§ 35.03. Judicial approval of certain contracts for services of infants; effect of approval; guardianship of savings. 1. A contract made by an infant or made by a parent or guardian of an infant, or a contract proposed to be so made, under which (a) the infant is to perform or render services as an actor, actress, model, dancer, musician, vocalist or other performing artist, or as a participant or player in professional sports, or (b) a person is employed to render services to the infant in connection with such services of the infant or in connection with contracts therefor, may be approved by the supreme court or the surrogate's court as provided in this section where the infant is a resident of this state or the services of the infant are to be performed or rendered in this state. If the contract is so approved the infant may not, either during his minority or upon reaching his majority, disaffirm the contract on the ground of infancy or assert that the parent or guardian lacked authority to make the contract. A contract modified, amended or assigned after its approval under this section shall be deemed a new contract.

2. (a) Approval of the contract pursuant to this section shall not exempt any person from any other law with respect to licenses, consents or authorizations required for any conduct, employment, use or exhibition of the infant in this state, nor limit in any manner the discretion of the licensing authority or other persons charged with the administration of such requirements, nor dispense with any other requirement of law relating to the infant.

(b) No contract shall be approved which provides for an employment, use or exhibition of the infant, within or without the state, which is prohibited by law and could not be licensed to take place in this state.

(c) No contract shall be approved unless (i) the written acquiescence to such contract of the parent or parents having custody, or other person having custody of the infant, is filed in the proceeding or (ii) the court shall find that the infant is emancipated.

(d) No contract shall be approved if the term during which the infant is to perform or render services or during which a person is employed to render services to the infant, including any extensions thereof by option or otherwise, extends for a period of more than three years from the date of approval of the contract, provided, however that if the

court finds that such infant is represented by qualified counsel experienced with entertainment industry law and practices such contract may be for a period of not more than seven years. If the contract contains any covenant or condition which extends beyond such three years or, where the court finds that the infant is represented by qualified counsel as provided in this paragraph, seven years, the same may be approved if found to be reasonable and for such period as the court may determine.

(e) If the court which has approved a contract pursuant to this section shall find that the well-being of the infant is being impaired by the performance thereof, it may, at any time during the term of the contract during which services are to be performed by the infant or rendered by or to the infant or during the term of any other covenant or condition of the contract, either revoke its approval of the contract, or declare such approval revoked unless a modification of the contract which the court finds to be appropriate in the circumstances is agreed upon by the parties and the contract as modified is approved by order of the court. Application for an order pursuant to this paragraph may be made by the infant, or his parent or parents, or guardian, or his limited guardian appointed pursuant to this section, or by the person having the care and custody of the infant, or by a special guardian appointed for the purpose by the court on its own motion. The order granting or denying the application shall be made after hearing, upon notice to the parties to the proceeding in which the contract was approved, given in such manner as the court shall direct. Revocation of the approval of the contract shall not affect any right of action existing at the date of the revocation, except that the court may determine that a refusal to perform on the ground of impairment of the well-being of the infant was justified.

3. (a) The court may withhold its approval of the contract until the filing of consent by the parent or parents entitled to the earnings of the infant, or of the infant if he is entitled to his own earnings, that a part of the infant's net earnings for services performed or rendered during the term of the contract be set aside and saved for the infant pursuant to the order of the court and under guardianship as provided in this section, until he attains his majority or until further order of

the court. Such consent shall not be deemed to constitute an emancipation of the infant.

(b) The court shall fix the amount or proportion of net earnings to be set aside as it deems for the best interests of the infant, and the amount or proportion so fixed may, upon subsequent application, be modified in the discretion of the court, within the limits of the consent given at the time the contract was approved. In fixing such amount or proportion, consideration shall be given to the financial circumstances of the parent or parents entitled to the earnings of the infant and to the needs of their other children, or if the infant is entitled to his own earnings and is married, to the needs of his family. Unless the infant is at the time thereof entitled to his own earnings and has no dependents, the court shall not condition its approval of the contract upon consent to the setting aside of an amount or proportion in excess of one-half of the net earnings.

(c) For the purposes of this subdivision, net earnings shall mean the gross earnings received for services performed or rendered by the infant during the term of the contract, less (i) all sums required by law to be paid as taxes to any government or subdivision thereof with respect to or by reason of such earnings; (ii) reasonable sums to be expended for the support, care, education, training and professional management of the infant; and (iii) reasonable fees and expenses paid or to be paid in connection with the proceeding, the contract and its performance.

4. (a) A proceeding for the approval of a contract shall be commenced by verified petition of the guardian of the infant's person or property, or of the infant, or of a parent, or of any interested person, or of any relative of the infant on his behalf. If a guardian of the infant's person or property has been appointed or qualified in this state, the petition shall be made to the court by which he was appointed or in which he qualified. If there is no such guardian, the petition shall be made to the supreme court or the surrogate's court in the county in which the infant resides, or if he is not a resident of the state, in any county in which the infant is to be employed under the contract.

(b) The following persons, other than one who is the petitioner or joins in the petition, shall be served with an order or citation to show cause why the petition should not be granted: (i) the infant, if over

the age of fourteen years, (ii) his guardian or guardians, if any, whether or not appointed or qualified in this state; (iii) each party to the contract; (iv) the parent or parents of the infant; (v) any person having the care and custody of the infant; (vi) the person with whom the infant resides; and (vii) if it appears that the infant is married, his spouse. Service shall be made in such manner as the court shall direct, at least eight days before the time at which the petition is noticed to be heard, unless the court shall fix a shorter time.

5. The petition shall have annexed a complete copy of the contract or proposed contract and shall set forth:

(a) The full name, residence and date of birth of the infant;

(b) The name and residence of any living parent of the infant, the name and residence of the person who has care and custody of the infant, and the name and residence of the person with whom the infant resides;

(c) Whether the infant has had at any time a guardian appointed by will or deed or by a court of any jurisdiction;

(d) Whether the infant is a resident of the state, or if he is not a resident, that the petition is for approval of a contract for performance or rendering of services by the infant and the place in the state where the services are to be performed or rendered;

(e) A brief statement as to the infant's employment and compensation under the contract or proposed contract;

(f) (i) A statement that the term of the contract during which the infant is to perform or render services or during which a person is employed to render services to the infant can in no event extend for a period of more than three years from the date of approval of the contract, and (ii) an enumeration of any other covenants or conditions contained in the contract which extend beyond such three years or a statement that the contract contains no such other covenants or conditions;

(g) A statement as to who is entitled to the infant's earnings and, if the infant is not so entitled, facts regarding the property and financial circumstances of the parent or parents who are so entitled;

(h) The facts with respect to any previous application for the relief sought in the petition or similar relief with respect to the infant;

(i) A schedule showing the infant's gross earnings, estimated outlays

and estimated net earnings as defined in subdivision three of this section;

(j) The interest of the petitioner in the contract or proposed contract or in the infant's performance under it;

(k) Such other facts regarding the infant, his family and property, as show that the contract is reasonable and provident and for the best interests of the infant.

If no guardian of the property of the infant has been appointed or qualified in this state, the petition shall also pray for the appointment of a limited guardian as provided in subdivision seven of this section. The petition may nominate a person to be appointed as such limited guardian, setting forth reasons why the person nominated would be a proper and suitable person to be appointed as limited guardian and setting forth the interest of the person so nominated in the contract or proposed contract or in the infant's performance under it.

6. At any time after the filing of the petition the court, if it deems it advisable, may appoint a special guardian to represent the interests of the infant.

7. If a guardian of the property of the infant has been appointed or qualified in this state, he shall receive and hold any net earnings directed by the court to be set aside for the infant as provided in subdivision three. In any other case a limited guardian shall be appointed for such purpose. A parent, guardian or other petitioner is not ineligible to be appointed as limited guardian by reason of his interest in any part of the infant's earnings under the contract or proposed contract or by reason of the fact that he is a party to or otherwise interested in the contract or in the infant's performance under the contract, provided such interest is disclosed.

If the contract is approved and if the court shall direct that a portion of the net earnings be set aside as provided in subdivision three of this section, the limited guardian shall qualify in the manner provided with respect to a general guardian of the property of the infant appointed by the court in which the proceeding is had, and with

respect to net earnings ordered to be set aside shall be subject to all provisions applicable to a general guardian so appointed.

If a guardian of the property of the infant is appointed or qualifies after the appointment of a limited guardian, the limited guardian may continue to act with respect to earnings under the contract approved by the court until the termination of the contract; upon such termination he shall transfer to the guardian of the infant's property the funds of the infant in his hands.

8. (a) The infant shall attend personally before the court upon the hearing of the petition. Upon such hearing, and upon such proof as it deems necessary and advisable, the court shall make such order as justice and the best interests of the infant require.

(b) The court at such hearing or on an adjournment thereof may, by order:

(i) determine any issue arising from the pleadings or proof and required to be determined for final disposition of the matter, including issues with respect to the age or emancipation of the infant or with respect to entitlement of any person to his earnings;

(ii) disapprove the contract or proposed contract or approve it, or approve it upon such conditions, with respect to modification of the terms thereof or otherwise, as it shall determine;

(iii) appoint a limited guardian as provided in subdivision seven of this section.

(c) If the contract is approved upon condition of consent that a portion of the net earnings of the infant under the contract be set aside, the court shall fix the amount or proportion of net earnings to be set aside and if the court shall find that consent or consents thereto have been filed as provided in subdivision three of this section, shall give directions with respect to computation of and payment of sums to be set aside.