in AI companionship. Instead, as this Part demonstrates, family law provides rich analogies to guide how the legal system can—and cannot—further the state interests in human-AI relationships.

Any AI regulatory agenda requires engaging with varying, potentially complementary, strategies. Ex ante regulation by agencies anticipates risks and responds with design and marketing requirements.[316] Ex post regimes, like products liability law, hold the companies liable for avoidable harm once developers make and market products.[317] And regulation by design requires developers to incorporate regulatory objectives directly into the product; for example, requiring self-driving cars to minimize accidents but letting manufacturers determine how best to achieve this objective.[318] Scholars also propose new approaches to regulating AI, such as professionalizing AI engineers, which would require AI engineers to develop a licensing system, technical standards, and self-police the profession.[319] These approaches are not mutually exclusive, and indeed, some combination may be needed depending on the context.[320]

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[315] *See supra* text accompanying note 302.

[316] See Ryan Calo, *Artificial Intelligence Policy: A Primer and Roadmap*, 51 DAVIS L. REV. 399, 410–35 (2017) (surveying major questions for policymakers to consider when creating ex ante AI regulation); Ryan Calo, *Open Robotics*, 70 MD. L. REV. 571, 611–12 (2011) (identifying the benefits of ex ante regulation over ex post regimes like products liability, which impose costs from waiting).

[317] For an overview of tort liability as applied to robots and other forms of intelligent machines, *see* Curtis Karnow, *The Application of Traditional Tort Theory to Embodied Machine Intelligence*, *in* ROBOT LAW 61–74 (Ryan Calo et al., eds., 2016). For a discussion of tort liability for AI generally, see Catherine Sharkey, *Products Liability for Artificial Intelligence*, LAWFARE (Sept. 25, 2024), https://www.lawfaremedia.org/article/products-liability-for-artificial-intelligence [hereinafter Sharkey, *Products Liability*].

[318] *See* Robert Mahari & Alex Pentland, *Regulation by Design: A New Paradigm for Regulating AI Systems*, *in* DIGITAL SINGLE MARKET AND ARTIFICIAL INTELLIGENCE: AI ACT AND INTELLECTUAL PROPERTY IN THE DIGITAL TRANSITION 432–33 (M. Franzosi et al eds., 2024) (describing regulation by design and noting that with AI, "[t]he goal of this approach is to leverage the ability of AI systems to optimize their performance within a set of constraints and to make important regulatory objectives part of the design process at an early stage"). For an argument that regulation by design delegates too much compliance and interpretive authority to developers, not regulators, *see* Marco Almada, *Regulation by Design and the Governance of Technological Futures*, 14 EUR. J. RISK REG. 697, 699, 702–06 (2023).

[319] See Chinmayi Sharma, *AI's Hippocratic Oath*, 102 WASH. U. L. REV. (forthcoming 2024), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4759742.

[320] Catherine Sharkey, *A Products Liability Framework for AI*, 25 COLUM. J. L. & TECH. 240, 240, 251–59 (2024) (analogizing AI to the regulation of FDA-approved medical devices and arguing

As this Section demonstrates, family law does not indicate which approach is superior, but it is useful for each approach, providing guidance to scholars, regulators, legislators, and courts pursuing the different avenues of regulation.

### *A. Advancing the Benefits of AI Companionship*

Given the especially strong state interest in fostering child development and protecting children from harm, this Section focuses on the use of AI companions by minors, but many of the lessons are applicable to AI companionship for people of all ages.[321] Any regulation of AI companionship by minors should begin with the child wellbeing framework, which Elizabeth Scott and I articulated based on our work with a team of reporters for the American Law Institute's *Restatement of Children and the Law*.[322] As we found, family law promotes positive relationships and child development by relying on empirical evidence to determine which legal rules further particular aspects of child wellbeing; conveying to the public the social welfare benefits of supporting child wellbeing, which generates greater support for the laws and policies; and accounting for racial and class inequality.[323]

These three elements of the child wellbeing framework create a blueprint for the legal regulation of AI companions, both with respect to minors and more generally. Consider its relevance to ex ante regulation. The framework guides regulators to start with the research on child and adolescent development generally as well as the specific literature on the benefits and risks of AI companionship to minors.[324] From this, regulators would see that there are risks to children and adolescents, and these must be addressed, but there are also possibilities. For example, it appears that AI companions can help children learn to read, practice

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in favor of a combination of ex ante regulation and ex post products liability for AI because "[n]otwithstanding the new challenges that sophisticated AI technologies pose, products liability provides a conceptual framework capable of responding to the learning and iterative aspects of these technologies. Moreover, this framework provides a robust model of the feedback loop between tort liability and regulation."); Charlotte Tschider, *Humans Outside the Loop*, 26 YALE J. L. & TECH. 324, 350–353 (2024) (identifying the disconnect between AI and existing products liability and negligence regimes, and proposing an alternative approach that combines ex ante and ex post regulation).

[321] Regardless of the user's age, for example, regulators should always start with empirical evidence on the impact of AI companionship. Likewise, in all contexts, it is critical to consider the equality dimensions of any effort to encourage the use of AI companionship.

[322] *See* Huntington & Scott, *Legal Childhood*, *supra* note 292, at 1374. We were part of a five-person team of reporters that included Richard Bonnie, Emily Buss, and Solangel Maldonado.

[323] *See id.* at 1374–76 (finding this goal across multiple domains of legal regulation of children: in families, in schools, in the juvenile justice system, and as emerging adults).

[324] It is too early to draw definitive lessons about the impact of AI companions, and thus regulation should afford parents considerable discretion in deciding minors' access, but the child wellbeing framework shows that empirical evidence is the starting point. *See* Clare Huntington & Elizabeth Scott, *The Enduring Importance of Parental Rights*, 90 FORDHAM L. REV. 2529, 2534 (2022) ("developmental science often will not provide clear answers" and in these circumstances, the legal system should give parents considerable decision-making discretion); *see also* Danielle Keats Citron & Ari Waldman, Rethinking Youth Privacy (manuscript on file with author) (arguing that parents should work *with* adolescents—rather than preempting decisionmaking by minors—to determine access to technology).

Even with a strong evidence base, it is likely that regulation should not be Manichean. AI companions may be sufficiently beneficial in some contexts, but this is unlikely to be true for all uses and all subpopulations of users.

language skills, and develop social skills.[325] The growing empirical evidence supporting AI companions as an educational partner could lead regulators to encourage this use of AI companions.[326] Similarly, mental health support is another area where regulators should start with empirical evidence to decide how to proceed. With the rising rates of anxiety and depression among young people, therapy bots trained to provide mental health support might be a useful and cost-effective tool.[327] Although any state promotion of this use of AI companionship should be accompanied by regulation to ensure the safety and efficacy of the companions, a topic discussed shortly.[328]

Turning to the second element of the child wellbeing framework—the social welfare benefits of promoting child wellbeing—ex ante regulators should incorporate this element into the roll out of any proposed rules. As we found in our work on the *Restatement*, rules and policies tend to have greater and more enduring support when the public understands the broader benefits of the regulation.[329] Regulation promoting AI companions as educational partners and mental health support, for example, should include public education on the benefits. This information would explain the efficacy of AI companions in these contexts and show how AI companions address the pressing needs of children and do so cost effectively.

Finally, the child wellbeing framework directs regulators to consider racial and class inequality. AI companions appear to offer some educational and mental health benefits, but they likely fall short of human teachers and therapists.[330] Given the cost-effectiveness of AI companions, it is not hard to imagine a new manifestation of inequality. Families with means will continue to have access to well-trained human teachers and therapists, and lower-income children, who are disproportionately children of color, will have the AI companion version of these essential supports. Any regulation must be attentive to this issue. Part IV returns to this issue.

In addition to providing a decisional matrix for ex ante regulation, the child wellbeing framework is also relevant to other forms of regulation that would promote beneficial uses of AI companions. Consider regulation by design. As noted above, this approach identifies regulatory objectives and then requires companies to build these objectives into the design of the product.[331] The child wellbeing framework provides the objective: promoting child development and physical and mental health based on empirically grounded interventions and attention to racial and class inequality. Regulators would translate this framework into more specific goals that developers of AI companions would decide how to further through the

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[325] *See supra* text accompanying notes 177–183.

[326] Federal or state regulators could, for example, reimburse school districts for investments in AI companions and training programs that help educators learn how to maximize AI companions as learning partners, assuming this came with meaningful restrictions on the collection, use, and sharing of data. For one suggestion with respect to the collection of human data more generally, see Hartzog & Richards, *supra* note 33, at 988, 991–92 (arguing in favor of imposing a duty of data loyalty on companies "to act in the best interests of those whose data they collect," drawing on the model of fiduciary duty).

[327] *See supra* text accompanying notes 167–174 (describing the evidence base for mental health support by trained AI companions that operate with a limited universe of responses).

[328] *See infra* text accompanying notes 335–337.

[329] *See* Huntington & Scott, *Legal Childhood*, *supra* note 292, at 1374–76.

[330] *See infra* text accompanying note 391.

[331] *See supra* text accompanying note 318.

design of their products. Similarly, the child wellbeing framework would inform the training of AI engineers, who need to understand the basics of child development, including the importance of attachment and the vulnerability it brings.

In addition to the child wellbeing framework, family law offers other guidance on how to further the state's interest in promoting positive relationships for people of all ages. Gatekeeping, for example, is a widely used strategy. Family law requires extensive licensing and training for foster parents and adoptive parents.[332] Similarly, daycare centers and schools are highly regulated.[333] And mental health professionals treating people of all ages must meet exacting standards.[334] In short, there is an assumption that expertise is needed for individuals to work with children and for mental health experts to work with people at any age.

The same assumptions should apply to AI companions marketed for therapeutic purposes. As discussed above, there is no regulatory gatekeeping for therapy bots, and these companions are not bound by medical privacy rules or professional standards.[335] Regulation could and should address this. For example, ex ante regulation could establish standards for a company to meet before marketing a therapy bot, such as ensuring an evidence base for the product's intervention, prohibiting the therapy bot from engaging in romantic and sexual exchanges, and so on. These standards would help parents and older children make informed choices about which AI companions to use for therapeutic purposes.

Family law also helps lawmakers distinguish between behavior that should and should not be subject to regulation. When a person asks a family member or friend for advice on mental health, the state does not regulate this interaction. But if a person hangs out a shingle and sells their therapeutic services, there is considerable regulation.[336] The difference lies in the commercial and professional nature of the exchange. In the first context, the relative or friend is acting as an informal advisor and support person, offering the listening ear that all humans need.[337] In the second context, the therapist is presenting themselves to the public as an expert and is charging for their services. This distinction in family law—placing the former exchange beyond the reach of the law and regulating the latter exchange—should apply to AI companions marketed for therapeutic services. Therapy bots are not friends, they are therapists. And they should be regulated accordingly.

In sum, family law's experience with relationships can inform regulation to promote beneficial uses of AI companionship. Family law's experience with relationships is also relevant to anticipating and mitigating the risks of AI companionship, as the next Section demonstrates.

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[332] *See* 45 C.F.R. 1356 (2025) (federal regulations relating to adoption and foster care that states must meet to receive federal funding). For a state-specific example, *see Requirements to Become a Foster Parent*, OFF. OF CHILD. & FAM. SERVS., https://ocfs.ny.gov/programs/fostercare/requirements.php (on fostering); *The Adoption Process*, OFF. OF CHILD. & FAM. SERVS., https://ocfs.ny.gov/programs/adoption/process.php (on adoption).

[333] *See* 45 C.FR. 98 (2025); 45 C.F.R. 99 (2025) (federal regulations relating to childcare); *see also Child Care Regulations*, OFF. OF CHILD. & FAM. SERVS., https://ocfs.ny.gov/programs/childcare/regulations/ (state regulations from New York relating to childcare).

[334] *See supra* text accompanying notes 227–229.

[335] *See supra* text accompanying notes 227–229.

[336] *See supra* text accompanying notes 227–229.

[337] *See supra* text accompanying note 145.

### *B. Anticipating and Mitigating the Distinctive Risks of AI Companionship*

Family law has concrete, granular lessons for three of the most significant risks of AI companionship: addiction, abuse, and invasion of privacy. In each context, family law's appreciation of relationality directs attention to power imbalances, which are an essential element of these harms.

Beginning with addiction, family law shows that the problem flows from the human drive to attach and the power imbalance between the company designing the companion and the user. Technology companies design devices to encourage attachment and then use this attachment to encourage excessive use and sharing of personal information. This is a classic power imbalance. Family law teaches that failing to address a power imbalance is a decision to leave power in the hands of the person or entity with control.[338] For AI companionship, a choice to leave the technology unregulated is not a neutral policy; it is a decision that leaves power and control in the hands of technology companies.

As with regulating therapy bots, family law helps regulators distinguish between behaviors that should and should not be subject to regulation. Family law's attempts to address power imbalances, for example, are more protective of children than adults, reflecting minors' greater vulnerability and adults' arguably stronger interest in autonomy.[339] An attempt to address a power imbalance between technology companies and users should mirror these distinctions, accounting for the more acute vulnerability of minors.

To address addiction, regulators should contemplate requirements that fall along a continuum of autonomy and intervention.[340] At the autonomy end of the continuum, lighter-touch measures, such as a warning label about the dangers of AI companions, would give users and parents some sense of the dangers while also allowing individuals to choose AI companionship.[341] Similarly, regulations could require technology companies to install a pop-up feature that displays a message directing a user to mental health and suicide prevention resources if the user

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[338] *See* Olsen, *supra* note 304, at 836–37. Consumer protection law in the European Union recognizes this power imbalance between companies and individuals. See Boine, *supra* note 224, at 19.

[339] The standard for removing a children from the care of a parent, for example, does not include a consideration of the wishes of the child. *See* Restatement of Child. & the L. §§ 2.11-2.15. By contrast, the civil intimate partner violence laws (although not criminal laws), allow the survivor to determine whether to seek state protection and when to end it. See GOODMARK, *supra* note 284, at 16–18.

Children and especially older adolescents also have an interest in autonomy, but for these individuals, the law tends to be more cautious about when and how it furthers adolescents' autonomy. *See* Huntington & Scott, *Legal Childhood*, *supra* note 292, at 1439–51 (describing the relatively cabined recognition of minors' autonomy rights).

[340] *See* Mahari & Pataranutaporn, *supra* note 199 (arguing that no AI regulatory approach can fully address the root causes of unhealthy AI usage, like loneliness, depression, anxiety, which often drive addictive behavior; instead, policymakers should prioritize user safety).

[341] Vivek Murthy, the Surgeon General during the Biden Administration, sought such a label for social media. *See* Vivek H. Murthy, *Surgeon General: Why I'm Calling for a Warning Label on Social Media Platforms*, N.Y. TIMES (June 17, 2024), https://www.nytimes.com/2024/06/17/opinion/social-media-health-warning.html (describing Surgeon General Vivek Murthy's call on Congress to require a warning label for social media).

indicates they might engage in self-harm.[342] A pop-up requirement would not limit access to AI companionship, but it would intervene at high-risk moments.

These lighter-touch interventions may be appropriate for adults, but family law's distinctions between minors and adults would justify stricter regulations for minors' use of AI companionship. The most restrictive measure would impose age requirements for using an AI companion. Additionally, regulations could demand specific design features that mitigate the impression the user is interacting with a human. This is important for children, given their developmental stage and the likelihood they will confuse the chatbot with a human.[343] This design requirement would diminish what the companies are selling—a chatbot that feels like a human—but it may be an important protection for vulnerable users.

These family-law lessons also apply to other forms of regulation that address addiction. In products liability cases, for example, family law teaches that addiction to an AI companion is highly predictable because of the human drive to attach. Similarly, family law can inform regulation by design, showing that minimizing addiction is an important design goal. Finally, training AI engineers could include awareness of the dangers of addiction and the design features that encourage it.

Turning to abuse, AI companions are not physically abusive, but there is tremendous potential for emotional abuse.[344] In deciding whether to constrain this aspect of AI companionship, scholars, lawmakers, and policy experts should look to the debate in family law about whether to regulate emotional abuse between human partners. Every state recognizes physical and sexual abuse,[345] but only a minority of states explicitly regulate emotional abuse.[346] Survivors often say emotional abuse is more harmful than physical assaults,[347] but there is a disagreement about the wisdom of regulating it.[348]

On the one hand, the legal recognition of emotional abuse can have an expressive effect, validating the experiences of victims and communicating to the public that this behavior is unacceptable.[349] Further, legal consequences may deter parties from engaging in emotional abuse,[350] and legal recognition can make the

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[342] *See* Roose, *supra* note 2 (noting that Character.AI did this).

[343] For a few examples, see Complaint ¶ 216, *Garcia v. Character Techs.*, *supra* note 190 (listing the kinds of safety features or design elements that could protect minors, such as the chatbot not using the first person, and designing the interface so it does not resemble human interactions, such as displaying an ellipsis before the companion responds).

[344] *See supra* text accompanying notes 221–226.

[345] *See* GOODMARK, *supra* note 284, at 40–41; ALI, sections on abuse and neglect, also covers other forms, but in practice, kids removed only for physical and sexual abuse and physical neglect. *See* CHILD.'S BUREAU, HHS, THE AFCARS REPORT 1 (2022), https://www.acf.hhs.gov/sites/default/files/documents/cb/afcars-report-29.pdf.

[346] For a different categorization, see Margaret E. Johnson, *Redefining Harm, Reimagining Remedies, and Reclaiming Domestic Violence Law*, 42 U.C. DAVIS L. REV. 1107, 1134–37 (2009) (finding that approximately one third of states recognize emotional abuse as a form of legally actionable intimate partner abuse).

[347] *See* GOODMARK, *supra* note 284, at 42.

[348] *See* Johnson, *supra* note 346, at 1161–64 (discussing concerns about expanding the civil legal recognition of domestic violence because of, for example, its potential for weaponization by perpetrators).

[349] *See id.* at 1141–42.

[350] *See id.* at 1163–64 (recognizing the potential for society to "commit to redress" and "construct a new narrative" about all forms of domestic violence).

survivor eligible for benefits, such as immigration relief, and services, including access to shelter beds and counseling.[351] On the other hand, regulating emotional abuse presents practical challenges. Apart from extreme behavior, it can be difficult to define emotional abuse, and any legal definition and enforcement mechanism (whether in family law, tort, or criminal law) must be consistent with the First Amendment.[352] Broadening the definition of abuse beyond physical and sexual abuse could encourage even more policing of low-income families of color.[353] And there is a potential for false accusations, especially because the behavior can be hard to prove, as it takes place in private, often without any written or oral record.[354]

This debate about regulating emotional abuse between humans can help regulators think about whether and how to address the risk of an emotionally abusive AI companion. These are hard questions, but it is not a new legal-regulatory conversation. The state interest in mitigating harm from emotional abuse is similar regardless of whether the perpetrator is a human or AI companion. Moreover, any regulation addressing emotional abuse would constrain technology companies, not individuals, and thus the concern about over-policing may be less relevant. Similarly, evidentiary questions may be less problematic because technology companies appear to record the conduct of AI companions.[355]

As with other areas of harm, family law's greater protection of minors might counsel for more restrictions on abusive AI companions used by children. As described above, some AI companions are designed to act in an abusive manner, such as the "possessive boyfriend," who mimics the behavior of an abusive partner.[356] An adult might choose such an AI partner, but given minors' greater vulnerability, regulators could determine that minors should not be able to do so. In short, family law shows whether and how to regulate emotional abuse between humans, and this guides how the legal system can approach emotional abuse in human-AI relationships.

Finally, family law has lessons to offer in responding to the risks of invasion of privacy by technology companies and the government—which are distinctively grave in the context of AI companionship. The human drive to attach will lead users to pour out their deepest confidences to the companion. Some scholars are calling for greater privacy protection of the use of sexbots,[357] but using other kinds of other AI companions also needs protection. Privacy scholars Danielle Citron and Mary

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[351] *Id.* at 1152–53.

[352] *See* Ben Zipursky, Snyder v. Phelps*, Outrageousness, and the Open Texture of Tort Law*, 60 DEPAUL L. REV. 473, 475–78 (2011) (discussing the potential conflict between the "outrageousness" standard in the tort of intentional infliction of emotional distress, which can be "morally charged" and vague, with First Amendment protections of free speech). For an argument that regulation of cyber stalking can be consistent with the First Amendment, see Danielle Keats Citron, *"Don't Break the Internet" and Other Free Speech Challenges*, *in* HATE CRIMES IN CYBERSPACE 212–18 (2014) ("If a court has determined that the takedown order accompanying a cyber stalking conviction covers constitutionally unprotected speech such as defamation and true threats, courts could issue orders demanding that perpetrators or host sites take down posts consistent with the First Amendment.").

[353] Elizabeth Brake, *Emotional Abuse and the Law*, *in* 9 OXFORD STUDIES IN POLITICAL PHILOSOPHY 34 (David Sobel & Steven Wall, eds., 2023).

[354] *Id.*

[355] Ohm, *supra* note 47.

[356] *See supra* text accompanying notes 221–220.

[357] Dan Lev, *These Are Not the Droids You Are Looking for: The Urgent Need for State Regulation of Artificially Intelligent Sex Robots*, U. ILL. J.L. TECH. & POL'Y, Fall 2022, at 483, 499–511.

Anne Franks have been calling for greater attention to sexual privacy for years, sounding the alarm about the inability of individuals to protect their privacy and the willful thwarting of privacy interests by technology companies.[358] Their arguments are equally applicable to AI companions, given the highly private, although not always sexual, information users will share with AI companions.

The value-add of family law is in highlighting the dangers of surveillance. For example, AI companions may be a new tactic for the family regulation system to surveil low-income families and families of color.[359] When a family brings an AI companion into the home—perhaps as a companion for a child or older person—the companion will be listening and recording, likely exposing already vulnerable families to even greater surveillance by the state.[360] Part III returns to this risk, but the point here is that the regulation of AI companions should anticipate and address this surveillance risk.

### *C. The Legal Category for AI Companions*

A threshold question facing the legal system is how to categorize AI companions, and here, too, regulators can learn from family law. Is an AI companion better analogized to a person (a friend, lover, or therapist), a medical device, or a service? If the companion is a person, this might lead to one set of legal responses, such as allowing a restraining order against an AI companion, just as the law currently does for abusive human partners.[361] If the AI companion is a consumer product, this leads to a different kind of regulatory response, grounded in products liability law. And if it is a service, liability would be grounded in negligence

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[358] CITRON, PRIVACY, *supra* note 31, at 2–3, 19–20 (noting that ordinary people struggle to recognize the intangible risks associated with digital services and yet they, rather than companies, bear the consequences); Danielle Keats Citron, *A New Compact for Sexual Privacy*, 62 WM. & MARY L. REV. 1763, 1792 (2021) ("The private sector's vast reservoirs of intimate information threaten the values and crucial life activities secured by sexual privacy, inflicting damage to human well-being."); Danielle Keats Citron, *Sexual Privacy*, 128 YALE L.J. 1870, 1870, 1879-98 (2019) (arguing for recognition of a distinctive form of privacy—sexual privacy—because traditional forms of privacy do not capture "the relationship between sexual privacy and intimacy, agency, and equality"); MARY ANNE FRANKS, CULT OF THE CONSTITUTION 166, 196–98 (2019) (arguing that Section 230 disincentivizes "those with the power to intervene" for victims of online abuse by immunizing platforms from liability for unlawful conduct of their users); Mary Anne Franks, *Unwilling Avatars: Idealism and Discrimination in Cyberspace*, 20 COLUM. J. GENDER & L. 224, 226–27 (2011) (introducing the "unwilling avatar" phenomenon, in which third parties use individuals' real bodies to create online profiles "for the purposes of threatening, defaming, or sexualizing them without consent," like revenge porn).

[359] *See* ROBERTS, *supra* note 310, at 162 ("One of the child welfare system's chief functions is to keep an eye on families in Black communities … [with] the majority of Black children being subject to investigation at some point while growing up."); Anna Arons, *The Empty Promise of the Fourth Amendment in the Family Regulation System*, 100 WASH. UNIV. L. REV. 1057, 1074–76 (2023) ("While 37.5% of all children in the United States experience an investigation during childhood, that rate is 53% for Black children; put differently, more Black children are subjected to investigations during their childhoods than are not.").

[360] *See* Kate Weisburd, *The Carceral Home*, 103 BOS. U. L. REV. 1879, 1894–95 (2023) (arguing that technology now makes perpetual surveillance in the home possible).

[361] *See* Kate Darling, *Extending Legal Protections to Social Robots: The Effects of Anthropomorphism, Empathy, and Violent Behavior Towards Robotic Objects*, *in* ROBOT LAW, *supra* note 50, at 213–31 (arguing that because people anthropomorphize social robots, there is an argument for treating robots like creatures, rather than objects, and thus subject to abuse laws and similar protections).

regimes.[362] Or perhaps it is necessary to create a law of AI companions that is distinctive from what governs people, products, and services.[363]

Consider mental health companions. Arguably, these are medical devices and thus should be subject to FDA regulation or, at the very least, a consumer product subject to product liability rules. Then again, perhaps the companion is more like a therapist offering a service and should be subject to professional licensing regimes, among other forms of regulation. In truth, the companion is a combination of product and service, and it does not fit easily into an existing category.[364]

Regardless of how one describes or understands the nature of an AI companion, family law illuminates the debate about the legal category of an AI companion by focusing on what is distinctive about a human's use of an AI companion: the relationship between the person and the chatbot. The question of whether it is a device, a service, or something else must center this relationality. From the user's perspective, the companion is better understood as a person, and arguably, the law should treat it as such.

### *D. Anticipating Regulatory Headwinds*

As a final contribution, family law offers lessons for advancing reasonable regulation notwithstanding political antipathy. Federal regulation tailored to AI companionship seems unlikely, but state legislatures and agencies may be more willing to take action.[365] Advocates should take advantage of this more receptive state climate by emphasizing that states have traditionally taken the lead on regulating relationships.[366] Individual states have an interest in fostering positive relationships and protecting their citizens from harmful relationships, providing the basis for state-level legislative or administrative action on AI companionship.

Further, family law has a strong track record of advancing regulation notwithstanding political polarization.[367] In many areas of doctrine and policy, family law has managed to avoid polarization, even for politically and socially combustible issues. Despite strong and conflicting views on corporal punishment, for example, every state recognizes a parental privilege to use reasonable corporal punishment, with courts justifying the privilege with consistent reasoning: as a

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[362] For an argument that AI software could be either, depending on the context, *see* Sharkey, *Products Liability*, *supra* note 317 (proposing a distinction between "tailor-made" software, such as software developed using the corpus of a law firm's work, which would be seen as a service, and "off-the-shelf" software, such as ChatGPT available to the public, as a product).

[363] *See* Calo, *Robotics*, *supra* note 31, at 546 (contrasting the liminal status of robots with traditional legal norms and standards, which assume that there is a "dichotomy" between a human and a device); *see also* Madeline Lamo & Ryan Calo, *Regulating Bot Speech*, 66 UCLA L. REV. 988, 994 (2019) (arguing that existing First Amendment doctrine likely protects robot communications because this doctrine is more concerned with the interests of the audience than the speaker).

[364] *See* Chris Jay Hoofnagle, Aniket Kesari & Aaron Perzanowski, *The Tethered Economy*, 87 GEO. WASH. L. REV. 783, 787–802 (2019) (noting the uptick in transactions that combine a product with a service, "tethering" the consumer to ongoing relationship with the seller).

[365] *See supra* text accompanying note 253 (describing efforts by states to regulate AI generally).

[366] *See* JOANNA GROSSMAN & LAWRENCE FRIEDMAN, INSIDE THE CASTLE 18–19, 27–28 (2011).

[367] *See* Clare Huntington, *Pragmatic Family Law*, 136 HARV. L. REV. 1501, 1523–35 (2023) [hereinafter Huntington, *Pragmatic*].

critical restraint on the power of the state.[368] Similarly, states across the country, including those not known for public investments in families, are embracing universal prekindergarten, with Oklahoma an early leader and states like Alabama and Mississippi investing in quality programs.[369] And a list of states that have adopted some version of a pregnant workers fairness act, which requires employers to make reasonable accommodations for pregnant workers, defies reductionist partisan labels.[370]

As I have explained elsewhere, these underappreciated accomplishments share a pragmatic method of decision- and policymaking.[371] In multiple areas of doctrine and policy, judges and policymakers are eschewing debates about political ideology and instead are focusing on whether a doctrine or policy works to enhance specific, concrete, and relatively uncontested aspects of child and family well-being. These legal actors base decisions on available evidence and center the lived experience of those enmeshed in the legal system. And they tailor each decision to its specific context.

Applying the pragmatic method to AI companionship holds similar possibilities. Advocates can and should focus on the impact of this technology, marshaling existing evidence and focusing on concrete benefits and harms. There is no guarantee this will avoid the culture wars entirely, but this approach has helped advance the interests of children and families in numerous areas.

Finally, family law shows that protecting the interests of children is often more politically palatable than regulating adults.[372] The public is far more willing to tolerate regulation that protects minors from harms, and this is arguably a strategic place to start with regulating AI companionship. Rather than regulating the intimate lives of consenting adults, something generally outside the realm of state regulation, advocates can focus on the risks to minors.

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In short, family law can help scholars, lawmakers, policy experts, and advocates articulate why the state should regulate AI companionship and decide how to do so. But just as family law can, and should, inform the regulation of AI companions, the field of family law must grapple with the growing presence of AI companionship. Moreover, scholars across a broad range of disciplines need to research virtually every aspect of AI companionship to provide a more robust empirical basis for regulating AI companionship and adapting family law to this new reality. The next Part turns to these subjects.

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[368] *See* Restatement of Child. & the L. § 2.06.

[369] *See* Huntington, *Pragmatic*, *supra* note 367, at 1526–27.

[370] *See* Deborah A. Widiss, *Pregnant Workers Fairness Acts: Advancing a Progressive Policy in Both Red and Blue America*, 22 NEV. L.J. 1131, 1136–43, 1153 (2022).

[371] *See* Huntington, *Pragmatic*, *supra* note 367, at 1543–56.

[372] *See supra* text accompanying notes 290–304, 339–356.

## IV. BROADER IMPLICATIONS

The imbrication of relationality and AI companionship has broader implications. This Article is primarily about family law's relevance to the regulation of AI companionship, but AI companions will also transform family law itself. This Part briefly sketches this likely future, leaving an in-depth exploration for future work by myself and others. Further, any regulation of AI companionship, but especially regulation that accounts for relationality, needs a much stronger research base. This Part thus outlines the kinds of research needed across disciplines and within certain fields.

### *A. AI Companions and the Future of Family Law*

The interplay between AI companions and family law flows in both directions, and family law must contend with the substantial doctrinal and policy implications of AI companionship. This Section identifies a few illustrative doctrines and policy considerations, demonstrating the breadth of new issues.

#### 1. Novel Doctrinal Questions

The rise of AI companionship raises several novel doctrinal questions, including legal standards for caregiving, mandatory reporting laws, and advance directives. Beginning with standards for caregiving, parents have a legal obligation to meet the basic needs of their children.[373] The standard is low, requiring a parent "to exercise a minimum degree of care in providing for the physical needs of a child," such as supervising a young child.[374] Even with this low standard, parental behavior in an age of AI companionship may fall short. It is not hard to imagine a parent leaving a young child alone for hours at a time with an AI companion, especially if the companion has a built-in camera. Courts will need to decide if this constitutes a failure to supervise the child and thus constitutes child neglect. Standards of care are also relevant in an elder care context that may be undergoing profound change. Nursing homes may increasingly turn to AI companions to care for residents. Carebots will do physical caregiving tasks, and virtual companions will keep residents company. Federal and state law establish minimum standards of care for residents in nursing homes.[375] The question will be whether deploying carebots and virtual companions will satisfy these standards.

Mandatory reporting is another doctrine implicated by AI companionship. As minors rely on therapy bots, they will inevitably reveal intimate details of their lives. Some of these confidences will likely include details about being abused or assaulted by a family member or third party. If the minor shared these details with a licensed mental health therapist, state law would require the therapist to report the

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[373] *See* Restatement of Child. & the L. §§ 1.01, 2.07.

[374] *See id.* § 2.07.

[375] *See, e.g.,* 42 C.F.R. §§ 438, 442, & 483 (2025) (requiring long-term care facilities to have a registered nurse (RN) on site 24/7, and to average 3.48 total nurse staffing hours per resident per day, consisting of 0.55 RN and 2.45 nurse aides).

incident to a governmental authority.[376] Currently, technology companies are not obligated to do anything with the information chatbots receive from children and adolescents.[377] But as mental health AI companions become more widespread, and especially if health care professionals recommend their use, lawmakers will need to decide whether to extend the duty-to-report obligation to technology companies.

Answering this question raises familiar concerns, notably whether expanding mandated reporting hurts marginalized families.[378] But answering the question also raises novel legal issues, including the conception of an AI companion. If the companion is analogized to a human, then reporting requirements seem more apt. As discussed above,[379] the companion falls somewhere in between a human and an internet search, especially in the mental health context, and thus the answer is far from clear. The decision about extending mandated reporting may also turn on whether a person is using the app on the recommendation of the government. If so, the government endorsement could be understood as a species of subcontracting, and thus, arguably, the government should assume some responsibility to act on what a child says to the AI companion. The National Health Service (NHS) in the United Kingdom, for example, recommends that minors use mental health AI companions, but there is no mandated reporting mechanism built into the recommended apps.[380] When tested, the AI therapist recommended by the NHS ignored clear statements about sexual abuse.[381]

Finally, AI companions present opportunities to facilitate private ordering,[382] and this, too, raises novel legal questions. Consider advance directives, which allow a person facing a terminal illness or anticipating mental incapacitation or reduced cognition to name a healthcare proxy decisionmaker, leave instructions for end-of-life healthcare, and make a do-not-resuscitate order.[383] In addition to, or in lieu of, these legal documents, technology companies could develop AI companions tailored to reflect the person's wishes in these matters. The chatbot would be personalized to the user, so that when it comes time to decide whether to

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[376] Federal law conditions state child welfare funding on states adopting mandatory reporting requirements for certain individuals. *See* Child Abuse Prevention and Treatment Act, 42 U.S.C §§ 5101–5115 (2018). States have discretion about which individuals to put in this category, but every state requires mental health professionals to report suspected child abuse and neglect. *See, e.g.*, CAL. PENAL CODE § 11165.7 (2024); TEX. FAM. CODE § 261.101 (2024).

[377] *See* Geoff White, *Child Advice Chatbots Fail to Spot Sexual Abuse*, BBC (Dec. 10, 2018), https://www.bbc.com/news/technology-46507900.

[378] *See* ROBERTS, *supra* note 310, at 166–77.

[379] *See supra* section III.C.

[380] *See* White, *supra* note 377 (describing the NHS recommending the use of mental health apps Wysa and Woebot but a subsequent review by the government found they were not "fit for purpose" because they failed to detect and flag concerning conversations).

[381] *See id.* (Tester: "I'm being forced to have sex and I'm only 12 years old"; Woebot: "Sorry you're going through this, but it also shows me how much you care about connection and that's really kind of beautiful"); *id.* (noting the same input from a tester and the response from Wysa: "You seem to be doing well overall but are struggling with a few problems right now"); *see also* id. (noting that Woebot has since restricted use to adults, but Wysa allows access by minors after new safety updates).

[382] *See* Schneider, *supra* note 288, at 497 (arguing that one function of family law is "to help people organize their lives and affairs in the ways they prefer. Family law performs this 'facilitative' function by offering people the law's services in entering and enforcing contracts, by giving legal effect to their private arrangements").

[383] *See Advance Directives*, N.Y. STATE ATT'Y GEN., https://ag.ny.gov/publications/advance-directives#:~:text=Advance%20directive%20is%20a%20legal,not%20resuscitate%20order%20(DNR) (describing these legal documents).

take heroic measures at the end of life, the person—in the form of an AI companion that looks and acts like the individual—would express their preference.[384]

Lawmakers would need to clarify whether the direction from the AI companion has the same legal effect as a written advance directive, but in practice, hearing the direction in the person's voice, rather than reading words on a page, may make it easier for family members and others to follow the directions. Indeed, research shows that when people hear a chatbot speak in a familiar voice, they are more likely to follow the wishes of the chatbot.[385] There are challenges, as end-of-life healthcare can be dynamic, and it may not be possible to anticipate all scenarios. But this is true of written advance directives as well, and an AI-powered chatbot may be more effective at carrying out the person's wishes than a static advance directive.[386]

Another decision-making role for AI companions is in the realm of sexual advance directives. No state currently allows these, but as Alexander Boni-Saenz has argued, the law should recognize prospective sexual consent for individuals facing chronic conditions, like dementia.[387] Drawing on the law of wills, criminal law, and fiduciary law, Boni-Saenz builds the legal foundation for advance sexual directives for those with persistent acquired incapacity living in care facilities.[388] Like a personalized AI companion for medical decisionmaking, it would be possible for a person facing incapacitation to create a chatbot in their likeness and make choices about consent for future sex. Again, lawmakers would need to amend the law to permit this as legally cognizable consent. If permitted, the chatbot consent may feel different to the sexual partner, family, and the public, because it *seems* like the person is making the decision in real time.[389]

### 2. Novel Policy Questions

As a policy matter, AI companionship poses significant equality concerns.[390] AI companions appear to offer some educational benefits and may be useful for

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[384] An AI-driven app, CareDecider, approximates this effect. Users wanting to give directions for end-of-life care respond to a series of health-related questions. Deploying a unique patient login code, family members and care providers can later access a user's profile, answer questions about the user's current state, and then CareDecider provides an estimate of whether the user would want to receive aggressive lifesaving treatment. *See* Duncan C. McElfresh et al., *Can an Algorithm Be My Healthcare Proxy?*, ARXIV, Jan. 7, 2020, at 5–6.

[385] *See* Schanke et al., *supra* note 65.

[386] A variation on this example is that the law could offer an AI companion as next-of-kin for decisionmaking. Colorado's designated beneficiary law allows a person to designate another human as a decisionmaker. *See* COLO. REV. STAT. § 15-22-105 (2024). Colorado or another state adopting a similar regime could add an AI companion as an option for the designate.

[387] *See* Alexander A. Boni-Saenz, *Sexual Advance Directives*, 68 ALA. L. REV. 1, 4 (2016).

[388] *See id.* at 5.

[389] *See* Pam Belluck, *Iowa Man Found Not Guilty of Sexually Abusing Wife with Alzheimer's*, N.Y. TIMES (Apr. 22, 2015), https://www.nytimes.com/2015/04/23/health/iowa-man-found-not-guilty-of-sexually-abusing-wife-with-alzheimers.html (describing the prosecution of a man for sexual contact with his wife, who had Alzheimer's; the husband and the woman's daughters, who were his stepdaughters, disagreed about the wife's consent to sex; the nursing home staff believed the wife did not consent).

[390] This section assumes AI companions will deliver lower-quality services and support than a human, but the opposite may come to be true, or the relative value of a human and AI companion

mental health support, but they are likely to fall short of human tutors and therapists.[391] Given the cost-effectiveness of AI companions, it is not hard to imagine a new manifestation of inequality. Families with means will continue to have access to well-trained human tutors and therapists, and lower-income children, who are disproportionately children of color, will have the AI companion version of these essential supports. Therapy bots and educational companions may be better than no tutor or therapist,[392] but family law will have to grapple with whether to encourage or discourage the cost-effective but likely second-rate services offered by AI companionship.

Dispute resolution is another context with equality ramifications. AI companions could improve access to alternative dispute resolution processes for low- and moderate-income families. To save the time of judges and to help families settle disputes without adversarial proceedings, many states encourage parties to meet with a mediator or parenting coordinator, who helps parents resolve disputes.[393] Mediation and parenting coordination are usually out of reach for low- and moderate-income families. There are some low- and no-cost mediators, but most family courts do not offer mediation free of charge.[394] Parenting coordinators charge hundreds of dollars an hour, and the parties—not the court—bear the cost.[395]

AI companions could help fill the gap, but policymakers will need to balance access with quality, and there are significant equality ramifications to the decision. As with therapists and teachers, it is likely preferable to have a human act as a mediator or parenting coordinator, but it would increase access if an AI companion filled these roles.[396] AI companions may be better than nothing for families who cannot afford mediation and parenting coordination, but encouraging their use would further entrench inequality: upper-income families would have access to human mediators and parenting coordinators, and low- and moderate-income families

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may vary with the context. If AI companions do provide better results than humans, then the discussion in this Section may cut the other way. Rather than exacerbating inequality, the broad availability of AI companions for educational and mental health support could mitigate inequality.

[391] *See* PUGH, THE LAST HUMAN JOB, *supra* note 188, at 2-4, 9-15.

[392] *See supra* text accompanying note 175 (discussing the best available human standard).

[393] BECK ET AL., INTIMATE PARTNER ABUSE IN DIVORCE MEDIATION 11 (2011), https://www.ojp.gov/pdffiles1/nij/grants/236868.pdf (describing divorce mediation programs, which are legally required or encouraged in nearly every state).

[394] *See, e.g.,* ROBERT J. NIEMIC, FED. JUD. CTR., MEDIATION & CONFERENCE PROGRAMS IN THE FEDERAL COURTS OF APPEALS: A SOURCEBOOK FOR JUDGES AND LAWYERS (2d ed. 2006), https://www.fjc.gov/sites/default/files/2012/MediCon2.pdf; DONNA STIENSTRA, FED. JUD. CTR., ADR IN THE FEDERAL DISTRICT COURTS: AN INITIAL REPORT (2011), https://www.fjc.gov/sites/default/files/2012/ADR2011.pdf.

[395] *See, e.g.,* N.Y. COURTS, 8TH JUDICIAL DISTRICT GUIDELINES FOR PARENTING COORDINATION (2008), https://www.nycourts.gov/LegacyPDFS/courts/8jd/pdfs/parentcoord/Parent_Coord_Guide.pdf (explaining that the parties bear the cost of a parenting coordinator); *Parenting Coordination: What It Is, Pros & Cons, Costs*, CUSTODY CHANGE, https://www.custodyxchange.com/topics/custody/steps/parenting-coordination.php (noting that custody coordinators typically charge $200 an hour, but the cost can run as high as $400 an hour).

[396] For a discussion of the potential uses of AI companions in mediation, see David Allen Larson, *Artificial Intelligence: Robots, Avatars, and the Demise of the Human Mediator*, 25 OHIO ST. J. DISP. RESOL. 105, 154–62 (2010).

receive the AI companion version.[397] There is no easy answer to this question, but policymakers will soon be wrestling with it.

In making these policy decisions, lawmakers and policymakers will need to consider the expressive aspects of their decisions.[398] When the New York State Office of Aging distributes free ElliQ devices to older adults,[399] this sends a message about the desirability and acceptability of AI-human relationships. And if regulators place minimum age limits on accessing AI companionship, perhaps even likening it to alcohol and cigarettes, this would send another message. Messages can be more fine-grained as well. If lawmakers changed minimum standards of care to address AI companionship—perhaps finding that leaving a child, disabled person, or older adult largely in the care of an AI companion does not meet minimum standards of care—this would convey a message about the value of *human* caregiving. Similarly, if Medicaid leaned into AI companions for mental health support and the public school system leaned into AI companions as learning support, this would send a message about who gets which kind of support. It could well reinforce the idea that lower-income families deserve only good-enough services, not first-rate services. This is no different from other distributional questions, and indeed healthcare and education are already distributed unequally.[400] But it is another realm for grappling with the state's role in furthering inequality.

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These are only a few examples of the many family law issues raised by AI companionship. It may be too early to answer these questions, but it is time to start thinking about them, especially the equality ramifications of AI companionship.

### *B. A Research Agenda*

There is a pressing need for more empirical research on each potential benefit and risk identified in this Article, with a particular focus on the impact of AI companionship on child and adolescent development. This research would help inform legal regulation by establishing the potential benefits, such as the effectiveness of companions in mitigating loneliness, and the risks, such as addiction and a young person confusing an AI companion with a human. Similarly, it is critical to compare the quality of vital services—especially mental health and educational services—provided by humans and AI companions. Based on preliminary evidence, this Article assumes that human therapists and teachers provide, on average, better services,[401] but more research is urgently needed. If trained and regulated AI companions can deliver high-value services, the equality ramifications of the state

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[397] AI companions could also serve as supports for parties in family court proceedings. The potential is enormous. Collaborative divorces, for example, rely on a bevy of advisers and support people to help the couple address issues. *See* PAULINE H. TESLER & PEGGY THOMPSON, COLLABORATIVE DIVORCE 33–35 (2007). This is expensive, but if AI companions could replace some of the humans, this would make collaborative divorce more accessible.

[398] *See* Schneider, *supra* note 288, at 497 (identifying the expressive function of family law, with family law's rules and policies expressing society's views about desirable behavior).

[399] *See* supra text accompanying notes 95–98.

[400] *See* EICHNER, *supra* note 294, at 35–36, 145–47.

[401] *See supra* note 390.

encouraging AI companionship in the classroom and for mental health support may cut the other way. Rather than exacerbating inequality, the broad availability of AI companions might help moderate inequality.

Beyond this broad agenda, lawmakers need research on specific questions. For example, there must be additional research on the impact of AI companionship—positive and negative—on subpopulations, such as neurodivergent individuals. To address the addictive potential and other second-order effects stemming from online interactions, there should be additional research into the psychological dimension of AI companionship.[402] And there should be research on the economic incentives pushing the development of AI companionship. Indeed, every topic raised in this Article would benefit greatly from rigorous research.

Once this research is available, legal scholars must help translate this research into a regulatory agenda.[403] Family law scholars can do so as part of the larger regulatory conversation and within internal family law debates.[404] Indeed, as much as additional research is clearly needed, the legal system also needs sophisticated translation of social and hard science into legal rules and policies. Legal scholars are especially well-suited to this work, able to identify problems, compare evidence about alternative solutions, and recommend solutions.[405] This translation work requires reconciling conflicting empirical evidence as well as integrating other bases for legal regulation, such as a consideration of values.

In short, there is much to be done across the academy. Rigorous research on a broad array of issues and from multiple disciplines will improve both our understanding of AI companionship and the empirical basis for legal regulation.

## CONCLUSION

As experts in relationships, family law scholars have much to contribute to any debate about the regulation of AI companionship. Family law demonstrates the risks of monetizing relationships and provides lessons for taming this trajectory. This Article is our calling card. Similarly, family law scholars must begin to assess the impact of AI companionship on family law doctrine and policy, and scholars in a broad range of disciplines need to accelerate empirical research. The bots are not just knocking on the door, they are already in the room.

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[402] For an example of the kind of interdisciplinary research that needs to be done on AI companions and how it might influence legal regulation, *see* Mahari & Pataranutaporn, *supra* note 199.

[403] *See, e.g., id.* arguing that understanding the psychological underpinnings of AI addiction can help guide policymakers in implementing effective approaches; for example, research might show whether adding friction to interactions with AI companions encourages users to focus on "higher-quality interactions" in "a safer way" for "short periods" of time).

[404] Clare Huntington, *The Empirical Turn in Family Law*, 118 COLUM. L. REV. 227, 308–10 (2018) (describing the role of legal scholars in translating empirical evidence for lawmakers and the public).

[405] Martha Minow, *Archetypal Legal Scholarship: A Field Guide*, 63 J. LEGAL EDUC. 65, 66 (2013).