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LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS
56th Legislature, 1st Session, 2023

Bill Number	<u>SB357/SHPACS</u>	Sponsor	<u>SHPAC</u>
Tracking Number	<u>.225682.1</u>	Committee Referrals	<u>SHPAC/SJC</u>
Short Title	<u>Parents of Children in Performing Art</u>		
Analyst	<u>Hoxie/Condon</u>	Original Date	<u>3/2/2023</u>
		Last Updated	<u></u>

BILL SUMMARY

The Senate Health and Public Affairs Committee Substitute for Senate Bill 357 (SB357/SHPACS) amends Section 50-6-18 NMSA 1978 pertaining to the employment of children, to clarify the protections established for performers under the age of eighteen apply to both residents and non-residents.

SB357/SHPACS establishes requirements for “studio” teachers, and in addition to teaching responsibilities, a studio teacher is required to monitor and protect the health, safety and welfare of the child. Additionally, SB357/SHPACS requires a current certificate of compliance from the Workforce Solutions Department (DWS) affirming that the studio teacher has knowledge of child labor laws and regulations applicable to the employment of a child in the performing arts industry, including the ability to take cognizance of working conditions, physical surroundings, signs of the child's mental and physical fatigue and the demands made upon the child and to fulfill the statutory requirement to report incidents of alleged child abuse as required by Section 32A-4-3 NMSA 1978.

SB357/SHPACS requires a parent or guardian of a child under sixteen years of age to be present with and accompany the child on the set or location and be within sight or sound of the child at all times, except when the child is in an area being used as a school facility with a studio teacher.

FISCAL IMPACT

The bill does not contain an appropriation.

Fiscal Impact: Studio Teacher Certificate. SB357/SHPACS requires studio teachers to obtain a certificate of compliance from DWS indicating the teacher has sufficient knowledge of child labor laws and regulations such that the teacher can “take cognizance of” working conditions and report alleged child abuse to authorities. The Labor Relations Division of DWS notes meeting this provision of SB357/SHPACS would have a fiscal impact because DWS would require additional staff to ensure a comprehensive program for evaluating teachers and enforcing the standards set forth by SB357/SHPACS.

SUBSTANTIVE ISSUES

Studio Teacher. SB357/SHPACS clarifies the credentials required to be a teacher providing education to child performers. Under provisions of the bill, in addition to teaching responsibilities, a studio teacher is required to monitor the health, safety, and welfare of the working child at all times. SB357/SHPACS requires a studio teacher to hold a certificate of compliance from DWS. Additionally, SB357/SHPACS requires a studio teacher to hold a Level II teacher license by July 1, 2026. It is unclear if the bill requires studio teachers to hold a valid Level I teacher license prior to beginning work as a studio teacher.

Currently, teachers who provide education to child performers do not have specific statutory requirements that differ from a traditional public school or home school setting. Some states do require teachers providing education to child performers to meet specific requirements. For example, in [California, studio teachers](#) who are working with anyone under the age 18 must obtain a three-year certification. Each new studio teacher applicant in California is required to successfully complete a 12-hour course of instruction designed by the Labor Commissioner that instruct the applicant in the duties and responsibilities of the studio teacher. Under provisions of SB357/SHPACS, DWS would be responsible for developing a similar new teacher certification program for studio teacher applicants.

Similar Legislation in Other States. Many states have introduced legislation specific to child performers, including the hours they can work, the type of performance that is allowable, and that parental permission must be documented. Below are examples of requirements in other states, although this is not a comprehensive list of state laws or the requirements of each state:

- Arkansas: A child under 16 employed in the entertainment industry must have a permit and the written consent of a parent or guardian for issuance of the permit; written statement from principal as to academic standing of child.
- California: The Labor Commissioner issues permits to minors to work in the entertainment industry with required documentation from appropriate school districts as applicable and/or permits permitting employment of minors in the entertainment industry.
- Connecticut: Minors under the age of 16 are permitted to work in the theatrical industry with the authorization of the labor commissioner. Must have a certificate of age.
- Indiana: No certificate required but there are other conditions: must not be detrimental to welfare of child; provisions must be made for education for children under age 16; minor under age 16 must be accompanied by parent or guardian at rehearsal, appearances, and performances; employment cannot be in cabaret, dance hall, night club, etc.
- Louisiana: Minors under the age of 16 must have a permit issued by state DOL to participate in employment in the entertainment industry.
- Maine: Minors under age 16 working as theatrical or film actors are exempt from the child labor law except that they must have work permits. No restrictions at ages 16 & 17.

Homeschool Requirements. The Public Education Department (PED) agency analysis notes the provisions of SB357/SHPACS relates to the Public School Code governing home school requirements. The department notes statute requires a school-age person to attend a public school, private school, home school or state institution until they are 18 years of age or until they graduate from high school. The department states SB357/SHPACS would exceed current provisions in law for operating a home school, in which the person providing instruction must currently possess at least a high school diploma.

ADMINISTRATIVE IMPLICATIONS

As detailed by the DWS agency analysis, DWS will need to develop and implement rules and methods by which to verify, using objective criteria, whether a teacher has the required knowledge to become a certified studio teacher, such as through the administration an exam or test, review of academic credentials or continuing education transcripts, or other investigatory procedures to ascertain whether a teacher may receive certification. This requirement entails for DWS a larger workload to fulfill its duties under the Child Labor Act. If these new requirements go into effect, DWS will require sufficient resources and lead time to develop a new teacher certification program and promulgate the rules.

TECHNICAL ISSUES

Defining Guardian. In their agency analysis, the Office of the Attorney General notes that SB357/SHPACS does not specify what is meant by the term “guardian.” It is not clear if the bill intends for this to be a court-appointed guardian, which would mean that parents could not delegate this duty to another family member, paid childcare worker, adult sibling, etc. If the current SB357/SHPACS language is interpreted to mean only legal guardians, the adults required to supervise child performers would be limited and could limit the ability for child performers to fulfill their filming requirements. SB357/SHPACS sponsors could consider specifying what is meant by “guardian,” and if they wish to include adults approved by parents or legal guardians, SB357/SHPACS should specify how adults are approved (through written consent of the parents/legal guardian, permit issued by DWS or other agency, etc.).

SOURCES OF INFORMATION

- LESC Files
- Department of Workforce Solutions (DWS)
- Public Education Department (PED)

EH/BC/cf/msb