

Date of Hearing: April 12, 2016

ASSEMBLY COMMITTEE ON ARTS, ENTERTAINMENT, SPORTS, TOURISM, AND  
INTERNET MEDIA

Kansen Chu, Chair

AB 2068 (Holden) – As Amended March 28, 2016

**SUBJECT:** Talent services.

**SUMMARY:** Requires talent services that post information about artists under contract via specified online and mobile platforms to remove photographs and other artist information from those locations upon an artist's request within 10 days.

Specifically, **this bill:**

- 1) Requires a talent service under contract with an artist that lists or displays information about the artist, including a photograph on the service's online service, online application, or mobile application – or on an online service, online application, or mobile application that the service has authority to design or alter – to include in the artist's contract a provision that gives the artist the right to request removal of the artist's listing and content within 10 days.
- 2) Requires a talent service under contract with an artist to remove information about, and photographs of, the artist displayed on the talent service's online service, online application, or mobile application – or on an online service, online application, or mobile application that the service has authority to design or alter – within 10 days of a request from the artist, or the artist's parent or guardian if the artist is a minor.
- 3) Adds "text message" and other "electronic communication" to the list of methods by which an artist may request removal of photographs and other information about the artist from a website, online service, online application, or mobile application owned or serviced by the talent service.
- 4) Makes a technical, clarifying amendment.

**EXISTING LAW:**

- 1) Defines "talent services" to include "talent counseling services" which provide career counseling, vocational guidance, aptitude testing or career evaluation for artists; "talent listing services" which provide lists of auditions and employment opportunities for artists; and "talent training services" which provide lessons, coaching, seminars, workshops, and similar training to artists. (Labor Code Section (LC) 1701)
- 2) Regulates the licensing and operation of talent services within the entertainment industry, including prohibiting advance fee talent services, mandating certain contract provisions, such as a right of cancellation, regulating the fees to be charged for services, specifying records to be maintained by talent services, establishing bonding requirements, and specifying remedies for violation of these provisions. (LC 1701, *et seq.*)
- 3) Requires a talent service under contract with an artist that lists or displays information about the artist, including a photograph on the service's website – or on a website that the service

has authority to design or alter – to include in the artist’s contract a provision that gives the artist the right to request removal of the artist’s listing and content (including photographs). (LC 1703)

- 4) Requires talent services under contract with an artist to remove information about and photographs of the artist displayed on the talent service’s website – or on a website that the service has authority to design or alter –within 10 days of a request from the artist, or the artist’s parent or guardian if the artist is a minor. (LC 1703.4)
- 5) Makes violation of the laws governing talent service a misdemeanor punishable by imprisonment in a county jail for not more than one year, by a fine not exceeding ten thousand dollars (\$10,000), or both. (LC 1704)
- 6) Authorizes the Attorney General, a district attorney, or a city attorney to bring an action for a violation of the laws governing talent services. (LC 1704.1)
- 7) Authorizes a person injured by a violation of the laws governing talent services to bring an action to recover damages or enjoin a violation, or both, and awards a prevailing plaintiff reasonable attorney’s fees and costs. (LC 1704.2)
- 8) Exempts certain entities from the above provisions, including public educational institutions, non-profit corporations that meet specified requirements, labor organizations, bona fide journalism publications, and public institutions. (LC 1702.4)

**FISCAL EFFECT:** Unknown

**COMMENTS:**

- 1) *Author's statement of need for legislation: modernize Labor Code provisions regarding talent service agencies.* According to the author's office, “The evolution of the digital age has created the convenience of having a smartphone to function like a computer and expanded the possibilities for individuals to communicate with one another through mobile and online digital applications. Assembly Bill 2068 makes a technical change to update the law to accommodate these newer forms of technology.

As noted in the Assembly Committee on Privacy & Consumer Protection analysis of this measure, "Many talent service agencies encourage their clients to download specific mobile apps, such as 'What's App,' onto their smart phone in order to communicate with the talent service. In addition, some talent services have a company-owned mobile app, where information and photos of artists are posted. If an artist decides to quit the talent service and requests to have information and photos removed from the service’s mobile application, the service is not obligated to do so under current law, because current law only requires a talent service to remove content and photos from the “website” maintained by the agency.

"This bill updates the talent service laws to accommodate new technologies, such as mobile apps and online services that are not on the Internet as websites. The bill applies the same 10-day deadline that currently applies to the removal of website content and photos to the removal of content and photos from mobile apps and online services.

"The bill also updates current law to allow artists to submit requests for removal of content and photos by text message or other electronic communication. Current law only permits requests for removal to be submitted by phone, mail, fax, or email specifically. By adding the term "other electronic communication" the author intends to capture other forms of electronic messaging."

- 2) *Committee comment: As currently drafted AB 2068 is a technical measure which modernizes certain remedies but does not expand the scope of the Krekorian Act. As a recent investigative series makes clear, talent service scams remain a problem despite existing laws to prevent them. According to the Los Angeles Times investigative reporting series ("Selling Stardom," Los Angeles Times, December 2015) very few cases have been prosecuted under California's laws, with only two cases brought since 2010. The Times reports, at least 10 "talent listing firms" are doing business in Los Angeles County and require upfront fees of up to \$600 and ongoing monthly fees of \$20 - \$40 for aspiring actors, models, and other artists. While this bill does not solve the apparent enforcement issue, the author contends the law needs to be updated so that it applies not only to talent agencies that operate websites, but also to agencies that operate mobile applications (mobile apps).*

As noted above, AB 2068 provides the ability for a person who wishes to end their relationship with a talent service to request their information be removed from an expanded list of online and mobile platforms, and provides that the request may be made through use of text or electronic messaging. Recent press reports have misunderstood the scope of the bill and have suggested that the measure has expanded the enforcement of the Talent Services Scam laws. For instance, this from Deadline Hollywood, "AB 2068, known as the Talent Agent Scam Prevention Bill, updates the 2009 Krekorian Talent Scam Prevention Act by making it illegal for agents to charge clients for classes and promises of employment through solicitations over the Internet and via mobile devices." (Deadline Hollywood, *California Talent Agent Scam Prevention Bill Clears First Hurdle*, March, 2016). Daily Variety wrote of the bill, "The bill updates the talent service laws to include mobile apps and online services that are not on the internet as websites." Noting, "Some agents and managers have websites where they charge actors to submit online for representation and even for projects they are supposedly producing... (passage of) this bill should help the State of California crack down on talent scams affecting children and adults and gives teeth to AB 1319 — the Krekorian Talent Scam Prevention Act." (Daily Variety, *California Moves to Tighten Rules on Talent Agent Scams*, March, 2016).

Should the author wish to amend his measure to accomplish this stated goal of expanding the application of the Krekorian Act to cover all media, the committee offers the following language to amend section 1703.4 (a) (prohibited acts) to clarify the scope of the Act:

1703.4(a): A talent service, its owners, directors, officers, agents, and employees shall not do any of the following *through any means of communication, including but not limited to in person, through use of a telecommunication device, in print, on the Internet, or through use of a mobile or online application or other electronic communication:*

3) *Prior and related legislation.*

- a) AB 1687 (Calderon) Legislation of 2016, would prohibit a commercial online entertainment employment service provider, as defined, that enters into an agreement to provide certain employment services from publishing or sharing information about the subscriber's age as specified, and would require the provider to remove any information regarding the subscriber's age from any Internet website under the provider's control if requested by the subscriber. This measure is currently pending before the committee.
- b) AB 984 (Calderon) Legislation of 2015, would have prohibited employers from using age and birthdate information found online, as specified, to discriminate against job applicants. Status: Held in the Assembly Appropriations Committee.
- c) AB 1319 (Krekorian), Chapter 286, Statutes of 2009, revised and recast laws regulating talent services and required talent services to remove artist information and photos from talent agency owned or controlled websites within 10 days of a request by the artist.
- d) SB 1687 (Murray), Chapter 288, Statutes of 2004, closed a loophole for those who charge up-front fees for photographs or "casting kits" while indicating that these services will lead to employment.
- e) AB 2860 (Kuehl), Chapter 878, Statutes of 2000, corrected a drafting error to narrow the law to avoid regulating individuals who served merely as photographers, costume designers, drama coaches, or in similar occupations but not engaging in advance-fee talent services.
- f) AB 884 (Kuehl), Chapter 626, Statutes of 1999, regulated advanced fee talent services.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

SAG/AFTRA

**Opposition**

There is no opposition on file.

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