

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 827

Introduced by Blood, 3.

Read first time January 03, 2024

Committee:

- 1 A BILL FOR AN ACT relating to child labor; to amend sections 48-301 and
- 2 48-310.02, Reissue Revised Statutes of Nebraska; to adopt the
- 3 Entertainment Industry Child Performer Protection Act; to redefine a
- 4 term; to eliminate exemptions for employment in the performing arts;
- 5 to harmonize provisions; to repeal the original sections; and to
- 6 outright repeal section 48-310.01, Reissue Revised Statutes of
- 7 Nebraska.
- 8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 13 of this act shall be known and may be
2 cited as the Entertainment Industry Child Performer Protection Act.

3 Sec. 2. For purposes of the Entertainment Industry Child Performer
4 Protection Act:

5 (1) Child performer means a person under eighteen years of age who
6 is employed to act or perform in the entertainment industry for wages or
7 under a contract of hire, whether written or oral, express or implied;

8 (2) Department means the Department of Labor;

9 (3) Employer means a person who has one or more employees;

10 (4) Entertainment industry includes, but is not limited to, movies;
11 theatrical productions; television, internet and radio shows and
12 advertisements; photography; music recording; modeling; and publicity;

13 (5) Gross earnings means the total compensation payable to a child
14 performer under a contract or, if the child performer's services are
15 being rendered through a third party, the compensation payable to that
16 third party for the services of the child performer; and

17 (6) School means a public, private, denominational, or parochial
18 school which meets the requirements for accreditation or approval
19 prescribed in Chapter 79.

20 Sec. 3. (1) An employer who employs a child performer must obtain a
21 pre-authorization certificate from the department prior to the start of
22 such employment. Any employer may apply for a certificate in a form and
23 manner prescribed by the department. The application shall include:

24 (a) The names of the child performer, one or more parents or
25 guardians of the child performer, and the employer;

26 (b) The project name;

27 (c) Estimated dates and length of the project;

28 (d) Contact information for the child performer, one or more parents
29 or guardians of the child performer, and the employer;

30 (e) The child performer's age and date of birth;

31 (f) Information regarding the child performer's education. If the

1 child performer attends a school, the application shall include the name
2 of the school, contact information for the school, the child's grade
3 level, and any special educational needs;

4 (g) The anticipated length of employment on the project;

5 (h) The nature of the project;

6 (i) Any potential for exposures to hazardous situations or
7 substances in the project;

8 (j) The child performer's signature, if he or she is fourteen years
9 of age or older;

10 (k) The signature of a parent or guardian; and

11 (l) Such other information as prescribed by the department.

12 (2) A child performer pre-authorization certificate is valid for one
13 year from the date it is issued or until the specific project for which
14 the child performer is employed by the employer who makes the application
15 for the pre-authorization ceases, whichever time period is shorter. If
16 the project is anticipated to continue beyond one year, a parent or
17 guardian of the child performer may renew the certificate by submitting
18 an application to the department in a form and manner prescribed by the
19 department.

20 Sec. 4. (1) Except as provided in subsection (2) of this section
21 and section 5 of this act, a child performer shall not:

22 (a) Begin work before 5:00 a.m.;

23 (b) Continue work after 10:00 p.m. on evenings preceding school
24 days; or

25 (c) Continue working after 11:59 p.m. on days preceding nonschool
26 days.

27 (2) A child performer may be permitted to be at the place of
28 employment for one-half hour beyond the limits provided in subsection (1)
29 of this section for a meal period once per day.

30 Sec. 5. (1) An infant younger than fifteen days old shall not be
31 employed as a child performer.

1 (2)(a) An infant who is older than fifteen days of age or older but
2 younger than six months of age shall not be employed as a child performer
3 unless a physician licensed to practice under the Medicine and Surgery
4 Practice Act and specializing in pediatrics provides a written
5 certification to the employer stating that the infant is at least fifteen
6 days old and is capable of handling the stresses of the specific
7 performance.

8 (b) With such certification, an infant shall only be allowed to be
9 present at the place of employment for two hours per day, with no more
10 than twenty minutes of work time per day.

11 (3) A child performer who is six months of age or older but younger
12 than three years of age shall only be allowed to be present at the place
13 of employment for four hours per day, with no more than two hours of work
14 time per day.

15 (4)(a) Except as provided in subdivision (4)(b) of this section, a
16 child performer who is three years of age or older but younger than six
17 years of age shall only be allowed to be present at the place of
18 employment for six hours per day, with no more than three hours of work
19 time per day.

20 (b) If the child performer is five years old but will reach six
21 years of age prior to January 1 of the then-current school year such that
22 the child performer is of mandatory attendance age as provided in section
23 79-201, when school is in session the child performer shall only be
24 allowed to be present at the place of employment for six hours per day,
25 to be comprised of two hours of work time, three hours of education, and
26 one hour of rest and relaxation.

27 (5) For a child performer who is six years of age or older but
28 younger than nine years of age:

29 (a) When school is in session, the child performer shall only be
30 allowed to be present at the place of employment for eight hours a day,
31 to be comprised of four hours of work time, three hours of education, and

1 one hour of rest and relaxation; and

2 (b) When school is not in session, the child performer shall only be
3 allowed to be present at the place of employment for eight hours a day,
4 with no more than six hours of work time per day.

5 (6) For a child performer who is nine years of age or older but
6 younger than sixteen years of age:

7 (a) When school is in session, the child performer shall only be
8 allowed to be present at the place of employment for nine hours a day, to
9 be comprised of five hours of work time, three hours of education, and
10 one hour of rest and relaxation; and

11 (b) When school is not in session, the child performer shall only be
12 allowed to be present at the place of employment for nine hours a day,
13 with no more than seven hours of work time per day.

14 (7) For a child performer who is sixteen years of age or older but
15 younger than eighteen years of age:

16 (a) When school is in session, the child performer shall only be
17 allowed to be present at the place of employment for ten hours a day, to
18 be comprised of six hours of work time, three hours of education, and one
19 hour of rest and relaxation; and

20 (b) When school is not in session, the child performer shall only be
21 allowed to be present at the place of employment for ten hours a day,
22 with no more than eight hours of work time per day.

23 (8) The employer shall provide the child performer with at least
24 twelve hours off duty and away from the place of employment between work
25 days.

26 (9)(a) All time spent traveling from a studio, theater, stage, or
27 other work location to another work location shall count towards the work
28 time in a day.

29 (b) When a child performer is working in a location that is
30 sufficiently distant to require an overnight stay and is required to
31 travel daily between living quarters and the work site, the time spent by

1 the child performer in such traveling shall not count as work time if the
2 employer furnishes or pays for the necessary transportation and such
3 traveling time does not exceed more than forty-five minutes each way.

4 Sec. 6. (1) In exceptional circumstances due to unusual performance
5 requirements, the department may issue a special permit waiving any
6 requirement in section 4 or 5 of this act.

7 (2) An employer may apply for a special permit under this section in
8 a form and manner prescribed by the department. The application shall be
9 accompanied by any fee prescribed by the department pursuant to
10 subsection (4) of this section and shall include:

11 (a) A listing of the specific dates and times for which the waiver
12 is needed; and

13 (b) A written acknowledgment signed by a parent or guardian of the
14 child performer stating that the parent or guardian has been fully
15 informed of the circumstances and consents to the waiver.

16 (3) The department shall only grant a special permit if the
17 department finds it to be in the best interests of the child performer.

18 (4) The department may charge a fee established by rule and
19 regulation for each special permit issued pursuant to this section. The
20 fee shall be established based upon the costs of administering this
21 section and shall not exceed the amount necessary to meet such costs.

22 Sec. 7. If a child performer subject to the mandatory attendance
23 requirements of section 79-201 engages in employment on a school day, the
24 employer shall:

25 (1) Provide a teacher on-site with credentials appropriate to the
26 level of education needed for such child; and

27 (2) Provide an adequate school facility, such as a schoolhouse,
28 classroom, trailer schoolhouse, or other schooling area which closely
29 approximates the basic requirements for classrooms, especially with
30 respect to adequate lighting, heating, desks, and chairs. A stationary
31 motor vehicle is not an adequate school facility unless when used as such

1 it is exclusively used for the education of child performers. A moving
2 motor vehicle shall not be used as a school facility.

3 Sec. 8. (1) A dressing room used by a child performer shall not be
4 occupied simultaneously by any person of the opposite sex other than a
5 parent or guardian.

6 (2) It is the responsibility of the employer to provide a safe,
7 secure shelter for child performers to rest when required to be at the
8 place of employment during nonperformances times.

9 (3) An employer shall not cause, induce, entice, or permit a child
10 performer to engage in or to be used for sexually exploitive material for
11 the purpose of producing a performance.

12 (4) A child performer shall not be depicted in any media as
13 appearing to participate in a sex act.

14 Sec. 9. An employer shall not at any time or in any manner
15 prohibit:

16 (1) A child performer from being with his or her parent or guardian;
17 or

18 (2) A parent or guardian from being with his or her child who is a
19 child performer.

20 Sec. 10. The employer shall ensure that a person trained in first
21 aid is on set or at the employment site at all times a child performer is
22 present.

23 Sec. 11. (1) The parent or guardian of a child performer shall
24 establish a trust account in the child's state of residence for the
25 benefit of the child within seven business days after the child
26 performer's employment contract is signed.

27 (2) The money placed in trust shall not be accessed until the child
28 is eighteen years of age or becomes legally emancipated, unless otherwise
29 ordered by a court.

30 (3) The child performer's parent or guardian or the trustee shall
31 provide the employer with a trustee statement within fifteen days after

1 the start of employment. Upon the presentation of the trustee statement,
2 the employer shall provide the parent, guardian, or trustee with a
3 written acknowledgment of receipt of the statement.

4 (4) If the parent, guardian, or trustee fails to provide the child
5 performer's employer with a trustee statement within ninety days after
6 the start of employment, the child's employer shall refer the matter to
7 the district court, and a trustee shall be appointed for the child.

8 (5) The child performer's employer shall deposit fifteen percent of
9 the child's gross earnings into the child's trust account within fifteen
10 business days after services rendered. If the account is not established,
11 the child performer's employer shall withhold fifteen percent until a
12 trust account is established for the child performer's benefit.

13 (6) Once the child performer's employer deposits fifteen percent of
14 the child performer's gross earnings in trust, the child performer's
15 employer shall have no further obligation or duty to monitor the funds.
16 The trustee shall be the only individual with an obligation to monitor
17 and account for the funds.

18 (7) The district court shall have continuing jurisdiction over the
19 trust and may at any time, upon petition of the parent, guardian,
20 trustee, or child performer, order that the trust be terminated or
21 amended for good cause. An order amending or terminating the trust shall
22 be made only after reasonable notice and the opportunity for all parties
23 to appear and be heard have been given.

24 (8) This section only applies to contracts in an amount equal to or
25 greater than one thousand dollars in gross earnings.

26 Sec. 12. (1) The department shall have the authority to subpoena
27 records and witnesses related to the enforcement of the Entertainment
28 Industry Child Performer Protection Act. An agent of the department may
29 inspect all related records and gather testimony on any matter relative
30 to the enforcement of the act.

31 (2) Any employer who violates the Entertainment Industry Child

1 Performer Protection Act shall be guilty of a Class II misdemeanor.

2 (3) It shall be the duty of the county attorney for the county in
3 which any violation of the Entertainment Industry Child Performer
4 Protection Act occurs to prosecute the same in the district court in the
5 county where the offense occurred.

6 Sec. 13. The department may adopt and promulgate rules and
7 regulations as necessary to carry out the Entertainment Industry Child
8 Performer Protection Act, which may include, but are not limited to,
9 rules and regulations relating to ensuring quality education for child
10 performers.

11 Sec. 14. Section 48-301, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 48-301 For purposes of sections 48-302 to 48-313:

14 (1)(a) (1) Employment means (i) (a) service for wages or (ii) (b)
15 being under a contract of hire, written or oral, express or implied.

16 (b) Employment, other than detasseling, does not include:

17 (i) Any any employment for which the employer is not liable for
18 payment of the combined tax or payment in lieu of contributions under
19 section 48-648, 48-649 to 48-649.04, or 48-660.01; or and

20 (ii) Employment as a child performer as defined in section 2 of this
21 act; and

22 (2) Detasseling means the removal of weeds, off-type and rogue
23 plants, and corn tassels in hand pollinating and in any other engagement
24 in hand labor in the production of seed.

25 Sec. 15. Section 48-310.02, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 48-310.02 The fees established by the Commissioner of Labor pursuant
28 to section sections 48-310 and 48-310.01 shall be established with due
29 regard for the costs of administering section sections 48-310 and
30 48-310.01. The fees shall not exceed the amount necessary to meet the
31 costs of administering section sections 48-310 and 48-310.01.

1 Sec. 16. Original sections 48-301 and 48-310.02, Reissue Revised
2 Statutes of Nebraska, are repealed.

3 Sec. 17. The following section is outright repealed: Section
4 48-310.01, Reissue Revised Statutes of Nebraska.