

AMENDED IN SENATE APRIL 12, 1999

SENATE BILL

No. 1162

Introduced by Senator Burton
(Coauthors: Senators Costa, Solis, and Speier)
(Coauthors: Assembly Members Kuehl, Washington, and Wildman)

February 26, 1999

~~An act to amend Section 6750 of the Family Code, relating~~
An act to amend Sections 771, 6750, 6751, and 7500 of, and to repeal and add Sections 6752 and 6753 of, the Family Code, relating to minors.

LEGISLATIVE COUNSEL'S DIGEST

SB 1162, as amended, Burton. Minors: contracts: ~~artistic or creative services.~~

~~Existing law provides that, generally, a contract entered into by a minor may be disaffirmed by the minor, or the minor's heirs, within specified time periods; however, a contract pursuant to which the minor is employed or agrees to render artistic or creative services, agrees to purchase or sell literary, musical, or dramatic properties for use in the entertainment field, or is employed or agrees to render services as a professional athlete, may not be disaffirmed by the minor if the contract has been approved by the superior court governs the earnings and accumulations of minors, as specified.~~

~~This bill would delete artistic or creative services contracts from that exception regulate the disposition of earnings or~~

accumulations by an unemancipated minor by requiring a specified portion to be held in trust, as specified.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1.—Section 6750 of the Family Code is~~

2 *SECTION 1. Section 771 of the Family Code is*
3 *amended to read:*

4 771. (a) The earnings and accumulations of a spouse
5 and the minor children living with, or in the custody of,
6 the spouse, while living separate and apart from the other
7 spouse, are the separate property of the spouse.

8 (b) *Notwithstanding subdivision (a), the earnings and*
9 *accumulations of an unemancipated minor child related*
10 *to a contract of a type described in Section 6750 shall*
11 *remain the sole legal property of the minor child.*

12 *SEC. 2. Section 6750 of the Family Code is amended*
13 *to read:*

14 6750. This chapter applies to the following contracts
15 *entered into between an unemancipated minor and any*
16 *third party or parties on or after January 1, 2000:*

17 (a) A contract pursuant to which a person is employed
18 or agrees to render artistic or creative services, *either*
19 *directly or through a third party, including, but not*
20 *limited to, a personal services corporation (loan-out*
21 *company). “Artistic or creative services” includes, but is*
22 *not limited to, services as an actor, actress, dancer,*
23 *musician, comedian, singer, stunt-person, voice-over*
24 *artist, or other performer or entertainer, or as a*
25 *songwriter, musical producer or arranger; writer,*
26 *director, producer, production executive,*
27 *choreographer, composer, conductor, or designer.*

28 (b) A contract pursuant to which a person agrees to
29 purchase, or otherwise secure, sell, lease, license, or
30 otherwise dispose of literary, musical, or dramatic
31 properties, *or use of a person’s likeness, voice recording,*
32 *performance, or story of or incidents in his or her life,*
33 either tangible or intangible, or any rights therein for use



1 in motion pictures, television, the production of
2 ~~phonograph records~~ *sound recordings in any format now*
3 *known or hereafter devised*, the legitimate or living stage,
4 or otherwise in the entertainment field.

5 (c) A contract pursuant to which a person is employed
6 or agrees to render services as a participant or player in
7 a professional sport, including, but not limited to, services
8 as a professional boxer, professional wrestler, ~~or~~
9 professional jockey, *professional baseball player; or*
10 *professional basketball player.*

11 *SEC. 3. Section 6751 of the Family Code is amended*
12 *to read:*

13 6751. (a) A contract, otherwise valid, of a type
14 described in Section 6750, entered into during minority,
15 cannot be disaffirmed on that ground either during the
16 minority of the person entering into the contract, or at
17 any time thereafter, if the contract has been approved by
18 the superior court in ~~the~~ *any* county in which the minor
19 resides or is employed or, ~~if the minor neither resides in~~
20 ~~nor is employed in this state, by the superior court of the~~
21 ~~county~~ in which any party to the contract has its principal
22 office in this state for the transaction of business.

23 (b) Approval of the court may be given on petition of
24 ~~either~~ *any* party to the contract, after such reasonable
25 notice to ~~the~~ *all* other ~~party~~ *parties* to the contract as is
26 fixed by the court, with opportunity to such other ~~party~~
27 *parties* to appear and be heard.

28 (c) Approval of the court given under this section
29 extends to the whole of the contract and all of its terms
30 and provisions, including, but not limited to, any optional
31 or conditional provisions contained in the contract for
32 extension, prolongation, or termination of the term of the
33 contract.

34 (d) *For the purposes of any proceeding under this*
35 *chapter, a parent or legal guardian, as the case may be,*
36 *entitled to the physical custody, care, and control of the*
37 *minor at the time of the proceeding shall be considered*
38 *the minor's guardian ad litem for the proceeding, unless*
39 *the court shall determine that appointment of a different*



1 individual as guardian ad litem is required in the best
2 interests of the minor.

3 SEC. 4. Section 6752 of the Family Code is repealed.

4 ~~6752. (a) Notwithstanding any other statute, in an
5 order approving a contract of a minor of a type described
6 in Section 6750, the court may require that the portion of
7 the net earnings of the minor, not exceeding one-half
8 thereof, that the court determines is just and proper, be
9 set aside and preserved for the benefit of the minor,
10 either in a trust fund or other savings plan approved by
11 the court.~~

12 ~~(b) The court may withhold approval of the contract
13 until the parent or parents or guardian, as the case may
14 be, execute and file with the court written consent to the
15 making of the order described in subdivision (a).~~

16 ~~(c) "Net earnings of the minor" for the purposes of this
17 section means the total sum received for the services of
18 the minor pursuant to the contract less all of the
19 following:~~

20 ~~(1) All sums required by law to be paid as taxes to any
21 government or governmental agency.~~

22 ~~(2) Reasonable sums expended for the support, care,
23 maintenance, education, and training of the minor.~~

24 ~~(3) Fees and expenses paid in connection with
25 procuring the contract or maintaining the employment
26 of the minor.~~

27 ~~(4) Attorney's fees for services rendered in connection
28 with the contract and other business of the minor.~~

29 SEC. 5. Section 6752 is added to the Family Code, to
30 read:

31 6752. (a) A parent or guardian, as the case may be,
32 entitled to the physical custody, care, and control of a
33 minor who enters into a contract of a type described in
34 Section 6750 shall provide a certified copy of the minor's
35 birth certificate indicating the minor's minority to the
36 other party or parties to the contract.

37 (b) (1) Notwithstanding any other statute, in an
38 order approving a minor's contract of a type described in
39 Section 6750, the court shall require that 15 percent of the
40 minor's gross earnings pursuant to the contract be set



1 *aside by the minor's employer and preserved for the*
2 *benefit of the minor, either in a trust fund or other savings*
3 *plan approved by the court.*

4 (2) *The court shall require that at least one parent or*
5 *legal guardian, as the case may be, entitled to the physical*
6 *custody, care, and control of the minor at the time the*
7 *order is issued be appointed as trustee of the funds*
8 *ordered to be set aside for the benefit of the minor, unless*
9 *the court shall determine that appointment of a different*
10 *individual or different individuals as trustee or trustees is*
11 *required in the best interests of the minor.*

12 (3) *The trustee or trustees of the funds ordered to be*
13 *set aside shall promptly provide the minor's employer*
14 *with the name, address, and telephone number of the*
15 *financial institution where the funds will be held, the*
16 *name of the account, the number of the account, the*
17 *name of the minor beneficiary, the name of the trustee*
18 *or trustees of the account, and any additional information*
19 *needed by the minor's employer to deposit into the*
20 *account the portion of the minor's gross earnings in*
21 *accordance with the order.*

22 (4) *The minor's employer shall deposit or disburse the*
23 *funds as required by the order within 15 business days of*
24 *receiving the order or within 15 business days of receiving*
25 *from the trustee the account information required by this*
26 *section, whichever is later. Notwithstanding any other*
27 *statute, pending such a deposit or disbursement, the*
28 *minor's employer shall hold for the benefit of the minor*
29 *15 percent of the minor's gross earnings pursuant to the*
30 *contract.*

31 (5) *When making the initial deposit of funds pursuant*
32 *to the order, the minor's employer shall provide the*
33 *financial institution with a copy of the order.*

34 (6) *Once the minor's employer deposits the set aside*
35 *funds into a trust fund or other savings plan approved by*
36 *the court, the minor's employer shall have no further*
37 *obligation or duty to monitor or account for the funds.*
38 *The trustee or trustees of the trust fund or other savings*
39 *plan shall be the only individual or individuals with the*



1 *obligation or duty to monitor and account for such funds*
2 *once they have been deposited by the minor's employer.*

3 (7) *The court shall have continuing jurisdiction over*
4 *the trust fund or other savings plan established pursuant*
5 *to the order and may at any time, on good cause shown,*
6 *order that the trust fund or other savings plan to be*
7 *amended or terminated, notwithstanding the provisions*
8 *of the declaration of trust or other savings plan. An order*
9 *amending or terminating a trust fund or other savings*
10 *plan may be made only after such reasonable notice, as*
11 *fixed by the court, to the beneficiary, and to the trustee*
12 *or trustees of such funds if the beneficiary is then a minor,*
13 *with opportunity of all such parties to appear and be*
14 *heard.*

15 (8) *The trustee or trustees of the funds ordered to be*
16 *set aside shall promptly notify the minor's employer in*
17 *writing of any change in facts which affect the employer's*
18 *obligation or ability to set aside the funds in accordance*
19 *with the order, including, but not limited to, a change of*
20 *financial institution or account number, or the existence*
21 *of a new or amended order issued pursuant to paragraph*
22 *(7) amending or terminating the employer's obligations*
23 *under the original order. Such written notification shall*
24 *include the information set forth in paragraph (3) and*
25 *shall be accompanied by a true and accurate photocopy*
26 *of the new or amended order, or written confirmation*
27 *from the financial institution that it has received a true*
28 *and accurate photocopy of the original order or the new*
29 *or amended order, as the case may be.*

30 (c) (1) *Notwithstanding any other statute, for any*
31 *minor's contract of a type described in Section 6750 which*
32 *contract is not being submitted for approval by the court*
33 *pursuant to Section 6751, or for which the court has issued*
34 *a final order denying approval, 15 percent of the minor's*
35 *gross earnings pursuant to the contract shall be set aside*
36 *by the minor's employer either in a trust fund or other*
37 *savings plan, and preserved for the benefit of the minor*
38 *in accordance with Section 6753.*

39 (2) *A parent or guardian, as the case may be, entitled*
40 *to the physical custody, care, and control of the minor*



1 shall promptly provide the minor's employer with a true
2 and accurate photocopy of the letter or certificate issued
3 by the financial institution pursuant to subdivision (c) of
4 Section 6753.

5 (3) The minor's employer shall deposit 15 percent of
6 the minor's gross earnings pursuant to the contract in
7 accordance with the time requirements set forth in
8 Section 204 of the Labor Code, or within 15 business days
9 of receiving the letter or certificate issued by the financial
10 institution pursuant to subdivision (c) of Section 6753, or
11 within 15 business days of receiving a final order denying
12 approval of the contract, whichever is later.
13 Notwithstanding any other statute, pending receipt of
14 such a letter or certificate issued by the financial
15 institution or the final court order, the minor's employer
16 shall hold for the benefit of the minor the 15 percent of
17 the minor's gross earnings pursuant to the contract.

18 (4) Once the minor's employer deposits the set aside
19 funds into a trust fund or other savings plan pursuant to
20 Section 6753, the minor's employer shall have no further
21 obligation or duty to monitor or account for such funds.
22 The trustee or trustees of such trust fund or other savings
23 plan shall be the only individual or individuals with the
24 obligation or duty to monitor and account for those funds
25 once they have been deposited by the minor's employer.

26 (5) The superior court in any county in which the
27 minor resides or in which the trust fund or other plan is
28 established may at any time, on good cause shown, order
29 that the trust fund or other savings plan be amended or
30 terminated, notwithstanding the provisions of the
31 declaration of trust or other savings plan. An order
32 amending or terminating a trust fund or other savings
33 plan may be made only after reasonable notice, as fixed
34 by the court, to the beneficiary, and to the trustee or
35 trustees of such funds if the beneficiary is then a minor,
36 with opportunity of all parties to appear and be heard.

37 (6) A parent or guardian, as the case may be, entitled
38 to the physical custody, care, and control of the minor
39 shall promptly notify the minor's employer in writing of
40 any change in facts which affect the employer's obligation



1 or ability to set aside funds for the benefit of the minor in
2 accordance with this section, including, but not limited
3 to, a change of financial institution or account number, or
4 the existence of a new or amended order issued pursuant
5 to paragraph (5) amending or terminating the
6 employer's obligations under this section. Such written
7 notification shall be accompanied by a true and accurate
8 photocopy of the letter or certificate issued by the
9 financial institution pursuant to subdivision (c) of Section
10 6753, a true and accurate photocopy of the new or
11 amended order, or written confirmation from the
12 financial institution that it has received a true and
13 accurate photocopy of the new or amended order, as the
14 case may be.

15 SEC. 6. Section 6753 of the Family Code is repealed.

16 ~~6753. The court has continuing jurisdiction over a~~
17 ~~trust or other savings plan established pursuant to Section~~
18 ~~6752 and may at any time, on good cause shown, order~~
19 ~~that the trust or other savings plan be amended or~~
20 ~~terminated, notwithstanding the provisions of the~~
21 ~~declaration of trust or other savings plan. The order may~~
22 ~~be made only after such reasonable notice to the~~
23 ~~beneficiary and to the parent or parents or guardian, if~~
24 ~~any, as is fixed by the court, with opportunity of all such~~
25 ~~parties to appear and be heard.~~

26 SEC. 7. Section 6753 is added to the Family Code, to
27 read:

28 6753. (a) A parent or legal guardian, as the case may
29 be, entitled to the physical custody, care, and control of
30 the minor shall establish a trust fund or other savings plan
31 pursuant to this section at a bank, savings and loan
32 institution, credit union, or brokerage firm in the State of
33 California for the purpose of preserving for the benefit of
34 the minor the portion of the minor's gross earnings
35 pursuant to the contract described by paragraph (1) of
36 subdivision (c) of Section 6752. At least one such parent
37 or guardian shall be trustee of the trust fund or other
38 savings plan for the benefit of the minor.

39 (b) Except as otherwise provided in this section, prior
40 to the date on which the beneficiary attains the age of 18



1 years, no withdrawal may be made of funds on deposit in
2 the trust fund or other savings plan without written order
3 of the superior court pursuant to paragraph (7) of
4 subdivision (c) of Section 6752. Upon reaching the age of
5 18 years, the beneficiary may withdraw the funds on
6 deposit in the trust fund or other savings plan only after
7 providing a certified copy of the beneficiary's birth
8 certificate to the financial institution where the trust fund
9 or other savings plan is established.

10 (c) The financial institution where the trust fund or
11 other savings plan is established shall issue to the trustee
12 an original letter or certificate confirming the
13 establishment of an account subject to this section. The
14 letter or certificate shall include the name, address, and
15 telephone number of the financial institution, the name
16 of the account, the number of the account, the name of
17 the minor beneficiary, the name of the trustee or trustees
18 of the account, and any additional information needed by
19 the minor's employer to deposit into the account the
20 portion of the minor's gross earnings prescribed by
21 paragraph (1) of subdivision (c) of Section 6752.

22 (d) The trust fund or other savings plan shall be and
23 remain fully insured at all times by the Federal Deposit
24 Insurance Corporation (FDIC), the Securities Investor
25 Protection Corporation (SIPC), or the National Credit
26 Union Share Insurance Fund (NCUSIF). The trustee or
27 trustees of the trust fund or other savings plan shall be the
28 only individual or individuals with the obligation or duty
29 to ensure that such funds remain fully insured in
30 accordance with this section.

31 (e) Upon application by the trustee or trustees to the
32 financial institution where the trust funds are held, the
33 trust funds may be handled in any of the following
34 methods:

35 (1) Transferred to another account at the same
36 financial institution, provided that the funds so
37 transferred shall continue to be subject to this section.

38 (2) Transferred to another financial institution in the
39 State of California, provided that the funds so transferred
40 shall continue to be subject to this chapter and that the



1 trustee or trustees have provided written evidence to the
2 transferring financial institution that the financial
3 institution to which the funds will be transferred has
4 received written notification that such funds are subject
5 to this section.

6 (3) Used by the financial institution to purchase, in the
7 name of and for the benefit of the minor, United States
8 government securities and bonds, certificates of deposit,
9 money market instruments, money market accounts, or
10 mutual funds investing solely in such United States
11 government securities and bonds, certificates,
12 instruments, and accounts, which are available at the
13 financial institution where such trust funds are held,
14 provided that the funds remain in trust and fully FDIC,
15 SIPC, or NCUSIF insured at all times and have a maturity
16 date on or before the date upon which the minor will
17 attain the age of 18 years, and provided further that any
18 proceeds accruing from those purchases be deposited
19 into that account or accounts or used to further purchase
20 any such securities, bonds, certificates, instruments, or
21 accounts.

22 SEC. 8. Section 7500 of the Family Code is amended
23 to read:

24 7500. (a) The mother of an unemancipated minor
25 child, and the father, if presumed to be the father under
26 Section 7611, are equally entitled to the services and
27 earnings of the child.

28 (b) If one parent is dead, is unable or refuses to take
29 custody, or has abandoned the child, the other parent is
30 entitled to the services and earnings of the child.

31 (c) This section shall not apply to any services or
32 earnings of an unemancipated minor child related to a
33 contract of a type described in Section 6750.

34 amended to read:

35 ~~6750. This chapter applies to the following contracts:~~

36 ~~(a) A contract pursuant to which a person agrees to~~
37 ~~purchase, or otherwise secure, sell, lease, license, or~~
38 ~~otherwise dispose of literary, musical, or dramatic~~
39 ~~properties, either tangible or intangible, or any rights~~
40 ~~therein for use in motion pictures, television, the~~



1 ~~production of phonograph records, the legitimate or~~
2 ~~living stage, or otherwise in the entertainment field.~~

3 (b) ~~A contract pursuant to which a person is employed~~
4 ~~or agrees to render services as a participant or player in~~
5 ~~a professional sport, including, but not limited to, services~~
6 ~~as a professional boxer, professional wrestler, or~~
7 ~~professional jockey.~~

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