

AMENDED IN ASSEMBLY MAY 26, 2006

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 Chapter 5 (commencing with Section 1702)~~ to Part 6 of Division 2 of 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.

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 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: yes.

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

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

3
4 CHAPTER 5. MINORS ~~REPRESENTATIVES~~ REPRESENTATIVES

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6 1702. (a) No person shall represent or provide specified
7 services to any artist who is a minor without first submitting ~~his~~
8 ~~or her fingerprints~~ *an application to represent minors* to the
9 Commissioner. A filing fee of twenty-five dollars (\$25) shall be
10 paid to the Commissioner at the time the ~~fingerpr~~ *application*
11 is filed. This amount shall be in addition to any filing fees
12 required pursuant to this
13 part.

14 (b) This chapter does not apply to any person licensed as a
15 talent agent as specified in Chapter 4 (commencing with Section
16 1700), or operating under the license of a talent agent.

17 (c) The Commissioner shall forward the name ~~and fingerprints~~
18 of each person submitting ~~fingerprints~~ *an application* pursuant to

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

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

20 (e) For purposes of this section, the following terms have the
21 following meanings:

22 (1) "Artist" or "artists" means persons who seek to become or
23 are actors or actresses rendering services on the legitimate stage
24 or in the production of motion pictures, radio artists, musical
25 artists, musical organizations, directors of legitimate stage,
26 motion picture, and radio productions, musical directors, writers,
27 cinematographers, composers, lyricists, arrangers, models, extras,
28 and other artists or persons rendering professional services in
29 motion picture, theatrical, radio, television, and other
30 entertainment enterprises.

31 (2) "Fee" means any money or other valuable consideration
32 paid or promised to be paid by or for an artist for services
33 rendered or to be rendered by any person conducting the business
34 of representing artists as defined *by* this section.

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

38 (4) To "represent or provide specified services to" means to
39 provide for a fee one or more of the following services:

1 (A) Photography, including still photography, digital
2 photography, and video and film services provided directly to the
3 artist.

4 (B) Managing or directing the development or advancement of
5 the artist's career as an artist.

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

9 (D) Public relations services or publicity, or both, including
10 arranging personal appearances, developing and distributing
11 press packets, managing fan mail, designing and maintaining
12 *Internet* Web sites, and consulting on media relations.

13 1702.1. A person who willfully violates any provision of this
14 chapter is guilty of a misdemeanor. Each violation is punishable
15 by a fine not exceeding ten thousand dollars (\$10,000), by
16 imprisonment in a county jail for not more than one year, or by
17 both that fine and imprisonment.

18 1702.2. The Attorney General, any district attorney, or any
19 city attorney may institute an action for a violation of this
20 chapter, including an action to restrain and enjoin a violation.

21 1702.3. A person who is injured by any violation of this
22 chapter may bring an action to recover damages or to restrain and
23 enjoin a violation, or both. The amount of damages that may be
24 awarded for a violation of this chapter is up to three times the
25 damages actually incurred. A final judgment may be satisfied
26 from the bond or deposit maintained by the Labor Commissioner,
27 if any. A person bringing an action under this chapter who
28 prevails shall be awarded reasonable attorney's fees and costs.
29 The court may award punitive damages in addition to any other
30 amounts if it determines, by clear and convincing evidence, that
31 the violation of this chapter was willful.

32 1702.4. The provisions of this chapter are not exclusive and
33 do not relieve any person subject to this chapter from the duty to
34 comply with all other laws.

35 1702.5. The remedies provided in this chapter are not
36 exclusive and are in addition to any other remedies or procedures
37 provided in any other law.

38 SEC. 2. If any provision of this act or the application thereof
39 to any person or circumstances is held to be unconstitutional in a
40 reported opinion of a court of competent jurisdiction, the

1 remainder of the act and the application of that provision to other
2 persons and circumstances shall not be affected.

3 SEC. 3. No reimbursement is required by this act pursuant to
4 Section 6 of Article XIII B of the California Constitution because
5 the only costs that may be incurred by a local agency or school
6 district will be incurred because this act creates a new crime or
7 infraction, eliminates a crime or infraction, or changes the
8 penalty for a crime or infraction, within the meaning of Section
9 17556 of the Government Code, or changes the definition of a
10 crime within the meaning of Section 6 of Article XIII B of the
11 California Constitution.

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