

115TH CONGRESS  
1ST SESSION

# H. R. 3691

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.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 6, 2017

Ms. MENG introduced the following bill; which was referred to the Committee on Education and the Workforce

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## 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.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Child Performers Pro-  
5       tection Act”.

1 **SEC. 2. PROTECTIONS FOR CHILD PERFORMERS.**

2 (a) APPLICATION OF CHILD LABOR PROVISIONS.—

3 Section 13(c)(3) of the Fair Labor Standards Act of 1938  
4 (29 U.S.C. 213(e)(3)) is amended to read as follows:

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

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

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

17 “(III) A child performer age 2 years to 6  
18 years may be permitted to remain at the place  
19 of employment or contracting for no more than  
20 6 hours a day.

21 “(IV) A child performer age 6 years to 9  
22 years may be permitted to remain at the place  
23 of employment or contracting for no more than  
24 8 hours per day.

25 “(V) A child performer age 9 years to 16  
26 years may be permitted to remain at the place

1 of employment or contracting for no more than  
2 9 hours per day.

3 “(ii) An employer or contractor may not  
4 employ any child performer unless a trust ac-  
5 count has been established on behalf of the  
6 child performer and the employer has obtained  
7 the account number of such trust account or  
8 other proof of the existence of the trust ac-  
9 count. A trust account described in this clause  
10 is one in which—

11 “(I) not less than 15 percent of the  
12 earnings of the child performer shall be de-  
13 posited;

14 “(II) the child performer has no ac-  
15 cess to the funds in the account until the  
16 child performer reaches the age of 18; and

17 “(III) the parents or legal guardians  
18 of the child performer shall have no access  
19 to the trust account except in cir-  
20 cumstances of financial hardship stipulated  
21 in the agreement with the financial institu-  
22 tion providing the trust account, which  
23 stipulations shall be in accordance with  
24 regulations issued by the Secretary.

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

5           “(B) Employment or contracting of a child per-  
6           former that is not in accordance with limitations and  
7           requirements of clauses (i) through (iii) of subpara-  
8           graph (A) shall be treated as oppressive child labor  
9           for purposes of section 12.

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

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

17                 (1) in subsection (l), by adding at the end the  
18                 following: “For purposes of this subsection only, the  
19                 term ‘employer’ includes any person who contracts  
20                 with a child performer who is an independent con-  
21                 tractor, the term ‘employee’ includes a child per-  
22                 former who is an independent contractor, and the  
23                 term ‘employment’ includes an independent contract  
24                 between any person and a child performer.”; and

25                 (2) by adding at the end the following:

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

7       **SEC. 3. LIABILITY FOR SEXUAL HARASSMENT OF CHILD**  
8                                   **PERFORMERS.**

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

15       (b) LIABILITY.—Any individual in a supervisory role  
16 with respect to a child performer shall be liable for unlaw-  
17 ful sex discrimination for harassment on the basis of sex  
18 against a child performer in violation of subsection (a)  
19 whether or not such individual is employed by or con-  
20 tracted by a covered employer or contractor.

21       (c) RIGHT OF ACTION.—Any child performer ag-  
22 grieved by a violation of subsection (a), or a parent or  
23 guardian of such child performer may bring a civil action  
24 in any Federal court of competent jurisdiction to recover  
25 from an individual who violates such subsection with re-

1 spect to such child performer, equitable relief and compen-  
2 satory and punitive damages, costs, and attorneys fees.

3 (d) DEFINITIONS.—As used in this Act—

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

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

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

13 (A) submission to such conduct is made  
14 implicitly a term or condition of a child per-  
15 former’s employment or contract, or is used as  
16 the basis for decisions affecting the child per-  
17 former’s employment or contract; or

18 (B) such conduct has the purpose or effect  
19 of interfering with a child performer’s perform-  
20 ance, or creates an intimidating, hostile, or of-  
21 fensive working environment; and

22 (4) the term “individual in a supervisory role  
23 with respect to a child performer” means an em-  
24 ployee or independent contractor of an employer or  
25 other entity that employs or contracts with a child

1 performer who has direct supervision over the child  
2 performer or is responsible for working with the  
3 child performer in any capacity in furtherance of the  
4 performance or artistic expression of the child per-  
5 former, including an agent, manager, casting direc-  
6 tor, child wrangler, director, photographer or cine-  
7 matographer, makeup artist, and wardrobe assist-  
8 ant.

9 **SEC. 4. REVIEW OF POLICIES AND PROCEDURES BY EM-**  
10 **PLOYERS.**

11 In any case where a violation of section 3(a) is al-  
12 leged, the employer of the individual or individuals alleged  
13 to have committed the violation shall conduct an internal  
14 review of its policies and procedures for protecting child  
15 performers and ensuring compliance with section 13(c)(3)  
16 of the Fair Labor Standards Act of 1938 (29 U.S.C.  
17 213(c)(3)), as amended by section 2.

18 **SEC. 5. RELATIONSHIP TO STATE LAW AND COLLECTIVE**  
19 **BARGAINING AGREEMENTS.**

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

1       (b) COLLECTIVE BARGAINING AGREEMENTS.—This  
2 Act and the amendments made by this Act shall not be  
3 construed to preempt any collective bargaining agreement  
4 or any contract that establishes more stringent require-  
5 ments.

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