

AMENDED IN SENATE JUNE 26, 2006

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 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~~ *subject to specified exceptions*, who represents or provides specified services to artists who are minors, *under 16 years of age*, to submit 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

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6 1702. (a) No person shall represent or provide specified
7 services to any artist who is a minor, *under 16 years of age*,
8 without first submitting 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 application is filed. This
11 amount shall be in addition to any filing fees required pursuant to
12 this part. *Thereafter, on a biennial basis, the person shall renew*
13 *the application by resubmitting his or her name and a new filing*
14 *fee to the Commissioner.*

15 ~~(b) This chapter does not apply to any person licensed as a~~
16 ~~talent agent as specified in Chapter 4 (commencing with Section~~
17 ~~1700), or operating under the license of a talent agent.~~

1 (b) *This chapter does not apply to the following:*

2 (1) *Any person licensed as a talent agent as specified in*
3 *Chapter 4 (commencing with Section 1700), or operating under*
4 *the license of a talent agent.*

5 (2) *Any person whose contact with minor children is restricted*
6 *to locations where, either by law or regulation, the minor must*
7 *be accompanied at all times by a parent or guardian, and the*
8 *parent or guardian must be within sight or sound of the minor.*

9 (3) *Any person who has only incidental and occasional*
10 *contact with minor children, unless the person works directly*
11 *with minor children, has supervision or disciplinary power over*
12 *minor children, or receives a fee.*

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

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

33 (e) For purposes of this section, the following terms have the
34 following meanings:

35 (1) "Artist" or "artists" means persons who seek to become or
36 are actors or actresses rendering services on the legitimate stage
37 or in the production of motion pictures, radio artists, musical
38 artists, musical organizations, directors of legitimate stage,
39 motion picture, and radio productions, musical directors, writers,
40 cinematographers, composers, lyricists, arrangers, models, extras,

1 and other artists or persons rendering professional services in
2 motion picture, theatrical, radio, television, and other
3 entertainment enterprises.

4 (2) "Fee" means any money or other valuable consideration
5 paid or promised to be paid by ~~or for an artist, by an individual~~
6 *on behalf of an artist, or by a corporation formed on behalf of an*
7 artist for services rendered or to be rendered by any person
8 conducting the business of representing artists ~~as defined by this~~
9 ~~section.~~

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

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

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

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

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

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

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

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

35 1702.3. A person who is injured by any violation of this
36 chapter may bring an action to recover damages or to restrain and
37 enjoin a violation, or both. The amount of damages that may be
38 awarded for a violation of this chapter is up to three times the
39 damages actually incurred. A final judgment may be satisfied
40 from the bond or deposit maintained by the Labor Commissioner,

1 if any. A person bringing an action under this chapter who
2 prevails shall be awarded reasonable attorney's fees and costs.
3 The court may award punitive damages in addition to any other
4 amounts if it determines, by clear and convincing evidence, that
5 the violation of this chapter was willful.

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

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

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

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

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