HOUSE DOCKET, NO. 3136 FILED ON: 1/21/2011

HOUSE . . . . . No. 2817

The Commonwealth of Massachusetts

PRESENTED BY:

Lori A. Ehrlich

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying:

An Act to protect child performers and families.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Lori A. Ehrlich	*8th Essex*
Michael D. Brady	*9th Plymouth*
Angelo J. Puppolo, Jr.	*12th Hampden*
Kay Khan	*11th Middlesex*

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By Ms. Ehrlich of Marblehead, a petition (accompanied by bill, House, No. 2817) of Lori A. Ehrlich and others for legislation to provide legal protections for child performers and their families. The Judiciary.

The Commonwealth of Massachusetts

An Act to protect child performers and families.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Section 85 p ½ of chapter 231 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by striking out subsection (b) of Section 85 P ½ and inserting in place thereof the following subsection:-

(b) The provisions of subsection (a) shall not apply to the participation or employment, use or exhibition of a child in a church academy or school, including a dancing or dramatic school, as part of the regular services or activities thereof respectively; or in the annual graduation exercises of any such academy or school; or in a private home; or in any place where such performance is under the direction, control or supervision of a school department; or for recitals given in connection with private instruction associated with a continuing education course of study; or in the performance of radio or television programs in cases where the child or children broadcasting do so from a school, church, academy, museum, library or other religious, civic or educational institution, or for not more than two hours a week from the studios of a regularly licensed broadcasting company, or where the child participates or is employed, used, or exhibited in any motion picture, film, theatrical presentation or radio or television broadcast, web cast or program or in any format hereafter devised, where the child is exclusively used for the limited purpose(s) of: an extra player, day player, stunt day player, and/or on-camera narrator or spokesperson, wherein said limited use accumulates to no more than five hundred ($500.00) dollars in total gross earnings that has been earned by the child from his or her collective employment and occurs during hours when attendance for instruction is not required in accordance with law, or where the performance of the child is of a nonprofessional character and occurs during hours when attendance for instruction is not required in accordance with law.

For the purposes of this subsection, an "extra player" means a performer who is used for the limited purposes of an "extra" or "audience" or "atmosphere" where the child is part of a group or background scene; a "day player" means a performer who is seen and who may speak a

25 line or lines of dialogue and who is compensated in one day increments; a "stunt day player"
26 means a performer who performs identifiable stunts which illustrates or reacts to on or off-
27 camera narration or messages and who is compensated by the day, an "on-camera narrator or
28 spokesperson" means a performer who explains, or demonstrates, substantially in monologue.

29 SECTION 2. Section 85P1/2 of chapter 231 of the General Laws, as appearing in the
30 2010 Official Edition, is hereby amended by adding a second paragraph to subsection (c) as
31 follows: - Any parent or guardian entitled to the care and custody of a child who enters into a
32 contract of a type described in subsections (a) or (b) assumes a fiduciary relationship with the
33 child, whether or not a court has issued a formal order or decree to that effect.

34

35 SECTION 3. Section 85p½ of chapter 231 of the General Laws, as appearing in the 2010
36 Official Edition, is hereby amended by striking out subsection (d) of Section 85 P ½ and
37 inserting in place thereof the following subsection:-

38 (d) The probate and family court shall have jurisdiction over the following proceeding for
39 contract approval by and between a child entertainer and a contracting entity. The court shall
40 appoint a conservator of the child's property to oversee, protect, prudently invest, preserve and
41 save the child's funds. The conservator shall file a bond pursuant to which the court may, in its
42 discretion, require surety.

43 SECTION 4. Subdivision (1) of said subsection (d) of said section 85P1/2 of said chapter
44 231 of the General Laws, as so appearing, is hereby amended by striking out lines 82 through 89
45 of subdivision (1) of said subsection (d) and inserting in place thereof the following subsection: -
46 Said proceeding shall be commenced by verified petition by the child's parent or legal guardian
47 that (i) renders consent and requests that all or a substantial portion of the child's gross earnings,
48 subject to the criteria contained in sections 2(ii) and 2(iv), shall be set aside, protected, prudently
49 invested, preserved and saved for distribution to the child at age eighteen and (ii) said petitioner
50 is qualified to be appointed conservator to oversee, protect, prudently invest, preserve and save
51 the child's funds or, if the court finds the petitioner not suitable, the court shall appoint a
52 conservator.

53 SECTION 5. Clause (ii) of subdivision (2) of said subsection (d) in said section 85P ½ of
54 said chapter 231 of the General Laws, as so appearing, is hereby stricken and inserted in place
55 thereof the following clause: - (ii) facts regarding the property and financial resources and
56 circumstances of the parent(s) or legal guardian to meet their ordinary support obligations to the
57 child;

58 SECTION 6. Clause (iv) of subdivision (2) of said subsection (d) in said section 85P1/2
59 of said chapter 231 of the General Laws, as so appearing, is hereby amended by inserting after
60 the word "deposit", in line 111, the following words: - shall be determined after consideration of

61 reasonable expenses, as delineated and specified, associated with the child's professional status
62 as an entertainer including, without limitation, taxes, and which are related to the performance
63 under the contract but which are not paid or reimbursed by the contracting entity, and the child's
64 legal obligation, if any, to pay child support.