



STATE OF HAWAII
KA MOKU'ĀINA O HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
KA 'OIHANA PONO LIMAHANA

January 30, 2025

LATE

To: The Honorable Lisa Marten, Chair,
The Honorable Ikaika Olds, Vice Chair, and
Members of the House Committee on Human Services & Homelessness

Date: Thursday, January 30, 2025
Time: 9:35 a.m.
Place: Conference Room 329, State Capitol

From: Jade T. Butay, Director
Department of Labor and Industrial Relations (DLIR)

Re: H.B. 874 RELATING TO CHILD PERFORMERS

I. OVERVIEW OF PROPOSED LEGISLATION

The **DLIR offers comments** on this proposal. HB874 proposes to amend the Child Labor Law, Chapter 390, Hawaii Revised Statutes (HRS), by adding provisions to require a parent or legal guardian of a minor in theatrical employment to establish a trust account for the minor and require the employer to deposit at least 15% of the minor's gross earnings into the trust account until the minor becomes an adult. The measure provides that a parent or legal guardian of a minor in theatrical employment may access the funds within the trust account for the minor, but only for the benefit of the minor, and any misappropriation or fraudulent use of funds is subject to penalties. The measure also proposes to amend the definition of "theatrical employment" in §390-1, HRS, to include social media influencer.

II. CURRENT LAW

Chapter 390, HRS, establishes hazardous employment, work hour standards, and employment certificate requirements for minors under age 18.

There is no current law requiring a trust account to be established for a minor employed in theatrical employment.

Under §390-4, HRS, the DLIR director may suspend, revoke, or invalidate any certificate of employment or age if it was improperly issued, the minor is illegally employed, or the nature or condition of employment is such as to injuriously affect the health, safety or well-being of the minor or contribute toward the minor's delinquency.

III. COMMENTS ON THE HOUSE BILL

The measure mandates the establishment of a trust account which will require additional effort from parents or legal guardians and the employer prior to applying for a child labor work permit. In addition, this measure will require the DLIR to verify the validity of the trust account with independent third-party trustees. Misappropriation or fraudulent use of trust funds is a violation of fiduciary duty subject to civil penalties, criminal prosecution, and removal from the position of trustee of the trust account which is beyond the DLIR's purview and may be under another section of law.

Social media influencers are generally considered independent contractors or self-employed, unless there is a formal employer-employee relationship with a specific company. Chapter 390, HRS, does not apply where no employment relationship exists.



January 30, 2025

Committee on Human Services and Homelessness
Chair Marten
Vice Chair Olds

The House of Representatives
The Thirtieth-Third Legislature
Regular Session of 2025

RE: HB 847 - RELATING TO CHILD PERFORMERS.

DATE: Thursday, January 30, 2025

TIME: 9:00 am

PLACE: Conference Room 329

VIA Videoconference

State Capitol 415 South Beretania Street, Honolulu HI

Aloha Chair Marten, Vice Chair Olds, and the Members of the Committee,

Thank you for the opportunity to testify in SUPPORT of HB 847 -RELATING TO CHILD PERFORMERS.

SAG-AFTRA represents over 160,000 actors, recording artists, and media professionals nationwide and over 1400 in Hawai'i. We are the professional performers working in front of the camera and behind the microphone. The SAG-AFTRA Hawai'i Local has a long-standing history of protecting performers in all areas of the entertainment, advertising, and media industries.

Passage of this bill will help protect our most vulnerable performers' financial interests. By requiring a parent or legal guardian of a minor in theatrical employment to establish a trust account for the minor, and requiring the employer of a minor in theatrical employment to deposit a portion of the minor's earnings into the trust account until the child becomes an adult, we provide a layer of protection for the child performer's financial wellbeing. Additionally, and importantly, this measure will also update Hawaii's child labor law, to include gainful occupation as a social media influencer.

Respectfully,

Mericia Palma Elmore

Mericia Palma Elmore, Executive Director SAG-AFTRA Hawaii Local

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SCREEN ACTORS GUILD - AMERICAN FEDERATION OF
TELEVISION AND RADIO ARTISTS
SAGAFTRA.org
Associated Actors & Artistes of America / AFL-CIO



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LATE

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The Thirty-Second Legislature
House of Representatives
Committee on Human Services & Homelessness

Testimony by
Hawaii State AFL-CIO

January 30, 2025

TESTIMONY IN SUPPORT OF HB874 - RELATING TO CHILD PERFORMERS

Chair Marten, Vice Chair Olds, and members of the committee:

The Hawaii State AFL-CIO is a state federation of 74 affiliate labor organizations representing over 68,000 union members across Hawaii in industries including healthcare, construction, hospitality, entertainment, transportation, and government. The Hawaii State AFL-CIO serves its affiliates by advocating for the rights of working families, promoting fair wages, safe working conditions, and policies that strengthen Hawaii's workforce.

We are in support of HB874, which requires parents or legal guardians of minors in theatrical employment to establish trust accounts for their children and mandates employers to deposit a portion of the child's earnings into these accounts. This measure will protect the financial well-being of child performers, ensuring they benefit from their hard work upon reaching adulthood.

Passage of this bill will provide an essential safeguard for Hawaii's youngest and most vulnerable performers by requiring protections for their earnings. Additionally, the inclusion of social media influencers within the definition of theatrical employment modernizes Hawaii's child labor laws to reflect changes in the entertainment industry, recognizing the unique challenges and opportunities faced by minors in this rapidly evolving space.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Chris Burnett".

Chris Burnett
Director, Committee on Political Education

LATE

HB-874

Submitted on: 1/30/2025 5:53:29 AM

Testimony for HSH on 1/30/2025 9:35:00 AM

Submitted By	Organization	Testifier Position	Testify
Kevin K. Holu	Hawaii Teamsters & Allied Workers Local 996	Support	Written Testimony Only

Comments:

Hawaii Teamsters & Allied Workers Local 996 support HB874

LATE

HB-874

Submitted on: 1/29/2025 9:39:56 PM

Testimony for HSH on 1/30/2025 9:35:00 AM

Submitted By	Organization	Testifier Position	Testify
Trevor Brunsink	Individual	Support	Written Testimony Only

Comments:

Aloha. I am writing in SUPPORT of the State of Hawai'i requiring "a parent or legal guardian of a minor in theatrical employment to establish a trust account for the minor."

I have been an Oahu resident since March of 2021, with my wife having grown up here on Oahu in Manoa (1988ish-2011). We met in LA at the end of 2011, where we had two daughters in 2017 and 2020, with the latter motivating our move to HI where we had more supportive family.

While in LA, with both my wife and I being SAG-AFTRA (actors' union) performers, we voluntarily secured a Coogan Account (or blocked trust account) through the SAG-AFTRA Federal Credit Union (FCU; <https://www.sagaftrafcu.org/checking-and-savings/coogan-accounts>) in 2017 so that our older daughter as a newborn could do a little "baby acting," which she did on TV/Theatrical productions like Charlie Says, Big Little Lies, The Good Place, This Is Us, etc.

15% of our daughter's income was to go into the account on principal acting (speaking acting) work; however, with her working union and non-union TV/Theatrical background acting contracts, this was not required. Yet wanting to be good parents, we still voluntarily opened up this blocked trust account for her anyway.

Through the SAG-AFTRA FCU in 2017 — and I am recalling these numbers roughly, so the truth is somewhere in this ballpark — I believe there was a \$10 initiation fee for my wife to open her own account as a SAG-AFTRA member, and then we could pay another \$10 initiation fee for our non-union daughter to get a Coogan Account (blocked trust) through the SAG-AFTRA Federal Credit Union. Then we deposited \$50 into her account, just to start an account for her. Having LOST the \$10 initiation fee in return for the SAG-AFTRA FCU to pay our daughter around only 0.03% interest on her \$50 deposit, it has made me regret opening a blocked trust through the SAG-AFTRA FCU ever since, because my daughter will probably be an adult before the \$10 fee to join is ever recovered, causing her money to basically NEVER grow. In other words, we would have done better to stick \$50 under a mattress for her than to have a blocked trust account through a fee-charging credit union.

HOWEVER, the SAG-AFTRA FCU was just one option and we SHOULD have gone with another. According to the SAG-AFTRA website (<https://www.sagaftra.org/membership-benefits/young-performers/coogan-law>), I could have created a blocked trust account through the Actors Federal Credit Union, Bank of the West, City National Bank, First Entertainment Credit

Union, Morgan Stanley/Smith Barney, Union Bank of California, or Wells Fargo, which may have helped us to avoid that initiation fee we lost. And the GOOD NEWS about the SAG-AFTRA FCU in 2025 now is that, I believe, they no longer have initiation fees!

I talk story to you about this today simply to illustrate just how many details about a blocked trust for minors in Hawai'i there are to consider. BUT with many details can come many resources, such as all the names of banks and credit unions in California mentioned here who I RECOMMEND the State of Hawai'i reach out for further input. LEARN from their experience in national unity — such as what has worked and what hasn't about the blocked trust Coogan Accounts in CA — so that we in Hawai'i don't repeat their bad stuff. Let's use the strategies in HI that WORKED in CA to create and enforce these blocked trust accounts for our minor performers. We can do better than CA! CA doesn't have Hawaiian expertise that can be added to our formula here.

As many bad drivers as there are on the roads in both HI and CA, there are parents/guardians who are equally bad at handling their child performer's earnings. In other words, there MUST be a blocked trust account to protect minor performer residents in and from Hawai'i.

What I would do to improve for HI what I experienced with a blocked trust account in CA:

- 1) Ensure that MORE THAN 15% of a minor performer's earnings in HI go into a blocked trust account, inclusive of BOTH principal acting and background acting earnings. Perhaps even more than 50% of it.
- 2) Determine early what percentage of it parents/guardians are allowed to keep for themselves (such as like a 10% agent fee or 20% manager fee), based on the parent/guardian having to take off work to sit unpaid with the child on set for a TV/Theatrical production, based on the wear and tear on the vehicle + gas/mileage to get the child safely to/from set, etc.
- 3) If this bill will more likely pass in FAVOR of required blocked trust accounts for minor performers in Hawai'i so long as LESS of their earnings is to be kept in a blocked trust account, then add another layer to this: For example, if only 15% of the child's earnings are to go into a state-mandated blocked trust account with terribly low interest (ie. 0.03%) making it feel like the state itself is holding the child's money hostage while disempowering parents/guardians, then write into the law exceptions/graces/liberties/rewards to parents/guardians to be allowed to move the money into a different type of investment elsewhere, so long as the parent/guardian can prove that (a) the money cannot be taken out before the child turns 18, (b) the interest rate and/or guaranteed return on the investment will be higher, AND (c) it can be proven that MORE money (a higher percentage than 15%) will be ADDED to the original investment in the new account elsewhere to guarantee and maximize the growth of the child's money.
- 4) If the bank or credit union (in Hawai'i offering special blocked trust accounts for minors who are performers) insists on charging an initiation fee to open the account, ensure that the fee is tax deductible for the State of Hawai'i.

Mahalo,
Trevor Brunsink