

SB3044

Measure Title: RELATING TO THE EMPLOYMENT OF A MINOR.

Report Title: Minors; Employment; Theatrical Employment; Child Welfare Advocate

Description: Requires an on-set child welfare advocate to accompany and supervise a minor whenever the minor is on set and a variance from the work hour restrictions to allowable theatrical employment is granted, when employed for theatrical purposes. Defines "child welfare advocate". (SD1)

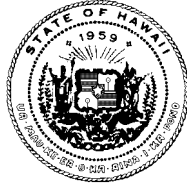
Companion:

Package: None

Current Referral: LBR, CPH

Introducer(s): GALUTERIA

DAVID Y. IGE
GOVERNOR



PANKAJ BHANOT
DIRECTOR

CATHY BETTS
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES
P. O. Box 339
Honolulu, Hawaii 96809-0339

February 21, 2018

TO: The Honorable Senator Rosalyn H. Baker, Chair
Senate Committee on Commerce, Consumer Protection & Health

FROM: Pankaj Bhanot, Director

SUBJECT: **SB 3044 SD1 – RELATING TO THE EMPLOYMENT OF A MINOR**

Hearing: February 23, 2018, 11:00 a.m.
Conference Room 229, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services (DHS) has concerns and provides comments.

PURPOSE: The purpose of the bill requires an on-set child welfare advocate to accompany and supervise a minor whenever the minor is on set and a variance from the work hour restrictions to allowable theatrical employment is granted, when employed for theatrical purposes. Defines "child welfare advocate."

DHS is concerned that the new term "child welfare advocate" may cause confusion with those who work in child protection or "child welfare services." References to "child welfare" in Hawaii Revised Statutes are to child welfare services of the Department of Human Services and relates to protective services for children who have been abused or neglect by their caregivers.

DHS suggests the term "on-set child advocate" to avoid confusion.

Thank you for the opportunity to provide comments on this measure.



**STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS**

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February 23, 2018

To: The Honorable Rosayln H. Baker, Chair,
The Honorable Jill N. Tokuda, Vice-Chair, and
Members of the Senate Committee on Commerce, Consumer Protection,
and Health

Date: Friday, February 23, 2018

Time: 11:00 a.m.

Place: Conference Room 229, State Capitol

From: Leonard Hoshijo, Acting Director
Department of Labor and Industrial Relations (DLIR)

Re: S.B. 3044 S.D. 1 RELATING TO THE EMPLOYMENT OF A MINOR

I. OVERVIEW OF PROPOSED LEGISLATION

This proposal amends section 390-2, Hawaii Revised Statutes (HRS), of the Child Labor Law, by requiring an on-set child welfare advocate be present with and accompany the minor whenever a minor under fourteen years of age is working in theatrical employment and a variance to the allowable work hours is granted. The child welfare advocate cannot be the parents or guardian of the child.

DLIR supports this measure and notes it has engaged in a dialogue with the bill's proponents and there exists consensus between the parties regarding the measure as drafted. DLIR also offers an amendment to define child welfare advocate in the definitions section of the chapter instead of in the new provision.

II. CURRENT LAW

There is no current law requiring an on-set teacher to be present when minors are employed in theatrical employment. §390-2 Employment of minors under eighteen years of age contains hours and times provisions for minors that are 16-18, 14-16, and under 14.

III. **COMMENTS ON THE SENATE BILL**

Majority of the theatrical employment certificates issued by the DLIR are for television or motion picture productions. The duration of these productions can range from a television commercial shooting for a few hours for one day only, to a television series or motion picture production filming for several hours a day for several months.

Prior to the DLIR issuing a theatrical certificate of employment, the DLIR ensures that the minor is performing satisfactorily in school. Under [§12-25-22 Theatrical employment permitted](#), whenever the minor works during a school year, the employer must submit, to DLIR a statement signed by an authorized school official indicating that the minor's attendance and school work are satisfactory. When the minor's school work or attendance is not satisfactory, DLIR cannot issue the certificate of employment and the application is denied.

Further, [§12-25-23 Hours and conditions of employment](#) addresses issues pertaining to adequate rest periods, rest facilities, transportation, compensation, safety, supervision, and tutoring. §12-25-23 also permits variances for: "good cause" includes practical difficulties and undue hardship by the employer in complying with the work hour restrictions."

Requiring an on-set child welfare advocate to be present for theatrical productions when the employer requests a variance to permit minors to work beyond the hours and times permitted by law provides supervision for work by a minor that is beyond the standard legal limits.

A production company that is signatory to the union (i.e., Screen Actors Guild) is subject to the union agreement which already requires the employer to provide an on-set teacher only after the third consecutive day of work. DLIR supports this proposal that requires an on-set teacher be present every day that a minor is working for theatrical purposes for all productions in Hawaii operating with a variance.

DLIR suggests amending §390-1 to include a definition as follows:

"Child welfare advocate" means a person designated by the employer who holds a valid license issued by the Hawaii teacher standards board. The child welfare advocate may not be the minor's parent or guardian.

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Submitted on: 2/22/2018 2:25:03 AM

Testimony for CPH on 2/23/2018 11:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	Testifying on behalf of OCC Legislative Priorities Committee, Democratic Party of Hawai'i	Support	No

Comments:



The Studio Teachers

studio teachers/welfare workers

February 22, 2018

RE: SB3044 – RELATING TO EMPLOYMENT OF A MINOR

I am the Business Representative of IATSE Local 884, The Studio Teachers and Welfare Workers. I am writing to offer my **strong support** for SB3044.

Having an education and welfare advocate on the set is integral in making sure the minors working in entertainment are not falling behind in school and are treated in a safe way. This is important not only for main cast minors working for weeks or months, but also for the background actors that work a day here and there. Making sure these minors can walk back into their classrooms without feeling left behind is why a Set Teacher is essential.

In addition to their education, a Set Teacher looks out for the welfare and safety of the minors. Many times directors and producers treat minor actors as if they are adults, resulting in minors being placed in situations that are not age appropriate. Though we would like to think a minor's guardian would look out for what is best for the minor, this is not always the case. Having an independent person knowledgeable of the labor laws and with experience on sets protects the child from being put in an unsafe situation.

Here in California a Set Teacher is called a Studio Teacher, which is a designation found in state law of someone with 2 teaching credentials and a certification issued by California. A Studio Teacher is required from day one when a minor is on set, no matter if it is a table read, rehearsal, wardrobe fitting, etc. A Studio Teacher is required for the education of all minors and for the welfare of all minors aged 15 and younger. This is not something that productions find as a hindrance because they want to make sure the minors in their employ are safe and getting the education they deserve.

In closing, requiring a Set Teacher from day one on productions in Hawaii gives the state the assurance that its minor residents are working in a safe environment and getting their required education.

Respectfully submitted,

Doug Boney
Business Representative



Local 665

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OF THE UNITED STATES, ITS TERRITORIES AND CANADA, AFL-CIO, CLC

The Senate
The Twenty-Ninth Legislature
Regular Session of 2018

To: The Honorable Rosalyn H. Baker, Chair
The Honorable Jill N. Tokuda, Vice-Chair, and
Members of the Senate Committee on Commerce, Consumer
Protection, and Health

Date: Friday, February 23, 2018

Time: 11:00 a.m.

Place: Conference Room 229.

State Capitol, 415 S. Beretania St., Honolulu, HI

RE: SB3044 – RELATING TO EMPLOYMENT OF A MINOR

Aloha, Chair Baker, Vice Chair Tokuda and Members of the Committee,

Mahalo for the opportunity to testify on this measure. IATSE Local 665 represents the film technicians who work behind the camera on TV series and films. Our local has statewide throughout the State, including Set Teachers/Child Welfare Advocates.

We strongly **SUPPORT** SB 3044 as it pertains to the requirement for a Set Teacher whenever a minor is employed for theatrical purposes. Currently, there is no such requirement in Hawaii, and we support adding language and definitions to the Hawaii Child Labor Laws (HRS 12-25: Theatrical Employment) that would:

- Require a Set Teacher/Child Welfare Advocate be employed every day that a child is working for an employer who has a variance.
- Require that a Set Teacher/Child Welfare Advocate be trained to look out for the child's welfare and safety, education and know theatrical protocol.
- Define a child as 18-years or younger.

California Labor Law requires a teacher be employed every day that a minor is working on the set. When they bring a show to Hawaii, they hire a Hawaii Set Teacher whenever Hawaii minors are working on the set. This has been the practice for decades. Three years ago, a television series discovered that the actor's union, the Screen Actors Guild, only requires a Set Teacher if the child works three consecutive days or more, so they stopped hiring Set Teachers. During this

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RE: SB3044 – Relating to Employment of a Minor

three-year period, there has been no one on the show who is tasked with following Hawaii's child labor laws or trained to look out for the child's welfare, education and safety in a theatrical setting. A film set is a very fast-paced, sometimes dangerous, environment that needs to stay on schedule and on budget. The welfare of the child actor is not always at the forefront of the company's mind, and minors are sometimes treated as adults simply because it is an adult environment. A Set Teacher is professionally trained to answer any questions the child and the guardians may have and act on their behalf.

Please consider the benefits to having a Set Teacher:

- No one comes to Hawaii to shoot indoors. Our working children are often exposed to rough weather and terrain – in the surf, in the sun, on the beach, in the jungle, trudging through mud, etc. Our Set Teachers live here, and they know how to adapt to adverse conditions, assess the abilities of the child and deem whether a situation is safe or unsafe.
- Our Set Teachers are licensed teachers with the State of Hawai'i and are responsible for tutoring the child between scenes. Based on the academic struggles Hawai'i's students often have, our children can't afford to miss even one day of schooling, let alone three. A Set Teacher will help the child stay on track with missed homework and provide educational activities for children, even if they are not in school yet. There can be a lot of idle time between scenes, and children should not be left to play on their devices or eat candy off of the snack trays if there is an opportunity to tutor during these times.
- Our Set Teachers are trained in set protocol, knowledgeable in child labor laws, and are adept in anticipating potential problems. They know that our sets are dangerous. For example, California Labor Law prohibits an infant to be exposed to our strong, movie lights for more than 30 seconds at a time. A parent or guardian, and some crew members, wouldn't know that. Set Teachers act as an intermediary for the guardians and the production company to be sure the family feels safe and informed. They help to temper overzealous parents and help the child to manage ambitious production schedules.
- Due to the recent reports by actors who were sexually abused as children, we want to be proactive in having a Set Teacher on set whenever Hawaii minors are working. A Set Teacher is required to escort the child when they go through make-up, hair and wardrobe to ensure that the child's privacy and modesty is considered during wardrobe changes and the placement of microphones into their clothing. The Set Teacher has the authority to intercede and question any situation deemed unsafe or inappropriate.
- The State will not incur any cost that I am aware of by approving this measure. In fact, it reduces the State's and the employer's liability to have a Set Teacher present to ensure the child is safe – on and off camera.

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Because there is no requirement to have a Set Teacher unless the child works three consecutive days or more, a child could work for days without anyone watching the labor laws an educational component. It's apparent that schedules are adjusted to ensure that the children are not working for more than three consecutive days for budgetary reasons. This sends the wrong message about the value we place on our children.

The Department of Labor has been very helpful in fine-tuning the amendments to the bill, and we support their suggestions.

Within our local, we follow the procedures practiced by Hollywood Studio Teachers. Here is their website for more information, and a chart of information:
<http://www.thestudioteachers.com/>.

In conclusion, a Set Teacher brings value to the it is our belief that allowing a Hawaii minor to be without a Set Teacher, even for one day, goes counter to the value we place on their welfare.

Respectfully submitted,



Irish Barber
Business Representative

SB-3044-SD-1

Submitted on: 2/22/2018 9:36:38 AM

Testimony for CPH on 2/23/2018 11:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Terri Ewton	Testifying on behalf of IATSE 665	Support	No

Comments:

Aloha,

i am a member of IATSE and a State DOE Licensed Teacher.

I have been in both production and education for over 20years. It is paramount that children receive education and protection during production. Please provide legislation that provides for the welfare for our keiki.

Mahalo,

Terri Ewton

SB-3044-SD-1

Submitted on: 2/22/2018 10:20:33 AM

Testimony for CPH on 2/23/2018 11:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
James Butler	Testifying on behalf of IATSE local 665	Support	No

Comments:

I James Butler support the teachers on set.

Our young Ohana deserve our support, our care, our guidance.

By indulging our youth, we are stewarding our future.

thank you.

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Submitted on: 2/22/2018 10:27:34 AM

Testimony for CPH on 2/23/2018 11:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
GERARD KAMAN	Individual	Support	No

Comments:

Aloha, My name is Gerard Kaman. I have worked in the theatrical industry over 40 years.

Today I am pleading for you to SUPPORT of SB3044 (Set Teacher Bill). Our youth deserve the education and protection an On Set teacher provides. Hawaii has an international number of production companies each year working with our young children who are lacking the guidance and protection On Set teachers provide. Sexual misconduct is the headline of the day. It only takes 1 criminal instance to degrade Hawaii as a state that does not care for it's youth.

Our teachers are trained professionals who guide, teach and protect our children in a business that exposes them to hidden dangers and loss of education each day they work. The current 3 day rule requiring production companies to provide that education and "outside" protection is obsolete.

I plead for you to think about our kid's and pass SB3044 (Set Teacher Bill).

Sincerely
Gerard Kaman
IATSE Local 665

SB-3044-SD-1

Submitted on: 2/22/2018 5:50:24 PM

Testimony for CPH on 2/23/2018 11:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Dan Garab	Individual	Support	No

Comments:

I strongly support the passage of SB3044. Protecting our underage talent in the entertainment

industry is an obvious precaution for their welfare. The industry has grown significantly in

recent years and is an avenue for future careers. The work experience should remain

positive with the guidance of on-set teachers.