

## **PART I**

### ***History - the purpose of the Amendments to the law***

#### **SB210 - Amendment to the Coogan Law (SB1162)**

According to testimony given to California legislators, there is money being held by producers (employers) that has not been deposited into a Coogan account. The amendments originally drafted for the law indicated that the amount being held was over \$1,000,000 (one million) and that this was mostly from small dollar non-union work, (this doesn't really make sense or add up). The sole reason blamed for this non-payment of wages was that the parents were failing to comply with the law by not opening Coogan accounts.

Several parents saw the details to the proposed amendments, and it was already apparent to them that the Coogan withholding / deposit system has no regulation, and knew that there would be many reasons why a producer would not deposit the withholdings. Again, although there are responsibilities from many entities in the entire process, the failure was placed solely on the non-compliant parents.

It was a very appalling revelation that the law that was meant to 'protect' the money for the child who earned it resulted in \$1,000,000 + not getting into those accounts. Simply stated, this system isn't working. The other responsible parties were unwilling to address any additional problems in this process. So, there is a need for greater emphasis on parent education for this 'business' and we need to each be proactive to avoid these types of problems. Hence the creation of bizparentz - parents helping parents.

The money that had been previously undeposited into the Coogan Accounts is approaching being 'old' enough to fall under the State of California escheat laws. Escheat is the process where money - most commonly left in an inactive bank account for 3 years - is sent to the state, and it is held there. It may be claimed later, but the state doesn't search for the people and the claim process can be quite precise. (Unclaimed Property websites are a result of money/ property escheating to the state). The state escheat system is well established and is a very visible means of locating 'lost' money.

Early on, it was determined that a private escheat should be created to keep the Coogan withheld money from going to the state. This amendment did create a private escheat system. It also added additional responsibilities to parents and studio teachers. The idea was that by making certain a child couldn't work without having a Coogan account the money would not continue to accumulate.

#### **What does that mean to me?**

The first thing on every parents agenda needs to be determining if every dollar withheld from their child was deposited into their Coogan account. We, as a society, are very trusting of our payroll process. We see a withholding for federal tax, and we are confident in the systems in place that our taxes are forwarded and credited as being withheld from our earnings. If you have worked for several different employers, you will notice that the Coogan withholding is handled and even labeled differently by everyone. There is no standardized 'system' in place that everyone follows. We can not blindly trust that the withholding on the pay check was actually deposited. It appears that there is about a 25% error rate on the Coogan process. In the early months of 2000, while everyone was experiencing a learning curve, it was much higher.

**STEP 1** - Check your records to determine if all withholdings were deposited into your child's Coogan account. (In our meetings we actually teach you a nifty and multi-purposed way to do this). It can be as simple as writing down the withholdings on a piece of paper and matching them to the bank statements. If you find that you have withholdings not deposited, you need to contact that payroll company right away. After January 1st, monies that are more than 180 days old (6 months) may be sent to The Actors' Fund, who will then become trustee of your child's money.

There are many unanswered questions regarding how this transfer process will work, and if there will be an accessible paper trail. The law does specifically release the producer from liability once they transfer the money to The Actors' Fund. The easiest thing to do.. is verify that you have all of your money from the past, and continue to do so in the future, and you won't have to be concerned about where your child's earnings have gone, or how to get them back. You will know every penny withheld is in their Coogan account where it belongs.

FYI

The amendment

- transfers the old money to Actors' Fund
- changes validity of the work permit without proper documentation
- defines proper Coogan documentation
- requires the producer to give a parent a receipt showing they received their Coogan Account information
- eliminates the delay in deposit of withholdings for court approval
- allows for undeposited Coogan withholdings to continue to transfer to Fund after 180 days.

The next piece of this series will cover work permits and Coogan account documentation.

## **PART II**

### ***Work Permits - Coogan Account documentation***

This is part 2 in a 3 part series of information regarding the changes to the Coogan Law via SB210 (Senate Bill 210) which has been signed into law and will go into affect January 1, 2004.

As discussed in part #1, it is estimated that there is \$1,000,000 (one million) of wages earned by children being held by various producers that they claim can't be deposited into Coogan accounts. This is a reflection of the 15% mandatory withholding for Coogan Law that went into affect for ALL children January 1, 2000. The assumption is that those children do not have Coogan accounts because their parents didn't open one for them.

In an attempt to improve this situation, the law is increasing the requirements for work permits. Now, a work permit will be valid for only 10 business days, unless a true and accurate Statement of Trustee is attached. This law also specifies the requirement that the Coogan Account be in a California bank.

The DLSE (Department of Labor Standards Enforcement) is still working on their 'plans' to implement the law. They govern the offices which issue work permits, and also license the studio teachers. We have been in contact with all parties involved, and they have agreed to share their plans with us as soon as they are approved. As soon as we have that information, it will be passed on to you.

In the meantime, there are many things parents can do to prepare. The law clearly states what information should be on a Trustee Statement, and much can be accomplished without enforcement information from the DLSE.

For those who already have a Coogan account, you will know that when you opened the account you were give some type of paperwork. This paperwork varies from bank to bank. For example, Wells Fargo give you 2 pieces of paper with very similar information. One is a Trustee Statement, the other is titled Deposit Instructions. The new law highlights the different information and different purpose for the 2 forms.

Trustee Statement - This is YOUR statement, not the banks. The bank is not the trustee of your child's money, YOU (and/or your spouse) are. It has been helpful that most banks provide you with this form, but it is important that you realize it is your trustee statement and you are ultimately responsible for the information on it. In essence, this is you signing under penalty of perjury that this account has been set up for you child, that it is a blocked trust, and that all information is accurate and current.

The law indicates that the following information should be on a Trustee Statement:

- Name, Address & Phone # of Financial Institution
- Name of Minor (beneficiary)
- Account Name
- Account Number
- Trustee Name
- Signed under penalty of perjury by trustee

note: a photocopy is acceptable

Some points to consider: The term Coogan account is widely used, but many of the financial institutions don't use the work Coogan when describing or 'naming' their accounts. You might want to include that wording somewhere on your Statement of Trustee. We think the word Coogan will be something the studio teachers will be looking for. If your financial institution has an out of state address for processing Coogan deposits, you might wish to add a local (in California) branch address to your Statement of Trustee. Again, that will decrease the chances that any teacher will question the appropriateness of your account and your Statement of Trustee. **IMPORTANT:** There are penalties for perjury and you should not put inaccurate information on your Statement of Trustee.

The law also requires that this Trustee Statement be attached (stapled) to the back of a work permit, for the permit to remain valid for 6 months. Without a Trustee Statement attached, it will be void in 10 days.

In the next few days, we will find out the enforcement plans from the various agencies. It is absolutely certain that there will be a learning curve and much confusion in the industry for the next few months. However, an informed parent can check their paperwork, attach it to their work permit, and not have to be concerned about what they encounter on set. If the set teacher doesn't know about the new requirement it will not hurt for the Trustee Statement to be attached to the work permit. You can prepare now and avoid potentially having your work permit voided due to lack of paperwork in the future.

So, review your Trustee Statement. Does it include all of the information listed above? Is it in a California bank? If you were a teacher responsible for ensuring that it was true and accurate would you believe it? Remember, this is YOUR statement, and you can include information on it as you see fit, as long as it is true and accurate. If it doesn't look like an official document from your bank, you might ask to have it printed on their letter head. You might simply cut and paste their letter head onto your document and make copies, as long as that information is correct. Remember the purpose - to ensure that your child has a Coogan account established for them, in a California bank.

Deposit Instructions - the second document which has always been required is the Deposit Instructions. Note: some financial institutions combine the 2 documents, which is fine, just be certain to verify that all of the information is on it. The purpose for the deposit instructions has not changed. You will still need to provide this document to the 2nd AD or whomever is handling the payroll paperwork on set. Deposit instructions should include the following information:

- Financial Institution Logo
- Name of Account
- Name of Minor
- Name of Trustee
- Routing Number
- Social Security Number
- Financial Institution contact information

Some points to consider: This is the document that will allow the employer to make a deposit into you child's Coogan account. This information is **CRITICAL** to the process and must be accurate and complete. If you bank changes account numbers (via merging with another bank) you must remember to be certain you get updated documents from them that accurately indicate routing number and account number of your child's account. Often an employer will have their own form requesting much of the information already on your Deposit Instructions. They may have a standardized payroll document and wish to have you enter the information onto their form. If you are presented with that request, certainly fill it out for them, and be accurate with the numbers. Encourage them to also keep a copy of your Deposit instructions.

Receipt An additional change is that now an employer is also required to give you a 'receipt' indicating that they received your child's Coogan paperwork. There are big unanswered questions about how this will be handled by the employers. We have available to you a 'sample' receipt that was passed on to us by another parent. You might want to consider bringing your own receipt and requesting to get it signed, at least until everyone involved is up to speed on this change. We do not recommend making a big deal of this, but it is your protection and proof later. It is also the only standardization that goes both ways, which is reflective of most business transactions. Perhaps having this give and take of information will raise the awareness of the importance of those Coogan Account documents. We know how often they have been lost in the past.

It is important to keep in mind that there are now 2 separate Coogan issues at the workplace. 1 - attached to work permit as proof of an existing account 2 - to the payroll entity so that the deposits can be made into the account.

It is advised that you have several photo copies of both of these documents available in the folder or book that you keep your child's headshots, etc. in.

Note: The DLSE will only issue a work permit once every 6 months, per this law. This is their response to someone just continually getting a new permit reissued after the 10 day time period is up. After talking to that office, it appears they are trying to tighten their system. Once they release their plans, we will see what the changes will be.

We still have many unanswered questions about how parents will be notified, if the work permit itself will change, how studio teachers will determine validity, and what happens if the paperwork isn't there, or if the information on it is not what should be on it as stated in the law. We have asked those questions, and again, as the information become available, we will share it with you. We know it is going to be a confusing and rough time, much like the first 6 months of 2000 was in regards to Coogan matters. The difference now is that the work permit effects the ability for a child to work - so it's a **BIG** deal.

## **PART III**

To review, #1 covered the history of the law and why the amendments were made. #2 talked about the paperwork, defined the trustee statement and deposit instructions which have now become even more critical as the trustee statement must be attached to the work permit for it to remain valid for the entire 6 months.

This installment is going to cover your responsibilities as a parent and trustee of your child's money AFTER they have worked. This is a good New Years Resolution to make, and a good time to start with a fresh new system!

The first concern is: was 15% withheld from the check for the Coogan account, and was that amount deposited. In our current society, we are very trusting about money withheld from our paychecks. It is a standard process and no thought is given to the withholdings for taxes, 401K, garnishments, etc. We certainly don't feel a need to call and trace each withholding to see that it got there. In fact, other than at year end tax time when we might match the paystub to the W-2, we barely think about it. This is a habit we have to break when it comes to the Coogan Account transactions. By nature, they are always an exception to the rule.

Starting with the check stub itself - there is not a standardized little square for Coogan Withholdings. You may find the notation and amount almost anywhere on a check stub. Some examples we've seen listed it as Trust, Garnishment, Lein. Again, it is an exception in the payroll world. So.. first rule - calculate the 15% of the gross and look for that amount on the check stub. You need to know what amount you are looking for and you need to determine if it was withheld. If your representation doesn't provide you with a copy of the original check stub, you need to request it. Besides the fact that you should have access to that information for your records, your Coogan responsibility is almost impossible to do accurately if you do not have a copy of the original check stub.

So, you have a check stub, and you see a withholding for 15% on the stub - that tells you that the employer did withhold 15% of your child's earnings from them for deposit into their Coogan Account. Remember that this is always a process that is an exception, keep in mind that several things have to happen, and happen correctly, in order for that money to be deposited into your child's Coogan Account.

1. The employer must have the account information
2. The account information must be correct and current ( ex: Cal Fed isn't going to be able to take an old Citi-bank account number and make that electronic transfer)
3. The employer must process the transaction - and send either a check with the pertinent information to the bank, or make an electronic transfer
4. The bank must receive and properly complete the transaction

Granted, this is similar to the payroll process anyway, but the Coogan system is not standardized and is not dealt with routinely by many payroll companies. Talent Partners who is a huge entertainment payroll entity might have an in house system that works better than others, but I would imagine only 10% of their payroll work involves minor accounts subject to Coogan. Remember, the same payroll companies are also paying adults that don't have this additional step.

The point being that this system is set up to be very susceptible to errors. The only reliable system for ensuring that these transactions occur correctly is YOU, as trustee of the Coogan account.

GOOD NEWS - for those of you who have worked for one of the companies who routinely takes contracts to court to have them court approved the new law took out the wording that allows them to hold the Coogan money until the contract is approved. Our information about the one company who was routinely doing this was that it was taking from 6 - 9 months for contracts to be approved thus they were holding deposits of the Coogan money for 6 - 9 months as well.

Obviously, this delay was creating lots of recordkeeping problems - certainly for the parent and I would suspect for the company itself.

The deposit to the Coogan account should occur within 15 days of working. Given the fact that a check is sent to an agent, then perhaps to a manager, then to the child - it is quite feasible that a deposit will be made to the Coogan account BEFORE you actually see the check that the money was withheld from.

We have devised a simple form - and I know many parents also created something similar to help them with the task of tracking and verifying the money. The form will be sent separately as an attachment. If you know you have trouble with attachments, write and we will fax or mail you one. We encourage every parent to utilize this form, or something like it. It is a multipurpose form which will allow a parent to be certain of the Coogan activity for their child.

We strongly urge each parent to have some type of system where they can record the Coogan withholdings made from their child's earnings, and then record information verifying that the money was actually deposited into their account. Remember, according to the Motion Picture Association of America - \$1,000,000 (one million) was unable to be deposited. If we believe that, there are a lot of parents not checking and verifying these deposits - but rather trusting in a non-standardized system. We have heard stories of Coogan accounts going into the wrong accounts, going to the wrong child, etc. There are lots of errors with the system - please don't blindly trust it.

Math can be your friend - and everyone can absolutely be certain about this particular issue.

If you are 100% certain all Coogan withholdings have been deposited you can start your new system in 2004. If you are not certain, please go back and review the withholdings and see that the deposits were made.

What if you don't see a deposit into the account for an amount withheld? You need to contact the employer / payroll company and see if you can resolve the situation. These unclaimed wages are the monies that will be transferred to The Actors' Fund and after transfer the employer has no more liability. If you don't resolve it with the employer, you will be hoping to identify and claim your child's money from The Actors' Fund later. And remember, these are EARNINGS - your child earned that money. As a responsible trustee, you need to be certain that they receive that money in their account.

Keep in mind if 15% isn't withheld by the employer, the deposit is still to be made, by the parent, into the Coogan account. Keeping track of earnings and withholdings will help you make these deposits and to note that you did - leaving a clear trail.

As always, if you have any questions or concerns, we are here to help each other.

Think about it - [BizInfo@BizParentz.org](mailto:BizInfo@BizParentz.org)