

House Bill 418

By: Representatives Schofield of the 63rd, Carpenter of the 4th, Tran of the 80th, Davis of the 87th, and Scott of the 76th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 2 of Title 39 of the Official Code of Georgia Annotated, relating to
2 regulation of employment of minors, so as to require the establishment of blocked trust
3 accounts for minors rendering artistic or creative services in this state; to provide for
4 definitions; to provide for the Commissioner of Labor to investigate and determine
5 conditions of employment of child performers prior to the commencement of such
6 employment; to provide for inspections; to provide for requirements related to blocked trust
7 accounts for child performers; to provide for requirements related to such accounts for
8 minors engaged in online content creation; to provide for civil actions and damages; to
9 require the conditions of employment for a child performer to not be detrimental to such
10 minor's health, well-being, and education; to provide for scheduling restrictions and for
11 discretionary exceptions; to provide for related matters; to provide for a short title; to provide
12 for an effective date; to repeal conflicting laws; and for other purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

14 **SECTION 1.**

15 This Act shall be known and may be cited as the "Georgia Child Performer Empowerment
16 and Protection Act."

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SECTION 2.

17

18 Chapter 2 of Title 39 of the Official Code of Georgia Annotated, relating to regulation of
19 employment of minors, is amended by revising Code Section 39-2-18, relating to
20 applicability of provisions of chapter to minors employed as actors or performers, as follows:

21 "39-2-18.

22 ~~(a) Notwithstanding any other provisions of this chapter to the contrary, nothing in this~~
23 ~~chapter shall apply to any minor employed as an actor or performer in motion pictures or~~
24 ~~theatrical productions, in radio or television productions, in any other performance, concert,~~
25 ~~or entertainment, or to any minor employed in the making of phonographic records or as~~
26 ~~an advertising or photographic model, provided that the written consent of the~~
27 ~~Commissioner of Labor must be first obtained.~~

28 (a) As used in this chapter, the term:

29 (1) 'Artistic or creative services' means services to create, perform, or otherwise
30 participate in the performing arts and other events or activities designed to entertain
31 others, whether live or recorded, using any format and any medium, including but not
32 limited to motion pictures, theatrical productions, radio or television productions, musical
33 performances or concerts, online content creation, recordings, modeling, and
34 photography.

35 (2) 'Blocked trust account' or 'account' means the account provided for in Code
36 Section 39-2-18.1.

37 (3) 'Child performer' means a minor who agrees to render artistic or creative services.
38 Such term includes but is not limited to a minor who is an actor, dancer, musician,
39 comedian, singer, stunt person, voice-over artist, runway or print model, other performer
40 or entertainer, songwriter, musical producer, arranger, writer, director, producer,
41 production executive, choreographer, composer, conductor, or designer. Such term
42 includes a minor who is engaged in online content creation as provided for in Code
43 Section 39-2-18.2.

44 (4) 'Gross earnings' means the total compensation payable to the child performer under
45 a contract or payable to a third-party individual for the artistic or creative services of the
46 child performer.

47 (5) 'Online content creator' means an individual, individuals, company, or other corporate
48 entity that creates, posts, shares, or otherwise interacts with digital content, video content,
49 articles, video blogs or vlogs, or images on an online platform in exchange for
50 compensation. Such term does not include a minor who produces their own content.

51 (6) 'Online platform' means a digital service that uses the internet to facilitate interactions
52 between two or more separate but interdependent users. Such term includes any public
53 website, web application, digital application, mobile application, social network,
54 advertising network, mobile operating system, search engine, email service, or internet
55 access service.

56 (b) Before the Commissioner of Labor shall give his or her written consent, ~~as provided~~
57 ~~in subsection (a) of this Code section, he~~ for a child performer to be employed by or
58 permitted to work rendering artistic or creative services in this state, he or she shall
59 investigate and determine that:

60 (1) ~~The That the~~ environment in which the work is to be performed is proper for the
61 minor;

62 (2) ~~The That the~~ conditions of employment are not detrimental to the health of the minor
63 and are compliant with the scheduling restrictions as provided for in Code
64 Section 39-2-18.3;

65 (3) ~~The That the~~ minor's education will not be neglected or hampered by his or her
66 participation in any of the activities referred to in subsection (a); and as a child performer;

67 (4) ~~The That the~~ minor will not be used for pornographic purposes; and

68 (5) The minor's parent or legal guardian has established a blocked trust account
69 designating the minor as the beneficiary as provided for in Code Section 39-2-18.1.

70 (c) The Department of Labor shall conduct periodic and unannounced site inspections at
71 locations where child performers are employed by or permitted to work rendering artistic
72 or creative services in this state to ensure compliance with the provisions of this chapter."

73 **SECTION 3.**

74 Said chapter is further amended by adding new Code sections to read as follows:

75 "39-2-18.1.

76 (a) A blocked trust account required to be established by a child performer's parent or legal
77 guardian shall provide, at a minimum, that:

78 (1) Except as provided in Code Section 39-2-18.2, at least 15 percent of the gross
79 earnings of the child performer shall be deposited into the account;

80 (2) The funds in the account shall be available only to the child performer;

81 (3) The account shall be held by a trust company, as defined in Code Section 44-5-111;

82 (4) The funds in the account shall become available to the child performer when the
83 minor reaches the age of majority or is declared emancipated; and

84 (5) The account meets the requirements of Article 5 of Chapter 5 of Title 44, 'The
85 Georgia Transfers to Minors Act.'

86 (b) The child performer's parent or legal guardian shall provide the child performer's
87 employer with the information necessary to transfer funds into the blocked trust account.

88 Once such employer deposits funds into the account, such employer shall have no further
89 obligation or duty to monitor or account for such funds, and only the trustee shall be
90 obligated to monitor and account for such funds.

91 (c) If the child performer's parent or legal guardian fails to provide the child performer's
92 employer with the information necessary to transfer funds into the blocked trust account
93 within 30 days after the start of employment, funds that were to be transferred to the
94 account shall be reported and remitted to the state revenue commissioner in accordance
95 with Code Section 44-12-214 of the 'Disposition of Unclaimed Property Act.' The state

96 revenue commissioner shall notify the Commissioner of Labor of the report and remittance
97 of such funds.

98 39-2-18.2.

99 (a) A minor is considered engaged in the work of online content creation when the
100 following criteria are met at any time during the previous 12 month period:

101 (1) At least 30 percent of the online content creator's compensated video content
102 produced within a 30 day period included the likeness, name, or image of the minor.
103 Such content percentage is measured by the percentage of time the likeness, name, or
104 image of the minor visually appears or is the subject of an oral narrative in a video
105 segment as compared to the total length of the segment; and

106 (2) The number of views received per video segment on any online platform met the
107 online platform's threshold for the generation of compensation or the online content
108 creator received actual compensation for video content equal to or greater than 10¢ per
109 view.

110 (b) All online content creators whose content features a minor engaged in the work of
111 online content creation shall maintain the following records and shall provide such records
112 to the minor or such minor's parent or legal guardian on an ongoing basis:

113 (1) The name and documented proof of the age of the minor engaged in the work of
114 online content creation;

115 (2) The amount of content that generated compensation as provided for in subsection (a)
116 of this Code section during the reporting period;

117 (3) The total number of minutes of the content for which the online content creator
118 received compensation during the reporting period;

119 (4) The total number of minutes each minor was featured in content during the reporting
120 period;

121 (5) The total compensation generated from content featuring a minor during the reporting
122 period; and

123 (6) The amount deposited into the blocked trust account for the benefit of the minor
124 engaged in the work of online content creation.

125 (c) If an online content creator whose content features any minors engaged in the work of
126 online content creation fails to maintain the records as provided in subsection (b) of this
127 Code section, the minor or such minor's parent or legal guardian may commence a civil
128 action to enforce such subsection.

129 (d) A minor satisfying the criteria provided in subsection (a) of this Code section shall be
130 compensated by the online content creator. The online content creator shall set aside gross
131 earnings on the video content including the likeness, name, or image of the minor in a
132 blocked trust account according to the following distribution:

133 (1) When only one minor meets the content threshold described in subsection (a) of this
134 Code section, the percentage of total gross earnings on any video segment including the
135 likeness, name, or image of the minor that is equal to or greater than half of the content
136 percentage that includes the minor; or

137 (2) When more than one minor meets the content threshold described in subsection (a)
138 of this Code section and a video segment includes more than one such minor, the
139 percentage described in subsection (a) of this Code section for all minors in any segment
140 shall be equally divided between the minors, regardless of differences in percentage of
141 content provided by the individual minors.

142 (e) If an online content creator knowingly or recklessly violates the requirements provided
143 for in subsection (d) of this Code section, the minor or such minor's parent or legal
144 guardian may commence a civil action to enforce the provisions of such subsection. The
145 court may award to a minor who prevails in any action brought in accordance with this
146 Code section actual damages, punitive damages, and the costs of such action, including
147 attorney's fees and litigation costs.

148 39-2-18.3.

149 (a) The conditions of employment, including work schedules, for a child performer shall
150 not be detrimental to such minor's health, well-being, and education and shall include
151 required breaks for meals, rest, recreation, and education and any request for a break by the
152 minor, the minor's parent or guardian, or a representative of the Department of Labor when
153 in the interest of the minor.

154 (b) Notwithstanding any other provisions of this chapter to the contrary, the scheduling
155 restrictions for a child performer employed or permitted to work rendering artistic or
156 creative services shall be, at a minimum, as follows:

157 (1) No infants between birth and 15 days shall be permitted to be employed or permitted
158 to work;

159 (2) A minor between 15 days and six months old shall not start work before 9:30 A.M.,
160 shall not work more than 20 minutes per day, shall not be at a location for more than two
161 hours per day, and shall not work past 8:00 P.M.;

162 (3) A minor between six months and two years old shall not start work before 7:00 A.M.,
163 shall not work more than two hours per day, shall not be at a location for more than four
164 hours per day, and shall not work past 7:00 P.M.;

165 (4) A minor between two and six years old shall not start work before 7:00 A.M., shall
166 not work more than three hours per day, shall not be at a location for more than six hours
167 per day, and shall not work past 7:00 P.M.;

168 (5) A minor between six and nine years old shall not start work before 7:00 A.M., shall
169 not work more than four hours per day, shall not be at a location for more than eight
170 hours per day, and shall not work past 10:00 P.M.;

171 (6) A minor between nine and 16 years old shall not start work before 7:00 A.M., shall
172 not work more than five hours per day, shall not be at a location for more than ten hours
173 per day, and shall not work past 10:00 P.M. on a school night or 12:30 A.M. on a
174 nonschool night; and

175 (7) A minor who is 16 or 17 years old shall not start work before 7:00 A.M., shall not
176 work more than eight hours per day, shall not be at a location for more than 12 hours per
177 day, and shall not work past 10:00 P.M. on a school night or 12:30 A.M. on a nonschool
178 night.

179 (c) The Commissioner of Labor is authorized to make limited exceptions to the scheduling
180 restrictions provided for in paragraph (7) of subsection (b) of this Code section for unique
181 child performers, circumstances, or events only."

182 **SECTION 4.**

183 This Act shall become effective upon its approval by the Governor or upon its becoming law
184 without such approval.

185 **SECTION 5.**

186 All laws and parts of laws in conflict with this Act are repealed.