

LFC Requester:	Chenier
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**AGENCY BILL ANALYSIS
2023 REGULAR SESSION**

SECTION I: GENERAL INFORMATION

Check all that apply:

Original **Amendment**
Correction **Substitute**

Date Prepared: 02/16/23

Bill No: SB357

**Agency Name
and Code**

Number: PED - 924

Sponsor: Jaramillo

Person Writing Gregory Frostad

Short Title: PARENTS OF CHILDREN IN
PERFORMING ART

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY23	FY24		
None	None	N/A	NFA

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY23	FY24	FY25		
None	None	None	N/A	NFA

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	None	None	None	None	N/A	NFA

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: Senate Bill 357 (SB357) would amend the Child Labor Act to require that a parent or guardian of a child who works in the performing arts and who is under 16 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.

The bill would require a studio teacher, in addition to their teaching responsibilities, to monitor and protect the health, safety, and welfare of the child, at all times, except for:

1. periods of up to one hour during special situations for promotional publicity, personal appearances, wardrobe, makeup or hairdressing;
2. when the child's school is not in session; and
3. when the child is accompanied by a parent or guardian.

FISCAL IMPLICATIONS

The bill does not contain an appropriation.

SIGNIFICANT ISSUES

Statute requires that a school-age person shall attend public school, private school, home school or a state institution until they are at least 18 years of age unless that school-age person has graduated from high school. The instruction of child performers would be considered home school instruction if the child performers are not otherwise enrolled in a public or private school. It would appear that the provisions in SB357 exceed current provisions in law for operating a home school, in which the person providing instruction must possess at least a high school diploma or its equivalent.

Home schools are required to register with the Public Education Department within 30 days of the establishment of the home school and maintain records of student disease immunization or a waiver of that requirement.

PERFORMANCE IMPLICATIONS

N/A

ADMINISTRATIVE IMPLICATIONS

N/A

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

N/A

TECHNICAL ISSUES

There appears to be a grammatical error in the parallel structure of the phrases in Subsection H number (2).

As the section reads, the studio teacher would be required to obtain a current certificate of compliance from WSD affirming that the studio teacher *has knowledge of* [emphasis added]:

- 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* [emphasis added] the statutory requirement to report incidents of alleged child abuse as required by Section 32A-4-3 NMSA 1978.

It appears the phrase in the second clause should read “how to fulfill.”

OTHER SUBSTANTIVE ISSUES

The Fair Labor Standards Act specifically exempts from child labor provisions minors employed as actors or performers in motion pictures or theatrical productions, or in radio or television productions.

New Mexico's Child Labor Act addresses children working in the performing arts in section 50-6-18 NMSA 1978. Employers are required to provide a teacher "with credentials appropriate to the level of education needed," and the hours children can work are restricted:

- a child may not begin work earlier than 5:00 a.m. and the workday must end no later than 10:00 p.m. on evenings preceding school days and 12:00 a.m. on mornings of nonschool days;
- a child-performer's daily working hours, including school time, are limited as follows:
 - a child under the age of six may not work more than six hours;
 - a child between the ages of six and nine may not work more than eight hours;
 - a child between nine and 16 may not work for more than nine hours; and
 - a child over 16 but under 18 years old may not work more than ten hours.

Similar provisions to those in SB357 are in place in California: a parent or guardian must be able to see and hear the child on set at all times, and three hours of on-set schooling with a state-licensed studio teacher are required for children each day.

ALTERNATIVES

N/A

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

N/A

AMENDMENTS

N/A