

AMENDED IN SENATE JUNE 3, 2013
AMENDED IN ASSEMBLY APRIL 18, 2013
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 533

Introduced by Assembly Member Ian Calderon

February 20, 2013

An act to amend ~~Sections~~ *Section 6752 and 6753* of the Family Code, relating to minors.

LEGISLATIVE COUNSEL'S DIGEST

AB 533, as amended, Ian Calderon. Artistic employment contracts: minors.

Existing law regulates certain contracts for artistic employment between an unemancipated minor and 3rd parties, including employment as an actor, dancer, musician, comedian, singer, stunt-person, voice-over artist, or sports player. Existing law requires the minor's employer under one of these contracts to set aside 15% of the minor's gross earnings, as specified, and provides for the establishment of a trust for the purpose of preserving for the minor a portion of the minor's gross earnings, as defined.

This bill would exempt an employer of a minor under a contract as described above for services as an extra, background performer, or in a similar capacity from the requirement that the employer set aside 15% of the minor's gross earnings in trust for the benefit of the minor. ~~The bill would also correct related obsolete cross-references.~~

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 6752 of the Family Code is amended to
2 read:

3 6752. (a) A parent or guardian entitled to the physical custody,
4 care, and control of a minor who enters into a contract of a type
5 described in Section 6750 shall provide a certified copy of the
6 minor’s birth certificate indicating the minor’s minority to the
7 other party or parties to the contract and in addition, in the case of
8 a guardian, a certified copy of the court document appointing the
9 person as the minor’s legal guardian.

10 (b) (1) Notwithstanding any other statute, in an order approving
11 a minor’s contract of a type described in Section 6750, the court
12 shall require that 15 percent of the minor’s gross earnings pursuant
13 to the contract be set aside by the minor’s employer, except an
14 employer of a minor for services as an extra, background
15 performer, or in a similar capacity, as described in paragraph (3)
16 of subdivision (b) of Section 6750. These amounts shall be held
17 in trust, in an account or other savings plan, and preserved for the
18 benefit of the minor in accordance with Section 6753.

19 (2) The court shall require that at least one parent or legal
20 guardian, as the case may be, entitled to the physical custody, care,
21 and control of the minor at the time the order is issued be appointed
22 as trustee of the funds ordered to be set aside in trust for the benefit
23 of the minor, unless the court shall determine that appointment of
24 a different individual, individuals, entity, or entities as trustee or
25 trustees is required in the best interest of the minor.

26 (3) Within 10 business days after commencement of
27 employment, the trustee or trustees of the funds ordered to be set
28 aside in trust shall provide the minor’s employer with a true and
29 accurate photocopy of the trustee’s statement pursuant to Section
30 6753. Upon presentation of the trustee’s statement offered pursuant
31 to this subdivision, the employer shall provide the parent or
32 guardian with a written acknowledgment of receipt of the
33 statement.

34 (4) The minor’s employer shall deposit or disburse the 15
35 percent of the minor’s gross earnings pursuant to the contract
36 within 15 business days after receiving a true and accurate copy
37 of the trustee’s statement pursuant to subdivision (c) of Section
38 6753, a certified copy of the minor’s birth certificate, and, in the

1 case of a guardian, a certified copy of the court document
2 appointing the person as the minor's guardian. Notwithstanding
3 any other law, pending receipt of these documents, the minor's
4 employer shall hold, for the benefit of the minor, the 15 percent
5 of the minor's gross earnings pursuant to the contract. This
6 paragraph does not apply to an employer of a minor for services
7 as an extra, background performer, or in a similar capacity, as
8 described in paragraph (3) of subdivision (b) of Section 6750.

9 (5) When making the initial deposit of funds, the minor's
10 employer shall provide written notification to the financial
11 institution or company that the funds are subject to Section 6753.
12 Upon receipt of the court order, the minor's employer shall provide
13 the financial institution with a copy of the order.

14 (6) Once the minor's employer deposits the set-aside funds
15 pursuant to Section 6753, in trust, in an account or other savings
16 plan, the minor's employer shall have no further obligation or duty
17 to monitor or account for the funds. The trustee or trustees of the
18 trust shall be the only individual, individuals, entity, or entities
19 with the obligation or duty to monitor and account for those funds
20 once they have been deposited by the minor's employer. The
21 trustee or trustees shall do an annual accounting of the funds held
22 in trust, in an account or other savings plan, in accordance with
23 Sections 16062 and 16063 of the Probate Code.

24 (7) The court shall have continuing jurisdiction over the trust
25 established pursuant to the order and may at any time, upon petition
26 of the parent or legal guardian, the minor, through his or her
27 guardian ad litem, or the trustee or trustees, on good cause shown,
28 order that the trust be amended or terminated, notwithstanding the
29 provisions of the declaration of trust. An order amending or
30 terminating a trust may be made only after reasonable notice to
31 the beneficiary and, if the beneficiary is then a minor, to the parent
32 or guardian, if any, and to the trustee or trustees of the funds with
33 opportunity for all parties to appear and be heard.

34 (8) A parent or guardian entitled to the physical custody, care,
35 and control of the minor shall promptly notify the minor's employer
36 in writing of any change in facts that affect the employer's
37 obligation or ability to set aside the funds in accordance with the
38 order, including, but not limited to, a change of financial institution
39 or account number, or the existence of a new or amended order
40 issued pursuant to paragraph (7) amending or terminating the

1 employer's obligations under this section. The written notification
2 shall be accompanied by a true and accurate photocopy of the
3 trustee's statement pursuant to Section 6753 and, if applicable, a
4 true and accurate photocopy of the new or amended order.

5 (9) (A) If a parent, guardian, or trustee fails to provide the
6 minor's employer with a true and accurate photocopy of the
7 trustee's statement pursuant to Section 6753 within 180 days after
8 the commencement of employment, the employer shall forward
9 to The Actors' Fund of America 15 percent of the minor's gross
10 earnings pursuant to the contract, together with the minor's name
11 and, if known, the minor's social security number, birth date, last
12 known address, telephone number, email address, dates of
13 employment, and title of the project on which the minor was
14 employed, and shall notify the parent, guardian, or trustee of that
15 transfer by certified mail to the last known address. Upon receipt
16 of those forwarded funds, The Actors' Fund of America shall
17 become the trustee of those funds and the minor's employer shall
18 have no further obligation or duty to monitor or account for the
19 funds.

20 (B) The Actors' Fund of America shall make its best efforts to
21 notify the parent, guardian, or trustee of their responsibilities to
22 provide a true and accurate photocopy of the trustee's statement
23 pursuant to Section 6753, and in the case of a guardian, a certified
24 copy of the court document appointing the person as the minor's
25 legal guardian. Within 15 business days after receiving those
26 documents, The Actors' Fund of America shall deposit or disburse
27 the funds as directed by the trustee's statement. When making that
28 deposit or disbursal of the funds, The Actors' Fund of America
29 shall provide to the financial institution notice that the funds are
30 subject to Section 6753 and a copy of each applicable order, and
31 shall thereafter have no further obligation or duty to monitor or
32 account for the funds.

33 (e)

34 (C) The Actors' Fund of America shall notify each beneficiary
35 of his or her entitlement to the funds that it holds for the beneficiary
36 within 60 days after the date on which its records indicated that
37 the beneficiary has attained 18 years of age or the date on which
38 it received notice that the minor has been emancipated, by sending
39 that notice to the last known address for the beneficiary or, if it

1 has no specific separate address for the beneficiary, to the
2 beneficiary's parent or guardian.

3 ~~(d)~~

4 (c) (1) Notwithstanding any other statute, for any minor's
5 contract of a type described in Section 6750 that is not being
6 submitted for approval by the court pursuant to Section 6751, or
7 for which the court has issued a final order denying approval, 15
8 percent of the minor's gross earnings pursuant to the contract shall
9 be set aside by the minor's employer, except an employer of a
10 minor for services as an extra, background performer, or in a
11 similar capacity, as described in paragraph (3) of subdivision (b)
12 of Section 6750. These amounts shall be held in trust, in an account
13 or other savings plan, and preserved for the benefit of the minor
14 in accordance with Section 6753. At least one parent or legal
15 guardian, as the case may be, entitled to the physical custody, care,
16 and control of the minor, shall be the trustee of the funds set aside
17 for the benefit of the minor, unless the court, upon petition by the
18 parent or legal guardian, the minor, through his or her guardian ad
19 litem, or the trustee or trustees of the trust, shall determine that
20 appointment of a different individual, individuals, entity, or entities
21 as trustee or trustees is required in the best interest of the minor.

22 (2) Within 10 business days of commencement after
23 employment, a parent or guardian, as the case may be, entitled to
24 the physical custody, care, and control of the minor shall provide
25 the minor's employer with a true and accurate photocopy of the
26 trustee's statement pursuant to Section 6753 and in addition, in
27 the case of a guardian, a certified copy of the court document
28 appointing the person as the minor's legal guardian. Upon
29 presentation of the trustee's statement offered pursuant to this
30 subdivision, the employer shall provide the parent or guardian with
31 a written acknowledgment of receipt of the statement.

32 (3) The minor's employer shall deposit 15 percent of the minor's
33 gross earnings pursuant to the contract within 15 business days of
34 receiving the trustee's statement pursuant to Section 6753, or if
35 the court denies approval of the contract, within 15 business days
36 of receiving a final order denying approval of the contract.
37 Notwithstanding any other statute, pending receipt of the trustee's
38 statement or the final court order, the minor's employer shall hold
39 for the benefit of the minor the 15 percent of the minor's gross
40 earnings pursuant to the contract. When making the initial deposit

1 of funds, the minor's employer shall provide written notification
2 to the financial institution or company that the funds are subject
3 to Section 6753. This paragraph does not apply to an employer of
4 a minor for services as an extra, background performer, or in a
5 similar capacity, as described in paragraph (3) of subdivision (b)
6 of Section 6750.

7 (4) Once the minor's employer deposits the set-aside funds in
8 trust, in an account or other savings plan pursuant to Section 6753,
9 the minor's employer shall have no further obligation or duty to
10 monitor or account for the funds. The trustee or trustees of the
11 trust shall be the only individual, individuals, entity, or entities
12 with the obligation or duty to monitor and account for those funds
13 once they have been deposited by the minor's employer. The
14 trustee or trustees shall do an annual accounting of the funds held
15 in trust, in an account or other savings plan, in accordance with
16 Sections 16062 and 16063 of the Probate Code.

17 (5) Upon petition of the parent or legal guardian, the minor,
18 through his or her guardian ad litem, or the trustee or trustees of
19 the trust, to the superior court in any county in which the minor
20 resides or in which the trust is established, the court may at any
21 time, on good cause shown, order that the trust be amended or
22 terminated, notwithstanding the provisions of the declaration of
23 trust. An order amending or terminating a trust may be made only
24 after reasonable notice to the beneficiary and, if the beneficiary is
25 then a minor, to the parent or guardian, if any, and to the trustee
26 or trustees of the funds with opportunity for all parties to appear
27 and be heard.

28 (6) A parent or guardian entitled to the physical custody, care,
29 and control of the minor shall promptly notify the minor's employer
30 in writing of any change in facts that affect the employer's
31 obligation or ability to set aside funds for the benefit of the minor
32 in accordance with this section, including, but not limited to, a
33 change of financial institution or account number, or the existence
34 of a new or amended order issued pursuant to paragraph (5)
35 amending or terminating the employer's obligations under this
36 section. The written notification shall be accompanied by a true
37 and accurate photocopy of the trustee's statement and attachments
38 pursuant to Section 6753 and, if applicable, a true and accurate
39 photocopy of the new or amended order.

1 (7) (A) If a parent, guardian, or trustee fails to provide the
2 minor's employer with a true and accurate photocopy of the
3 trustee's statement pursuant to Section 6753, within 180 days after
4 commencement of employment, the employer shall forward to
5 The Actors' Fund of America the 15 percent of the minor's gross
6 earnings pursuant to the contract, together with the minor's name
7 and, if known, the minor's social security number, birth date, last
8 known address, telephone number, email address, dates of
9 employment, and the title of the project on which the minor was
10 employed, and shall notify the parent, guardian, or trustee of that
11 transfer by certified mail to the last known address. Upon receipt
12 of those forwarded funds, The Actors' Fund of America shall
13 become the trustee of those funds and the minor's employer shall
14 have no further obligation or duty to monitor or account for the
15 funds.

16 (B) The Actors' Fund of America shall make best efforts to
17 notify the parent, guardian, or trustee of their responsibilities to
18 provide a true and accurate photocopy of the trustee's statement
19 pursuant to Section 6753 and in the case of a guardian, a certified
20 copy of the court document appointing the person as the minor's
21 legal guardian. After receiving those documents, The Actors' Fund
22 of America shall deposit or disburse the funds as directed by the
23 trustee's statement, and in accordance with Section 6753, within
24 15 business days. When making that deposit or disbursal of the
25 funds, The Actors' Fund of America shall provide notice to the
26 financial institution that the funds are subject to Section 6753, and
27 shall thereafter have no further obligation or duty to monitor or
28 account for the funds.

29 (C) The Actors' Fund of America shall notify each beneficiary
30 of his or her entitlement to the funds that it holds for the
31 beneficiary, within 60 days after the date on which its records
32 indicate that the beneficiary has attained 18 years of age or the
33 date on which it received notice that the minor has been
34 emancipated, by sending that notice to the last known address that
35 it has for the beneficiary, or to the beneficiary's parent or guardian,
36 where it has no specific separate address for the beneficiary.

37 (e)

38 (d) Where a parent or guardian is entitled to the physical
39 custody, care, and control of a minor who enters into a contract of
40 a type described in Section 6750, the relationship between the

1 parent or guardian and the minor is a fiduciary relationship that is
2 governed by the law of trusts, whether or not a court has issued a
3 formal order to that effect. The parent or guardian acting in his or
4 her fiduciary relationship, shall, with the earnings and
5 accumulations of the minor under the contract, pay all liabilities
6 incurred by the minor under the contract, including, but not limited
7 to, payments for taxes on all earnings, including taxes on the
8 amounts set aside under subdivisions (b) and (c) of this section,
9 and payments for personal or professional services rendered to the
10 minor or the business related to the contract. Nothing in this
11 subdivision shall be construed to alter any other existing
12 responsibilities of a parent or legal guardian to provide for the
13 support of a minor child.

14 (f)

15 (e) (1) Except as otherwise provided in this subdivision, The
16 Actors' Fund of America, as trustee of unclaimed set-aside funds,
17 shall manage and administer those funds in the same manner as a
18 trustee under the Probate Code. Notwithstanding the foregoing,
19 The Actors' Fund of America is not required to open separate,
20 segregated individual trust accounts for each beneficiary but may
21 hold the set-aside funds in a single, segregated master account for
22 all beneficiaries, provided it maintains accounting records for each
23 beneficiary's interest in the master account.

24 (2) The Actors' Fund of America shall have the right to transfer
25 funds from the master account, or from a beneficiary's segregated
26 account to its general account in an amount equal to the
27 beneficiary's balance. The Actors' Fund of America shall have
28 the right to use those funds transferred to its general account to
29 provide programs and services for young performers. This use of
30 the funds does not limit or alter The Actors' Fund of America's
31 obligation to disburse the set-aside funds to the beneficiary, or the
32 beneficiary's parent, guardian, trustee, or estate pursuant to this
33 chapter.

34 (3) (A) Upon receiving a certified copy of the beneficiary's
35 birth certificate, or United States passport, and a true and accurate
36 photocopy of the trustee's statement pursuant to Section 6753, The
37 Actors' Fund of America shall transfer the beneficiary's balance
38 to the trust account established for the beneficiary.

39 (B) The Actors' Fund of America shall disburse the set-aside
40 funds to a beneficiary who has attained 18 years of age, after

1 receiving proof of the beneficiary's identity and a certified copy
2 of the beneficiary's birth certificate or United States passport, or
3 to a beneficiary who has been emancipated, after receiving proof
4 of the beneficiary's identity and appropriate documentation
5 evidencing the beneficiary's emancipation.

6 (C) The Actors' Fund of America shall disburse the set-aside
7 funds to the estate of a deceased beneficiary after receiving
8 appropriate documentation evidencing the death of the beneficiary
9 and the claimant's authority to collect those funds on behalf of the
10 beneficiary.

11 ~~(g)~~

12 (f) (1) The beneficiary of an account held by The Actors' Fund
13 of America pursuant to this section shall be entitled to receive
14 imputed interest on the balance in his or her account for the entire
15 period during which the account is held at a rate equal to the lesser
16 of the federal reserve rate in effect on the last business day of the
17 prior calendar quarter or the national average money market rate
18 as published in the New York Times on the last Sunday of the
19 prior calendar quarter, adjusted quarterly.

20 (2) The Actors' Fund of America may assess and deduct from
21 the balance in the beneficiary's account reasonable management,
22 administrative, and investment expenses, including
23 beneficiary-specific fees for initial setup, account notifications and
24 account disbursements, and a reasonably allocable share of
25 management, administrative, and investment expenses of the master
26 account. No fees may be charged to any beneficiary's account
27 during the first year that the account is held by The Actors' Fund
28 of America.

29 (3) Notwithstanding paragraph (2), the amount paid on any
30 claim made by a beneficiary or the beneficiary's parent or guardian
31 after The Actors' Fund of America receives and holds funds
32 pursuant to this section may not be less than the amount of the
33 funds received plus the imputed interest.

34 ~~(h)~~

35 (g) Notwithstanding any provision of this chapter to the contrary,
36 any minor's employer holding set-aside funds under this chapter,
37 which funds remain unclaimed 180 days after the effective date
38 hereof, shall forward those unclaimed funds to The Actors' Fund
39 of America, along with the minor's name and, if known, the
40 minor's social security number, birth date, last known address,

1 telephone number, email address, dates of employment, and the
2 title of the project on which the minor was employed, and shall
3 notify the parent, guardian, or trustee of that transfer by certified
4 mail to the last known address. Upon receipt of those forwarded
5 funds by The Actors' Fund of America, the minor's employer shall
6 have no further obligation or duty to monitor or account for the
7 funds.

8 (i)

9 (h) All funds received by The Actors' Fund of America pursuant
10 to this section shall be exempt from the application of the
11 Unclaimed Property Law (Title 10 (commencing with Section
12 1300) of Part 3 of the Code of Civil Procedure), including, but not
13 limited to, Section 1510 of the Code of Civil Procedure.

14 ~~SEC. 2.— Section 6753 of the Family Code is amended to read:~~

15 ~~6753. (a) The trustee or trustees shall establish a trust account,~~
16 ~~that shall be known as a Coogan Trust Account, pursuant to this~~
17 ~~section at a bank, savings and loan institution, credit union,~~
18 ~~brokerage firm, or company registered under the Investment~~
19 ~~Company Act of 1940, that is located in the State of California,~~
20 ~~unless a similar trust has been previously established, for the~~
21 ~~purpose of preserving for the benefit of the minor the portion of~~
22 ~~the minor's gross earnings pursuant to paragraph (1) of subdivision~~
23 ~~(b) of Section 6752 or pursuant to paragraph (1) of subdivision (d)~~
24 ~~of Section 6752. The trustee or trustees shall establish the trust~~
25 ~~pursuant to this section within seven business days after the minor's~~
26 ~~contract is signed by the minor, the third-party individual or~~
27 ~~personal services corporation (loan-out company), and the~~
28 ~~employer.~~

29 ~~(b) Except as otherwise provided in this section, prior to the~~
30 ~~date on which the beneficiary of the trust attains the age of 18~~
31 ~~years or the issuance of a declaration of emancipation of the minor~~
32 ~~under Section 7122, no withdrawal by the beneficiary or any other~~
33 ~~individual, individuals, entity, or entities may be made of funds~~
34 ~~on deposit in trust without written order of the superior court~~
35 ~~pursuant to paragraph (7) of subdivision (b) or paragraph (5) of~~
36 ~~subdivision (d) of Section 6752. Upon reaching the age of 18 years,~~
37 ~~the beneficiary may withdraw the funds on deposit in trust only~~
38 ~~after providing a certified copy of the beneficiary's birth certificate~~
39 ~~to the financial institution where the trust is located.~~

1 ~~(e) The trustee or trustees shall, within 10 business days after~~
2 ~~the minor's contract is signed by the minor, the third-party~~
3 ~~individual or personal services corporation (loan-out company),~~
4 ~~and the employer, prepare a written statement under penalty of~~
5 ~~perjury that shall include the name, address, and telephone number~~
6 ~~of the financial institution, the name of the account, the number~~
7 ~~of the account, the name of the minor beneficiary, the name of the~~
8 ~~trustee or trustees of the account, and any additional information~~
9 ~~needed by the minor's employer to deposit into the account the~~
10 ~~portion of the minor's gross earnings prescribed by paragraph (1)~~
11 ~~of subdivision (b) or paragraph (1) of subdivision (d) of Section~~
12 ~~6752. The trustee or trustees shall attach to the written statement~~
13 ~~a true and accurate photocopy of any information received from~~
14 ~~the financial institution confirming the creation of the account,~~
15 ~~such as an account agreement, account terms, passbook, or other~~
16 ~~similar writings.~~

17 ~~(d) The trust shall be established in California either with a~~
18 ~~financial institution that is and remains insured at all times by the~~
19 ~~Federal Deposit Insurance Corporation (FDIC), the Securities~~
20 ~~Investor Protection Corporation (SIPC), or the National Credit~~
21 ~~Union Share Insurance Fund (NCUSIF) or their respective~~
22 ~~suecessors, or with a company that is and remains registered under~~
23 ~~the Investment Company Act of 1940. The trustee or trustees of~~
24 ~~the trust shall be the only individual, individuals, entity, or entities~~
25 ~~with the obligation or duty to ensure that the funds remain in trust,~~
26 ~~in an account or other savings plan insured in accordance with this~~
27 ~~section, or with a company that is and remains registered under~~
28 ~~the Investment Company Act of 1940 as authorized by this section.~~

29 ~~(e) Upon application by the trustee or trustees to the financial~~
30 ~~institution or company in which the trust is held, the trust funds~~
31 ~~shall be handled by the financial institution or company in one or~~
32 ~~more of the following methods:~~

33 ~~(1) The financial institution or company may transfer funds to~~
34 ~~another account or other savings plan at the same financial~~
35 ~~institution or company, provided that the funds transferred shall~~
36 ~~continue to be held in trust, and subject to this chapter.~~

37 ~~(2) The financial institution or company may transfer funds to~~
38 ~~another financial institution or company, provided that the funds~~
39 ~~transferred shall continue to be held in trust, and subject to this~~
40 ~~chapter and that the transferring financial institution or company~~

1 has provided written notification to the financial institution or
2 company to which the funds will be transferred that the funds are
3 subject to this section and written notice of the requirements of
4 this chapter.

5 (3) The financial institution or company may use all or a part
6 of the funds to purchase, in the name of and for the benefit of the
7 minor, (A) investment funds offered by a company registered under
8 the Investment Company Act of 1940, provided that if the
9 underlying investments are equity securities, the investment fund
10 is a broad-based index fund or invests broadly across the domestic
11 or a foreign regional economy, is not a sector fund, and has assets
12 under management of at least two hundred fifty million dollars
13 (\$250,000,000); or (B) government securities and bonds,
14 certificates of deposit, money market instruments, money market
15 accounts, or mutual funds investing solely in those government
16 securities and bonds, certificates, instruments, and accounts, that
17 are available at the financial institution where the trust fund or
18 other savings plan is held, provided that the funds shall continue
19 to be held in trust and subject to this chapter, those purchases shall
20 have a maturity date on or before the date upon which the minor
21 will attain the age of 18 years, and any proceeds accruing from
22 those purchases shall be redeposited into that account or accounts
23 or used to further purchase any of those or similar securities, bonds,
24 certificates, instruments, funds, or accounts.