

AMENDED IN ASSEMBLY APRIL 17, 2006

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2072**

---

---

**Introduced by Assembly Member Montanez**

February 16, 2006

---

---

An act to add Section 1700.42 to the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 2072, as amended, Montanez. Representation of minors.

Existing law requires that persons or corporations that act as talent agencies pay a filing fee and obtain a license from the Labor Commissioner. Existing law also requires that applicants for the license provide their business history and financial information along with fingerprints and affidavits from personal references. Talent agencies are also required to post a bond with the Commissioner before a license is issued. Licenses may not be granted to agencies that would endanger the health, safety, or welfare of the artists represented. Existing law also provides that the Commissioner may revoke the license of any agency for failure to comply with these provisions or if the licensee has ceased to be of good moral character.

~~In addition to the requirements above, this~~ *This* bill would require any person *other than a talent agent or person operating under the license of a talent agent* who represents *or provides specified services* to artists who are minors to submit his or her fingerprints and ~~an additional~~ *a specified* fee to the Commissioner to permit screening of that individual to determine if he or she is a registered sex offender *subject to public disclosure on the Internet*. No person who is identified as a sex offender *subject to public disclosure on the Internet*

under this procedure would be permitted to represent *or provide specified services* to artists who are minors. *The bill would provide for penalties for persons who violate its provisions, enforceable by persons injured, and by specified public entities authorized by the bill to seek remedies that include misdemeanor criminal penalties. It would provide that its provisions do not excuse compliance with other laws, and that its remedies are not exclusive.*

*By providing for criminal penalties, this bill would impose a state-mandated local program.*

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that no reimbursement is required by this act for a specified reason.*

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

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

1 ~~SECTION 1. Section 1700.42 is added to the Labor Code, to~~  
2 ~~read:~~

3 ~~1700.42.—~~

4 *SECTION 1. Chapter 5 (commencing with Section 1702) is*  
5 *added to Part 6 of Division 2 of the Labor Code, to read:*

6  
7 *CHAPTER 5. MINORS' REPRESENTATIVES*

8  
9 *1702. (a) No person shall represent or provide specified*  
10 *services to any artist who is a minor without first submitting his*  
11 *or her fingerprints to the Commissioner. A filing fee of*  
12 *twenty-five dollars (\$25) shall be paid to the Commissioner at*  
13 *the time the fingerprint is filed. This amount shall be in addition*  
14 *to any filing fees required pursuant to this chapter.*

15 ~~The Commissioner shall search the list of names of registrants~~  
16 ~~pursuant to Sections 290 to 294, inclusive, of the Penal Code~~  
17 ~~(Megan's Law) for the name of any person who registers to~~  
18 ~~represent any minor artist, and notwithstanding the licensing~~  
19 ~~requirements for talent agents provided in this chapter and~~  
20 ~~Chapter 4.5 (commencing with Section 1701), no person who is~~

1 required to be registered under the provisions of Sections 290 to  
2 294, inclusive, of the Penal Code may be licensed as a talent  
3 agent or represent part.

4 (b) This chapter does not apply to any person licensed as a  
5 talent agent as specified in Chapter 4 (commencing with Section  
6 1700), or operating under the license of a talent agent.

7 (c) The Commissioner shall forward the name and fingerprints  
8 of each person submitting fingerprints pursuant to subdivision  
9 (a) to the Department of Justice, and shall inquire whether the  
10 person is required to register as a sex offender and whether he or  
11 she is subject to public notification. The Department of Justice,  
12 which may establish a fee for this service, shall respond to the  
13 Commissioner with information on any person as to whom  
14 information may be available to the public on an Internet Web  
15 site as provided in Section 290.46 of the Penal Code, to the  
16 extent the information may be disclosed pursuant to that section.  
17 Upon receipt, the Commissioner shall timely cause a copy of this  
18 information to be sent to the person who has submitted the  
19 fingerprints, and shall keep a copy of the information along with  
20 the person's fingerprints and application on file. The person  
21 shall post this information received from the Commissioner in a  
22 conspicuous place in his or her place of business.

23 (d) No person who is subject to public notification on an  
24 Internet Web site in accordance with Section 290.46 of the Penal  
25 Code may represent or provide specified services to any artist  
26 who is a minor.

27 ~~(b)~~

28 (e) For purposes of this section, the following terms have the  
29 following meanings:

30 (1) "Artist" or "artists" means persons who seek to become or  
31 are actors or actresses rendering services on the legitimate stage  
32 or in the production of motion pictures, radio artists, musical  
33 artists, musical organizations, directors of legitimate stage,  
34 motion picture, and radio productions, musical directors, writers,  
35 cinematographers, composers, lyricists, arrangers, models, extras,  
36 and other artists or persons rendering professional services in  
37 motion picture, theatrical, radio, television, and other  
38 entertainment enterprises.

39 (2) "Fee" means any money or other valuable consideration  
40 paid or promised to be paid by or for an artist for services

1 rendered or to be rendered by any person conducting the business  
2 of representing artists as defined this section.

3 (3) "Person" means any individual, company, society, firm,  
4 partnership, association, corporation, limited liability company,  
5 trust, or other organization.

6 ~~(4) "Represent" means a person receives a fee from an artist  
7 for~~

8 (4) *To "represent or provide specified services to" means to  
9 provide for a fee one or more of the following services;  
10 including, but not limited to:*

11 ~~(A) Procuring, offering, promising, or attempting to procure  
12 employment, engagements, or auditions for the artist.~~

13 (A) *Photography, including still photography, digital  
14 photography, and video and film services provided directly to the  
15 artist.*

16 (B) *Managing or directing the development or advancement of  
17 the artist's career as an artist.*

18 (C) *Career counseling, career consulting, vocational guidance,  
19 aptitude testing, evaluation, or planning, in each case relating to  
20 the preparation of the artist for employment as an artist.*

21 (D) *Public relations services or publicity, or both, including  
22 arranging personal appearances, developing and distributing  
23 press packets, managing fan mail, designing and maintaining  
24 Web sites, and consulting on media relations.*

25 *1702.1. A person who willfully violates any provision of this  
26 chapter is guilty of a misdemeanor. Each violation is punishable  
27 by a fine not exceeding ten thousand dollars (\$10,000), by  
28 imprisonment in a county jail for not more than one year, or by  
29 both that fine and imprisonment.*

30 *1702.2. The Attorney General, any district attorney, or any  
31 city attorney may institute an action for a violation of this  
32 chapter, including an action to restrain and enjoin a violation.*

33 *1702.3. A person who is injured by any violation of this  
34 chapter may bring an action to recover damages or to restrain  
35 and enjoin a violation, or both. The amount of damages that may  
36 be awarded for a violation of this chapter is up to three times the  
37 damages actually incurred. A final judgment may be satisfied  
38 from the bond or deposit maintained by the Labor Commissioner,  
39 if any. A person bringing an action under this chapter who  
40 prevails shall be awarded reasonable attorney's fees and costs.*

1 *The court may award punitive damages in addition to any other*  
2 *amounts if it determines, by clear and convincing evidence, that*  
3 *the violation of this chapter was willful.*

4 *1702.4. The provisions of this chapter are not exclusive and*  
5 *do not relieve any person subject to this chapter from the duty to*  
6 *comply with all other laws.*

7 *1702.5. The remedies provided in this chapter are not*  
8 *exclusive and are in addition to any other remedies or*  
9 *procedures provided in any other law.*

10 *SEC. 2. If any provision of this act or the application thereof*  
11 *to any person or circumstances is held to be unconstitutional in a*  
12 *reported opinion of a court of competent jurisdiction, the*  
13 *remainder of the act and the application of that provision to*  
14 *other persons and circumstances shall not be affected.*

15 *SEC. 3. No reimbursement is required by this act pursuant to*  
16 *Section 6 of Article XIII B of the California Constitution because*  
17 *the only costs that may be incurred by a local agency or school*  
18 *district will be incurred because this act creates a new crime or*  
19 *infraction, eliminates a crime or infraction, or changes the*  
20 *penalty for a crime or infraction, within the meaning of Section*  
21 *17556 of the Government Code, or changes the definition of a*  
22 *crime within the meaning of Section 6 of Article XIII B of the*  
23 *California Constitution.*