

H.R. _____

To limit the number of hours that children may be employed as actors, performers, and models, to require blocked trust accounts for the financial protection of such children, to clarify the liability of employers, contractors, and other individuals for sexual harassment of such child performers, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Ms. Meng introduced the following bill; which was referred to the
Committee on _____

A BILL

To limit the number of hours that children may be employed as actors, performers, and models, to require blocked trust accounts for the financial protection of such children, to clarify the liability of employers, contractors, and other individuals for sexual harassment of such child performers, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Child Performers Protection Act”.

SEC. 2. PROTECTIONS FOR CHILD PERFORMERS.

(a) APPLICATION OF CHILD LABOR PROVISIONS.—Section 13(c)(3) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(c)(3)) is amended to read as follows:

“(3)(A) The provisions of section 12 relating to child labor shall not apply to any child performer if employment or contracting of the child performer is in accordance with the following:

“(i)(I) An infant who has not reached six months of age may be permitted to remain at the place of employment or contracting for no more than 2 hours.

“(II) A child performer age six months to twenty-four months may be permitted to remain at the place of employment or contracting for no more than 4 hours a day.

“(III) A child performer age 2 years to 6 years may be permitted to remain at the place of employment or contracting for no more than 6 hours a day.

“(IV) A child performer age 6 years to 9 years may be permitted to remain at the place of employment or contracting for no more than 8 hours per day.

“(V) A child performer age 9 years to 16 years may be permitted to remain at the place of employment or contracting for no more than 9 hours per day.

“(ii) An employer or contractor may not employ any child performer unless a trust account has been established on behalf of the child performer and the employer has obtained the account number of such trust account or other proof of the existence of the trust account. A trust account described in this clause is one in which—

“(I) not less than 15 percent of the earnings of the child performer shall be deposited;

“(II) the child performer has no access to the funds in the account until the child performer reaches the age of 18; and

“(III) the parents or legal guardians of the child performer shall have no access to the trust account except in circumstances of financial hardship stipulated in the agreement with the financial institution providing the trust account, which stipulations shall be in accordance with regulations issued by the Secretary.

“(iii) An employer or contractor may not provide compensation to any child performer in any other form other than cash wages, exclusive of board, lodging, or facilities.

“(B) Employment or contracting of a child performer that is not in accordance with limitations and requirements of clauses (i) through (iii) of subparagraph (A) shall be treated as oppressive child labor for purposes of section 12.

“(C) The work hour restrictions set forth in clause (i) of subparagraph (A) shall not apply to child performers employed in a live theatrical production, including theater, opera, and dance.”.

(b) CONFORMING AMENDMENTS.—Section 3 of the Fair Labor Standards Act of 1938 (29 U.S.C. 203) is amended—

(1) in subsection (I), by adding at the end the following: “For purposes of this subsection only, the term ‘employer’ includes any person who contracts with a child performer who is an independent contractor, the term ‘employee’ includes a child performer who is an independent contractor, and the term ‘employment’ includes an independent contract between any person and a child performer.”; and

(2) by adding at the end the following:

“(z) CHILD PERFORMER.—The term ‘child performer’ means a child under the age of 18 employed or contracted as an actor or performer in a motion picture or live theatrical production, or in a radio or television production, or as a model for a fashion show, showroom, or similar production or for commercial media.”.

SEC. 3. LIABILITY FOR SEXUAL HARASSMENT OF CHILD PERFORMERS.

(a) UNLAWFUL HARASSMENT ON THE BASIS OF SEX AGAINST A CHILD PERFORMER.—It shall be unlawful sex discrimination for any individual in a supervisory role with respect to a child performer to engage in any conduct constituting harassment on the basis of sex against the child performer.

(b) LIABILITY.—Any individual in a supervisory role with respect to a child performer shall be liable for unlawful sex discrimination for harassment on the basis of sex against a child performer in violation of subsection (a) whether or not such individual is employed by or contracted by a covered employer or contractor.

(c) RIGHT OF ACTION.—Any child performer aggrieved by a violation of subsection (a), or a parent or guardian of such child performer may bring a civil action in any Federal court of competent jurisdiction to recover from an individual who violates such subsection with respect to such child performer, equitable relief and compensatory and punitive damages, costs, and attorneys fees.

(d) DEFINITIONS.—As used in this Act—

(1) the term “child performer” has the meaning given such term in section 3(z) of the Fair Labor Standards Act of 1938 (as added by section 2);

(2) the term “covered employer or contractor” means an employer or other entity that employs or contracts with a child performer;

(3) the term “harassment on the basis of sex” with respect to a child performer means any verbal or physical conduct of a sexual nature where—

(A) submission to such conduct is made implicitly a term or condition of a child performer's employment or contract, or is used as the basis for decisions affecting the child performer's employment or contract; or

(B) such conduct has the purpose or effect of interfering with a child performer's performance, or creates an intimidating, hostile, or offensive working environment; and

(4) the term “individual in a supervisory role with respect to a child performer” means an employee or independent contractor of an employer or other entity that employs or contracts with a child performer who has direct supervision over the child performer or is responsible for working with the child performer in any capacity in furtherance of the performance or artistic expression of the child performer, including an agent, manager, casting director, child wrangler, director, photographer or cinematographer, makeup artist, and wardrobe assistant.

SEC. 4. REVIEW OF POLICIES AND PROCEDURES BY EMPLOYERS.

In any case where a violation of section 3(a) is alleged, the employer of the individual or individuals alleged to have committed the violation shall conduct an internal review of its policies and procedures for protecting child performers and ensuring compliance with section 13(c)(3) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(c)(3)), as amended by section 2.

SEC. 5. RELATIONSHIP TO STATE LAW AND COLLECTIVE BARGAINING AGREEMENTS.

(a) STATE LAW.—This Act and the amendments made by this Act shall not be construed to preempt any law or regulation of a State or a political subdivision of a State containing requirements that are greater than the requirements of this Act and the amendments made by this Act.

(b) COLLECTIVE BARGAINING AGREEMENTS.—This Act and the amendments made by this Act shall not be construed to preempt any collective bargaining agreement or any contract that establishes more stringent requirements.