

Regular Session, 2005

SENATE BILL NO. 158

BY SENATORS DARDENNE AND MURRAY

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

CHILDREN. Provides for employment contracts by minors to provide artistic or creative services.

AN ACT

To enact R.S. 17:226.1 and Chapter 32 of Title 51 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 51:2131 through 2135, relative to employment of minors; to provide for employment of minors providing artistic or creative services; to provide for placement of certain monies received as compensation in trust accounts; to provide for creation of such accounts and for the use of monies deposited in such accounts; to provide for educational instruction of minors engaged in providing artistic or creative services; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 17:226.1 is hereby enacted to read as follows:

**§226.1. Compulsory attendance; exemption for minors engaged in artistic or creative services**

**In addition to the exemptions contained in R.S. 17:226, any minor employed to perform or render artistic or creative services under a contract subject to Chapter 32 of Title 51 of the Louisiana Revised Statutes of 1950, shall be exempt from the provisions of this Subpart for those days during which the minor is engaged in rendering artistic or creative services pursuant to such**

1 **contract.**

2 Section 2. Chapter 32 of Title 51 of the Louisiana Revised Statutes of 1950,  
3 comprised of R.S. 51:2131 through 2135 is hereby enacted to read as follows:

4 **§2131. Short title**

5 **This Chapter shall be known and may be cited as the "Child Performer**  
6 **Trust Act."**

7 **§2132. Child performer contract; scope**

8 **A. The provisions of this Chapter shall apply to any contract in which a**  
9 **minor is employed or agrees to render artistic or creative services for**  
10 **compensation in this state which is not otherwise prohibited under Chapter 3**  
11 **of Title 23 of the Louisiana Revised Statutes of 1950, directly or through a third-**  
12 **party individual or personal services corporation, a loan-out company, or**  
13 **through an agency or service that provides artistic or creative services**  
14 **including, but not limited to, a casting agency or other similar entity.**

15 **B. As used in this Chapter, "artistic or creative services" includes, but**  
16 **is not limited to, services as an actor, actress, dancer, musician, comedian,**  
17 **singer, stunt-person, voice-over artist or other performer or entertainer in any**  
18 **motion picture, television, radio, theatrical or sports production or commercial**  
19 **production.**

20 **§2133. Gross earnings; fifteen percent placed in trust fund**

21 **A.(1) Every contract executed by or on behalf of a minor rendering**  
22 **artistic or creative services for compensation in this state shall require that**  
23 **fifteen percent of the gross earnings for the minor under the contract be placed**  
24 **in a trust fund created for the benefit of the minor in a financial institution**  
25 **authorized to transact business in this state and which institution is federally**  
26 **insured by the Federal Deposit Insurance Corporation, or its successor or by the**  
27 **National Credit Union Share Insurance Fund, or its successor.**

28 **(2) Monies placed in a trust fund pursuant to the provisions of this**  
29 **Chapter shall be placed in a blocked account and no funds shall be withdrawn**

1 prior to the date the minor attains the age of eighteen unless the minor is  
2 determined to be in necessitous circumstances by a court of competent  
3 jurisdiction.

4 (3) All monies deposited in trust pursuant to the provisions of this  
5 Chapter shall be administered by the financial institution as a fiduciary for the  
6 benefit of the minor. No fees shall be charged the trust until the minor reaches  
7 the age of eighteen.

8 B.(1) Monies in the trust fund shall be invested in a combination of  
9 United States Treasury notes, bonds, and certificates of deposit fully insured by  
10 the federal government at the highest possible rate of return without risk to  
11 principal in the trust account. All funds derived from investments and earnings  
12 attributed to the trust fund shall be redeposited into the fund and invested in  
13 accordance with the provisions of this Chapter. All investments in the fund shall  
14 have a maturity date on or before the date the minor attains the age of eighteen.

15 (2) Funds may be withdrawn from the trust fund by the beneficiary only  
16 after the beneficiary provides a certified copy of his birth certificate to the  
17 financial institution where the trust fund is located showing that the beneficiary  
18 is at least eighteen years of age.

19 C. Both parents of a minor on whose behalf monies are placed in trust  
20 pursuant to this Section shall serve as trustees of the trust unless otherwise  
21 provided in writing by both parents or in the case of divorce or death of a  
22 parent by the person appointed as tutor of the minor, or by both cotutors if the  
23 parents are divorced and have joint custody of the minor.

24 D. Prior to execution of a contract subject to the provisions of this  
25 Chapter, the trustee or trustees shall establish the trust required under this  
26 Section and no contract subject to the provisions of this Chapter shall be  
27 executed until the trustee or trustees provide a written statement to the  
28 employer which shall include the name, address, and telephone number of the  
29 financial institution holding the trust account, the name of the account, the

1 number of the account, the name of the minor beneficiary, the name of the  
2 trustee or trustees of the account and such additional information as may be  
3 required by the employer to make the deposit required under this Section. The  
4 trustee or trustees shall attach to this written statement a true and accurate  
5 photocopy of any information received from the financial institution confirming  
6 the creation and existence of the trust account on behalf of the minor, and may  
7 include a copy of the account agreement, account terms, passbook, or other  
8 similar writings required by the employer.

9 §2134. Education requirement

10 A. Every contract or employment arrangement agreed to by the parties  
11 subject to the provisions of this Chapter shall include provisions contained in  
12 this Section for the education of the minor being employed to render artistic or  
13 creative services.

14 B. If a minor is absent from school for two or more days within a thirty  
15 day period, the employer shall employ a certified teacher to provide a minimum  
16 of three education instruction hours per day to the minor pursuant to the lesson  
17 plans for the particular minor as provided by the principal and teachers at the  
18 minor's school. There must be a teacher to student ratio of one teacher for  
19 every ten students.

20 C. In addition to classroom instruction, this "on-set" teacher shall  
21 monitor the activities and performance of the minor to ensure compliance with  
22 all requirements concerning working conditions and limitations as applied to  
23 minors and their conditions of employment under federal and state law.

24 §2135. Contract approval

25 A. No contract subject to the provisions of this Chapter shall be executed  
26 without written permission from the Louisiana Department of Labor as  
27 provided in Chapter 3 of Title 23 of the Louisiana Revised Statutes of 1950.

28 B. Prior to granting written permission required under Subsection A of  
29 this Section, the Louisiana Department of Labor may impose such additional

1           requirements and conditions concerning the employment and working  
 2           conditions of a minor under a contract subject to the provisions of this Chapter  
 3           which are consistent with the department's authority to regulate employment  
 4           standards and conditions of minors in the state of Louisiana.

5           C. The Department of Labor may promulgate rules and regulations  
 6           pursuant to the Administrative Procedure Act as necessary to implement the  
 7           provisions of this Chapter.

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The original instrument was prepared by Thomas L. Tyler. The following digest, which does not constitute a part of the legislative instrument, was prepared by Cheryl Cooper.

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Dardenne (SB 158)

DIGEST

Proposed law applies to any contract or employment arrangement in which a minor is employed or agrees to render artistic or creative services for compensation in this state which is not otherwise prohibited under state law directly or through a third-party individual or personal services corporation, a loan-out company, or through an agency or service that provides artistic or creative services including, but not limited to, a casting agency or other similar entity.

Defines "artistic or creative services" to include, but not limited to, services as an actor, actress, dancer, musician, comedian, singer, stunt-person, voice-over artist or other performer or entertainer in any motion picture, television, radio, theatrical or sports production or commercial production.

Requires that every contract executed by or on behalf of a minor rendering artistic or creative services for compensation in this state require that 15% of the gross earnings of the minor be placed in a trust fund created for the benefit of the minor in a financial institution authorized to transact business in this state and which institution is federally insured by the Federal Deposit Insurance Corporation, or its successor or by the National Credit Union Share Insurance Fund, or its successor. Requires placement of trust monies in a blocked account and prohibits withdrawal of monies from the trust fund prior to the date the minor attains the age of eighteen unless the minor is determined to be in necessitous circumstances by a court of competent jurisdiction.

Requires that all trust monies be administered by the financial institution as a fiduciary for the benefit of the minor and prohibits the charging of any fee by the trust until the minor reaches the age of eighteen.

Requires investment of trust monies in a combination of United States Treasury notes, bonds, and certificates of deposit fully insured by the federal government at the highest rate of return without risk to principal in the account.

Authorizes withdrawal of trust funds by the beneficiary upon providing evidence that the beneficiary is age 18 or older.

Proposed law provides that both parents of a minor shall serve as trustees of the trust unless otherwise provided in writing by both parents or in the case of divorce or death of a parent by the person appointed as tutor of the minor, or by both cotutors if the parents are divorced and have joint custody of the minor.

Requires creation of the trust prior to execution of a contract subject to proposed law.

Requires the trustee or trustees to provide a written statement to the employer which includes the name, address, and telephone number of the financial institution holding the trust account, the name of the account, the number of the account, the name of the minor beneficiary, the name of the trustee or trustees of the account and such additional information as may be required by the employer.

Requires that the trustee or trustees attachment to this written statement a true and accurate photocopy of any information received from the financial institution confirming the creation and existence of the trust account on behalf of the minor, and may include a copy of the account agreement, account terms, passbook, or other similar writings by the employer.

Prohibits execution of any contract without written permission from the Louisiana Department of Labor. Authorizes the department, prior to granting this written permission, to impose such additional requirements and conditions concerning the employment and working conditions of a minor which are consistent with the department's authority to regulate employment standards and conditions of minors in the state of Louisiana. Authorizes promulgation of necessary rules and regulations by the department.

Proposed law provides an exception to the compulsory school attendance law for minors employed to provide artistic or creative services under a contract subject to provisions of proposed law.

Proposed law requires a certified teacher to provide three education instruction hours per day to the minor if the minor is absent from school for two days within a thirty day period. Requires one teacher for every ten students.

(Adds R.S. 17:226.1 and R.S. 51:2131 - 2135)

#### Summary of Amendments Adopted by Senate

##### Committee Amendments Proposed by Senate Committee on Labor and Industrial Relations to the original bill.

1. Adds commercial production to "artistic or creative services."
2. Includes an employment arrangement agreed to by the parties.
3. Requires a certified teacher to provide education instruction when the minor is absent from school for two days within a thirty day period. There must be a teacher to student ratio of one teacher for every ten students.