

SENATE JUDICIARY COMMITTEE

Senator Noreen Evans, Chair
2013-2014 Regular Session

AB 533 (Calderon)
As Amended June 3, 2013
Hearing Date: June 11, 2013
Fiscal: No
Urgency: No
TMW

SUBJECT

Artistic Employment Contracts: Minors

DESCRIPTION

This bill would exempt children who are background performers from the requirement of establishing a Coogan Trust Account.

BACKGROUND

Under existing law, children entering into contracts to provide professional entertainment services are required to obtain a permit from the Labor Commissioner. Work permits issued by the Labor Commissioner related to contracted services are only valid for ten days, unless the permit is attached to a trustee's statement evidencing the establishment of a Coogan Trust Account. (Lab. Code Sec. 1308.9.)

Coogan Trust Accounts were established under the Coogan Law in 1938 in response to child star Jackie Coogan's plight. Even though he earned millions as a child, Coogan was surprised to find out when he reached adulthood that he was flat

broke,
money - because his mother and stepfather spent all of his
all legally. Community property laws in California made
property of the earnings of individual members of a family the
earnings. family, and a child had no control over his or her
portion Thus, the Coogan Law was passed in order to preserve a
use when he (15 percent) of the minor's earnings for the minor's
the or she reaches the age of majority. In 1999 and 2003,
for a Coogan Law was amended to provide enhanced protections
1999); SB minor's earnings. (SB 1162 (Burton, Ch. 940, Stats.
210 (Burton, Ch. 667, Stats. 2003).)

(more)

AB 533 (Calderon)
Page 2 of ?

are This author-sponsored bill would exempt children who
Account background performers and extras from the Coogan Trust
requirement.

CHANGES TO EXISTING LAW

contract to Existing law provides protections for minors who
6750 et render artistic or creative services. (Fam. Code Sec.
seq.)

Existing law requires the employer of a minor, who

provides
15 percent
Coogan Trust
or legal
account.

artistic, creative, or sports services, to set aside
of the minor's gross earnings for placement into a
Account that must be established by the minor's parent
guardian, who acts as the trustee of the trust
(Fam.
Code Sec. 6752.)

trust
the
earnings.

Existing law defines a Coogan Trust Account to mean a
account established for the purpose of preserving for
the benefit of a minor the portion of the minor's gross
(Fam. Code Sec. 6753.)

guardian
transmit
Fund
provide
guardian.

Existing law provides that if the parent or legal
fails
to establish a Coogan Trust Account, the employer must
the required portion of gross earnings to The Actors
America, which is required to take specified steps to
notice of the unclaimed funds to the parent or legal
(Fam. Code Sec. 6752(b)(9), (c).)

Account
as an
capacity.

This bill would exempt from the Coogan Trust
requirements minors who contract to provide services
extra, background performer, or in another similar

This bill would also make various technical
corrections.

COMMENT

1. Stated need for the bill

The author writes:

Existing law requires that all child actors must have 15 [percent] of their earnings set aside in a Coogan Trust Account, which may not be accessed by anyone including the child actor until after they become adults. For child actors

AB 533 (Calderon)
Page 3 of ?

who earn large sums as principal performers, the Coogan law provides needed and beneficial protection. However, for kids who only work once or twice a year as an extra or background performer, this requirement is an unnecessary and inefficient waste, and simply denies kids some summer fun money. This bill corrects this situation and removes the requirement that the parents of background kids have to create Accounts.

2. Exempting child extras and background performers from Coogan Trust Account requirements

Existing law requires a Coogan Trust Account to be established for children employed in the entertainment industry, into which 15 percent of the child's earnings must be placed for safekeeping and access only by the child upon reaching adulthood. The Coogan Trust Accounts requirement was created to protect the earnings of child actors from mismanagement by their

example parents and management. Jackie Coogan was the primary
of the need to protect child actors' earnings. Coogan
had starred in nearly 20 films before his 18th birthday,
including Charlie Chaplin's "The Kid," and sued his mother and
stepfather to recover earnings they had stolen from him as a
child actor.

This bill would exempt children contracting to provide
artistic or creative services as an extra, background perform,
or in another similar capacity from the Coogan Trust Account
requirement.

According to the author, Central Casting (the largest
extras casting company) reports that background child actors
typically perform two or less times per year for wages amounting
to \$145 or less per performance. Further, The Actor's Fund of
America (AFA), which is statutorily designated as the trustee
of unclaimed child actor earnings, reports that the
Unclaimed Coogan Fund has over 38,000 individual deposits, over
32,000 of which are for less than \$99. The Unclaimed Coogan
Fund is comprised of earnings forwarded by employers when the
child actor has not provided proof of an established Coogan
Trust Account. The AFA has concluded that most of these
deposits are from background players who have abandoned their money
rather than establishing a Coogan Trust Account.

Proponents further argue that requiring background
performers to establish Coogan Trust Accounts does not further the
purpose of

protecting the child's career earnings for use by the
child
later in life. As such, it makes more sense to allow
these
children to receive their background performance wages
as earned

AB 533 (Calderon)
Page 4 of ?

rather than requiring them to wait until adulthood to
have
access to miniscule amounts in the trust accounts.

The author notes a recent class action demonstrates
another
issue with Coogan Trust Accounts required to be
established for
child actors. ABC News reported on a lawsuit brought
by the
trustee parents of child performers alleging improper
fee
withdrawals by Bank of America. (Miller, Did Bank of
America
Steal From Child Actors (Sept. 24, 2012) ABC News
[as of May 31, 2013].) The current status of
this class action case is unknown; however, it
demonstrates that
Coogan Trust Accounts containing less than specified
amounts
(\$300 at Bank of America) are charged fees, which use
up a
child's earnings from a few days of extra work rather
than
maintaining the earnings for the use by the child
later in life.

The author argues that after agent fees and taxes,
the amount
left to deposit in the Coogan Trust is insubstantial
and
effectively exhausted by fees charged by banks for

accounts

containing amounts less than \$300.

The issue presented by this bill is whether it is appropriate to exempt children who are providing extra or background services from the Coogan Trust Account protections. Arguably, the Coogan Law was aimed at protecting children earning large amounts from their child acting career. On the other hand, a child earning less than \$300 per year (two union days of acting at \$145/day), minus the 20 percent agent fees, minus federal and state taxes, may benefit more from immediate access to the 15 percent of these earnings currently required to be placed in trust (\$45) rather than paying fees from this amount to the bank maintaining the Coogan Trust Fund on the child's behalf. As such, it appears appropriate to exempt children performing as extras and background performers from the Coogan Trust Account requirement. Notably, children performing in acting roles not designated as extra or background work would still be required to establish a Coogan Trust Account.

Support : BizParentz Foundation; Children in Film, Inc.; The Actors Fund of America

Opposition : None Known

HISTORY

AB 533 (Calderon)

Page 5 of ?

Source : Author

Related Pending Legislation : None Known

Prior Legislation :

AB 1401 (Committee on Arts, Entertainment, Sports,
Tourism, and
Internet Media, Ch. 557, Stats. 2011) established an
online
temporary work permit process administered by the
Division of
Labor Standards Enforcement in order to assist parents
establishing a Coogan Trust Account for the benefit of
the minor
performer.

SB 210 (Burton, Ch. 667, Stats. 2003) See Background.

SB 1162 (Burton, Ch. 940, Stats. 1999) See Background.

AB 436 (McCarthy, Ch. 436, Stats. 1975) See
Background.

Prior Vote :

Assembly Committee on Arts, Entertainment, Sports,
Tourism, and
Internet Media (Ayes 6, Noes 0)
Assembly Committee on Labor and Employment (Ayes 7,
Noes 0)
Assembly Floor (Ayes 70, Noes 0)
