

Date of Hearing: April 10, 2024

ASSEMBLY COMMITTEE ON EDUCATION
Al Muratsuchi, Chair
AB 2961 (Addis) – As Amended March 21, 2024

[Note: This bill is double referred to the Assembly Labor and Employment Committee and will be heard by that Committee as it relates to issues under its jurisdiction.]

SUBJECT: Employment of minors: training on sexual harassment

SUMMARY: Requires a minor to complete a mandatory training on sexual harassment prevention, retaliation, and reporting resources prior to obtaining a work permit. Specifically, **this bill:**

- 1) Requires a minor to complete a mandatory training on sexual harassment prevention, retaliation, and reporting resources prior to obtaining a work permit.
- 2) Requires the parent or guardian of the minor to certify that they accompanied the minor for the training, and that the training has been completed.
- 3) Requires the training specified in (1) to be completed using the online training course available on the website of the Civil Rights Department, in the language understood by the minor and their parent or guardian, whenever reasonably possible.
- 4) Specifies that no reimbursement of local educational agencies (LEAs) is required by this measure.

EXISTING LAW:

- 1) Prohibits any person, firm or corporation from employing any minor under the age of 18 years to work in or in connection with any establishment or occupation without a permit to employ, issued by the proper educational officers, and in accordance with law. (Education Code (EC) 49160)
- 2) Requires the notification of the intent to employ a minor to contain:
 - a) The name, address, phone number, and social security number of the minor;
 - b) The name, address, phone number, and supervisor at the minor's place of employment;
 - c) The kind of work the minor will perform;
 - d) The maximum number of hours per day and per week the student will be expected to work for the employer; and
 - e) The signatures of the parent or guardian, of the minor, and of the employer. (EC 49163)
- 3) Authorizes specified school district, charter school, and private school officials to issue a minor a work permit if requested by the minor's parent, guardian, foster parent, or caregiver.

Any principal issuing a work permit must provide a self-certification that he or she understands the requirements in existing law for issuing a work permit and submit a copy of each work permit he or she issues along with a copy of the application for each work permit to the superintendent of the school district in which the school is located. (EC 49110)

- 4) Specifies that a permit to work may be issued to any minor over the age of 12 years and under the age of 18 years to be employed on a school holiday or during the regular vacation of the school. (EC 49111)
- 5) Authorizes the provision of a work permit to a minor who has completed the equivalent of the 7th grade to work outside of school hours for not more than three hours per day on days when school is in session if the minor is 14 or 15 years of age; four hours per day if the minor is 16 or 17 years of age; or for a minor who is 16 years or older, up to eight hours in any day which is immediately prior to a non-school day. (EC 49112)
- 6) Authorizes the attendance supervisor of any school district in which a place of employment is situated, or the probation officer of the county, to at any time enter into the place of employment for the purpose of examining permits to work for minors employed, for the purpose of investigating violations of the Labor Code or the Education Code provisions. (EC 48246)
- 7) Prohibits any employer employing a minor 16 or 17 years of age for more than 8 hours in one day or more than 48 hours in one week. (Labor Code (LAB) 1391)
- 8) Provides that any person employing either directly or indirectly through third persons, or who employs, or permits any minor to be employed in violation of the law, is guilty of a misdemeanor, and subject to a fine of \$1,000 to \$5,000 or imprisonment in the county jail for not more than six months, or both. (LAB 1303)
- 9) Requires employers who are employing minors directly or indirectly through third persons to maintain files of all work and employment permits and certificates issued, and to make this available at all times to inspection by school attendance and probation officers, the State Board of Education (SBE), and officers of the Division of Labor Standards Enforcement. (LAB 1299).
- 10) Requires, prior to the issuance of an entertainment work permit to a minor, a parent or guardian ensure the minor completes training in sexual harassment prevention, retaliation, and reporting using the online training course available on the website of the Civil Rights Department and certifies to the Labor Commissioner that the training has been completed. (LAB 1700.52)
- 11) Requires employers having five or more employees to provide at least two hours of classroom or other effective interactive training and education regarding sexual harassment to all supervisory employees and at least one hour to all nonsupervisory employees in California every two years. Requires the Civil Rights department to develop or obtain two online training courses on the prevention of sexual harassment in the workplace with the course for supervisory employees being two hours in length, and for non-supervisory employees, one hour. (Government Code (GOV) 12950.1)

FISCAL EFFECT: The Office of Legislative Counsel has keyed this bill as a possible state-mandated local program.

COMMENTS:

Need for the bill. According to the author, “California’s teens deserve to be empowered with the knowledge to recognize, prevent, and report harassment in the workplace. I came up with AB 2961, because it’s important that we proactively ensure youth have the tools they need to be in workplaces free of harassment and abuse and to know what to do if they occur.”

Work permits are issued by school officials. Minors employed in the state of California must have a Permit to Employ and Work (commonly referred to as a “work permit”). Work permits are typically issued by the school where the student is enrolled. Work permits indicate the duties and location where the work will be done as well as the number of hours a minor may work. In most cases it is a two-step process, the minor along with the parent/guardian and employer fill out the B1-1 form and submit it to the school local to the minor's address. The school district reviews the form and issues the work permit.

As the laws relating to the issuance of work permits are permissive, it is solely within the discretion of the authorized school official to determine whether a minor, who is subject to compulsory education laws, may obtain a work permit in order to be employed to work. Schools have the discretion to impose additional requirements for the issuance of a work permit, such as a requirement that the pupil maintain a certain grade point average. In addition, the school issuing the work permit may reduce maximum work hours and impose additional occupational restrictions not specified in statute or regulation, but may not extend hours beyond the maximum hours specified, or waive any occupational restrictions in statute or regulation.

According to the CDE, the current system has protective laws in place that regulate the times at which the minor may work (not too early and not late at night nor overnight) and the duration of the employment (not too many hours). All of these laws prevent exploitation and ensure the minor is able to attend school and graduate. There are also laws concerning the regulation of the content of the work performed by the minor where equipment and job duties not appropriate for minors are prohibited. All of these protections are made possible by labor inspectors from the Division of Labor Standards Enforcement (DLSE) of the Department of Industrial Relations and inspectors from the federal Wage and Hour Division of the US Department of Labor physically inspecting worksites.

What constitutes sexual harassment? According to the California Civil Rights Department, “Sexual harassment is a form of discrimination based on sex/gender (including pregnancy, childbirth, or related medical conditions), gender identity, gender expression, or sexual orientation. Individuals of any gender can be the target of sexual harassment. Unlawful sexual harassment does not have to be motivated by sexual desire. Sexual harassment may involve harassment of a person of the same gender as the harasser, regardless of either person’s sexual orientation or gender identity.” They go on to distinguish between two types of sexual harassment:

- Quid pro Quo sexual harassment is when someone conditions a job, promotion, or other work benefit on a person’s submission to sexual advances or other conduct based on sex;
or

- Hostile work environment sexual harassment occurs when unwelcome comments or conduct based on sex unreasonably interferes with a person's work performance or creates an intimidating, hostile, or offensive work environment. One may experience sexual harassment even if the offensive conduct was not aimed directly at them. The harassment must be severe or pervasive to be unlawful. A single act of harassment may be sufficiently severe to be unlawful.

Minors experience sexual harassment in a variety of workplace settings. Teenage workers are often employed in part-time positions in hospitality and retail industries which have the highest rates of sexual harassment and violence, exposing them to environments in which harassment is pervasive. As temporary or part-time workers, teens may not receive the same level of training and information about sexual harassment policies, any workplace rights they may have, and available remedies. Furthermore, being new to the workforce, teen workers may not have an understanding of acceptable workplace behaviors. When sexual harassment is commonplace and left unaddressed in a workplace, these behaviors become accepted as a “normal” part of work life, particularly as teen workers look to more experienced employees as models. Because of these factors, teenage workers are particularly vulnerable to experiencing workplace sexual harassment. (Workplaces Respond to Domestic and Sexual Violence, 2019)

One study of high school students who held part-time jobs found that 2 in 3 girls and 1 in 3 boys reported being sexually harassed at work. The majority reported that they were harassed by co-workers (61%), followed by supervisors (19%), and customers (18%). (Fineran, 2002)

A more recent study of teen employees found that among 14 to 17-year-old workers across industries, 24% reported being sexually harassed and 6% said they had been sexually assaulted. Workplace violence was most prevalent among workers in healthcare settings and eating and drinking places. (Rauscher, 2023)

The impacts of these experiences can seriously harm a survivor's future career path and economic well-being. Studies have found that teenage workers who experience workplace sexual harassment are more likely to have higher levels of stress, academic withdrawal, school absences, and demonstrate depressive symptoms that lasted nearly 10 years after the incident. Young workers who experience sexual harassment may struggle with productivity as they cope with the physical and mental health consequences of violence, may abandon certain career paths due to harassing behaviors they experienced, or may accept sexual harassment and violence as a “normal” part of work. As a result, early exposure to workplace sexual harassment disrupts young workers' career paths and overall well-being, leading to poorer health outcomes and diminished economic security. (Workplaces Respond to Domestic and Sexual Violence, 2019)

Sexual harassment prevention training. Providing teen workers with education and support around workplace sexual harassment and violence will help them achieve better careers and opportunities over the course of their lives. This bill requires the mandatory sexual harassment prevention training to be completed, by students seeking a work permit, using the online training provided by the California Civil Rights Department. These trainings are available in English, Spanish, Korean, Chinese, Vietnamese, and Tagalog. Upon completion of the online training, the participant is able to download a certificate of completion.

This training is required for minors working in the entertainment industry. AB 3175 (Levine) Chapter 176, Statutes of 2020, requires applicants for entertainment work permits, who are between 14 -17 years of age, to complete training in sexual harassment prevention, retaliation, and reporting resources prior to obtaining an entertainment work permit. Talent agencies must request and retain a copy of a minor's entertainment work permit prior to representing or sending the minor artist on an audition, meeting, or interview for engagement of the minor's services.

Recommended Committee Amendments. Committee staff recommend that the bill be amended as follows:

- 1) Remove the requirement that the parent or guardian accompany the minor for the training and require that the parent or guardian certify that the training has been completed.

Related legislation. AB 800 (Ortega) Chapter 271, Statutes of 2023, designates the week of each year that includes April 28 as "Workplace Readiness Week" and requires all public high schools to observe that week; requires schools to provide information to students in grades 11 and 12 on labor rights included in the history-social science curriculum framework; and requires schools to provide students seeking a work permit with a document that clearly explains basic labor rights, as specified.

AB 640 (Lee) of the 2023-24 Session authorizes an employer to use the current Uniform Resource Locator (URL) for the employer's website in place of the address of the place of employment in the notification to employ a minor, subject to a parent or guardian signing an informed consent form identifying the potential dangers to the minor of online work. This bill was held in the Assembly Labor and Employment Committee.

AB 3175 (Levine), Chapter 176, Statutes of 2020, requires applicants for entertainment work permits, who are between 14 -17 years of age, to complete training in sexual harassment prevention, retaliation, and reporting resources prior to obtaining an entertainment work permit.

SB 1428 (McGuire), Chapter 420, Statutes of 2018, prohibits a school from denying a work permit for a minor on the basis of the pupil's grades, grade point average, or school attendance, if the permit would allow the pupil to participate in a government-administered employment and training program that will occur during the regular summer vacation of the school that the pupil attends.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file

Opposition

None on file

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