

AMENDED IN SENATE JULY 7, 2005

AMENDED IN SENATE JUNE 21, 2005

AMENDED IN ASSEMBLY APRIL 6, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL

No. 1261

Introduced by Assembly Member Leno

February 22, 2005

An act to amend Sections 48853, 48853.5, 48859, 49069.5, and 52052 of the Education Code, and to amend Sections 319, 361, and 391 of the Welfare and Institutions Code, relating to foster children.

LEGISLATIVE COUNSEL'S DIGEST

AB 1261, as amended, Leno. Foster children: education.

Existing law requires a pupil placed in a licensed children's institution or foster family home to attend programs operated by the local educational agency, unless one of certain circumstances applies.

This bill would revise the applicable circumstances.

The bill would also define "local educational agency" for these purposes.

Existing law provides that, if a school placement dispute arises, a foster child has the right to remain in his or her school of origin pending resolution of the dispute.

This bill would require local educational agencies to have in place a process to promptly resolve disputes relating to the school placement of foster children and would require a written explanation of the school's decision relating to school placement or enrollment, as specified, to be provided if a parent, guardian, or person holding the right to make educational decisions for the pupil disputes that

decision. To the extent this bill would impose additional duties on local educational agencies, the bill would impose a state-mandated local program.

Existing law provides that “school of origin” means the school that the foster child attended when permanently housed or the school in which the foster child was last enrolled. Existing law requires the educational liaison for foster children to determine, as provided, the school that shall be deemed the school of origin for a foster child if, among other things, there is some other school that the foster child attended with which the foster child is connected.

This bill would additionally require that the foster child have attended that connected school in the past 15 months.

Existing law provides that the proper and timely transfer between schools of pupils in foster care is the responsibility of both the local educational agency and the county placing agency and imposes various requirements relating to the transfer of those pupils between schools.

This bill would define “pupil in foster care” for these purposes.

Existing law sets forth the circumstances under which a minor may be adjudged a dependent child of the juvenile court, and establishes procedures to determine temporary placement of a dependent child.

This bill would authorize the court, at the initial hearing or anytime thereafter up until the time that the minor is adjudged a dependent child of the court or a finding is made dismissing the petition, to temporarily limit the right of the parent or guardian to make educational decisions for the child and to temporarily appoint a responsible adult to make educational decisions for the child if all of specified conditions are found. The bill would also authorize the court to make educational decisions for the child under specified circumstances.

Existing law establishes the Public Schools Accountability Act of 1999 and requires the Superintendent of Public Instruction to develop an Academic Performance Index (API), which consists, in part, of the results of the tests administered pursuant to the Standardized Testing and Reporting (STAR) Program, to measure the performance of schools, to demonstrate comparable improvement in academic achievement by all numerically significant ethnic and socioeconomically disadvantaged subgroups within schools, and to rank schools based on the value of the API. Existing law require the

Superintendent of Public Instruction to develop an alternative accountability system for specified schools.

This bill would add nonpublic, nonsectarian schools, as specified, to the list of schools for which development of an alternative accountability system is required. This bill would also delete obsolete provisions.

Existing law authorizes a juvenile court to limit the right of a parent or guardian to make educational decisions for his or her child that is adjudged a dependent child of the court and requires the court at the same time to appoint a responsible adult to make educational decisions for the child until one of specified circumstances occurs.

This bill would authorize the court to make educational decisions for the child if the court cannot identify a responsible adult to make educational decisions for the child, the appointment of a surrogate parent is not warranted, and there is no foster parent to exercise the appropriate authority. *This bill would require the court, if it makes educational decisions for the child, to issue appropriate orders to ensure that every effort is made to identify a responsible adult to make future educational decisions for the child.*

Existing law requires the county welfare department, at any hearing to terminate jurisdiction over a dependent child who has reached the age of majority, to, among other things, submit a report verifying that specified documents, where applicable, have been provided to the child.

This bill would include among those documents a health and education summary.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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

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

1 SECTION 1. Section 48853 of the Education Code is
2 amended to read:

3 48853. (a) A pupil placed in a licensed children's institution
4 or foster family home shall attend programs operated by the local
5 educational agency, unless one of the following applies:

6 (1) The pupil is entitled to remain in his or her school of origin
7 pursuant to paragraph (1) of subdivision (d) of Section 48853.5.

8 (2) The pupil has an individualized education program
9 requiring placement in a nonpublic, nonsectarian school or
10 agency, or in another local educational agency.

11 (3) The parent or guardian, or other person holding the right to
12 make educational decisions for the pupil pursuant to Section 361
13 or 727 of the Welfare and Institutions Code or Section 56055,
14 determines that it is in the best interests of the pupil to be placed
15 in another educational program.

16 (b) Before any decision is made to place a pupil in a juvenile
17 court school as defined by Section 48645.1, a community school
18 as described in Sections 1981 and 48660, or other alternative
19 educational setting, the parent or guardian, or person holding the
20 right to make educational decisions for the pupil pursuant to
21 Section 361 or 726 of the Welfare and Institutions Code or
22 Section 56055, shall first consider placement in the regular
23 public school.

24 (c) (1) A local educational agency shall have in place a
25 process to promptly resolve disputes relating to the school
26 placement of a pupil subject to this section.

27 (2) A written explanation of the school's decision shall be
28 provided if a parent, guardian, or person holding the right to
29 make educational decisions for the pupil disputes a school
30 placement or enrollment decision. The written explanation shall
31 include a discussion of the right of the parent, guardian, or person
32 holding the right to make educational decisions for the pupil to
33 appeal the decision.

34 (3) If any dispute arises as to the school placement of a pupil
35 subject to this section, the pupil has the right to remain in his or
36 her school of origin, as defined in subdivision (e) of Section
37 48853.5, pending resolution of the dispute.

1 (4) The school shall refer the parent, guardian, or person
2 holding the right to make educational decisions for the pupil to
3 the educational liaison described in subdivision (b) of Section
4 48853.5 to carry out the dispute resolution process as
5 expeditiously as possible.

6 (d) This section does not supersede other laws that govern
7 pupil expulsion.

8 (e) This section does not supersede any other law governing
9 the educational placement in a juvenile court school, as defined
10 by Section 48645.1, of a pupil detained in a county juvenile hall,
11 or committed to a county juvenile ranch, camp, forestry camp, or
12 regional facility.

13 (f) Foster children living in emergency shelters, as referenced
14 in the federal McKinney-Vento Homeless Assistance Act (42
15 U.S.C. Sec. 11431 et seq.), may receive educational services at
16 the emergency shelter as necessary for short periods of time for
17 either of the following reasons:

18 (1) For health and safety emergencies.

19 (2) To provide temporary, special, and supplementary services
20 to meet the child's unique needs if a decision regarding whether
21 it is in the child's best interests to attend the school of origin
22 cannot be made promptly, it is not practical to transport the child
23 to the school of origin, and the child would otherwise not receive
24 educational services.

25 The educational services may be provided at the shelter
26 pending a determination by the person holding the right
27 regarding the educational placement of the child.

28 (g) All educational and school placement decisions shall be
29 made to ensure that the child is placed in the least restrictive
30 educational programs and has access to academic resources,
31 services, and extracurricular and enrichment activities that are
32 available to all pupils. In all instances, educational and school
33 placement decisions shall be based on the best interests of the
34 child.

35 SEC. 2. Section 48853.5 of the Education Code is amended to
36 read:

37 48853.5. (a) This section applies to any foster child who has
38 been removed from his or her home pursuant to Section 309 of
39 the Welfare and Institutions Code, is the subject of a petition
40 filed under Section 300 or 602 of the Welfare and Institutions

1 Code, or has been removed from his or her home and is the
2 subject of a petition filed under Section 300 or 602 of the
3 Welfare and Institutions Code.

4 (b) Each local educational agency shall designate a staff
5 person as the educational liaison for foster children. In a school
6 district that operates a foster children services program pursuant
7 to Chapter 11.3 (commencing with Section 42920) of Part 24, the
8 educational liaison shall be affiliated with the local foster
9 children services program. The liaison shall do all of the
10 following:

11 (1) Ensure and facilitate the proper educational placement,
12 enrollment in school, and checkout from school of foster
13 children.

14 (2) Assist foster children when transferring from one school to
15 another or from one school district to another in ensuring proper
16 transfer of credits, records, and grades.

17 (c) This section does not grant authority to the educational
18 liaison that supersedes the authority granted under state and
19 federal law to a parent or guardian retaining educational rights, a
20 responsible adult appointed by the court to represent the child
21 pursuant to Section 361 or 726 of the Welfare and Institutions
22 Code, a surrogate parent, or a foster parent exercising the
23 authority granted under Section 56055. The role of the
24 educational liaison is advisory with respect to placement
25 decisions and determination of school of origin.

26 (d) (1) At the initial detention or placement, or any
27 subsequent change in placement of a foster child, the local
28 educational agency serving the foster child shall allow the foster
29 child to continue his or her education in the school of origin for
30 the duration of the academic school year.

31 (2) The liaison, in consultation with and the agreement of the
32 foster child and the person holding the right to make educational
33 decisions for the foster child may, in accordance with the foster
34 child's best interests, recommend that the foster child's right to
35 attend the school of origin be waived and the foster child be
36 enrolled in any public school that pupils living in the attendance
37 area in which the foster child resides are eligible to attend.

38 (3) Prior to making any recommendation to move a foster
39 child from his or her school of origin, the liaison shall provide
40 the foster child and the person holding the right to make

1 educational decisions for the foster child with a written
2 explanation stating the basis for the recommendation and how
3 this recommendation serves the foster child’s best interest.

4 (4) (A) If the liaison in consultation with the foster child and
5 the person holding the right to make educational decisions for the
6 foster child agree that the best interests of the foster child would
7 best be served by his or her transfer to a school other than the
8 school of origin, the foster child shall immediately be enrolled in
9 the new school.

10 (B) The new school shall immediately enroll the foster child
11 even if the foster child has outstanding fees, fines, textbooks, or
12 other items or moneys due to the school last attended or is unable
13 to produce records or clothing normally required for enrollment,
14 such as previous academic records, medical records, proof of
15 residency, other documentation, or school uniforms.

16 (C) The liaison for the new school shall, within two business
17 days of the foster child’s request for enrollment, contact the
18 school last attended by the foster child to obtain all academic and
19 other records. All required records shall be provided to the new
20 school regardless of any outstanding fees, fines, textbooks, or
21 other items or moneys owed to the school last attended. The
22 school liaison for the school last attended shall provide all
23 records to the new school within two business days of receiving
24 the request.

25 (5) If any dispute arises regarding the request of a foster child
26 to remain in the school of origin, the foster child has the right to
27 remain in the school of origin pending resolution of the dispute.
28 The dispute shall be resolved in accordance with the existing
29 dispute resolution process available to any pupil served by the
30 local educational agency.

31 (6) The local educational agency and the county placing
32 agency are encouraged to collaborate to ensure maximum
33 utilization of available federal moneys, explore public-private
34 partnerships, and access any other funding sources to promote
35 the well-being of foster children through educational stability.

36 (e) For purposes of this section, “school of origin” means the
37 school that the foster child attended when permanently housed or
38 the school in which the foster child was last enrolled. If the
39 school the foster child attended when permanently housed is
40 different from the school in which the foster child was last

1 enrolled, or if there is some other school that the foster child
2 attended with which the foster child is connected and which the
3 foster child attended within the immediately preceding 15
4 months, the liaison, in consultation with and the agreement of the
5 foster child and the person holding the right to make educational
6 decisions for the foster child, shall determine, in the best interests
7 of the foster child, the school that shall be deemed the school of
8 origin.

9 (f) This section does not supersede other law governing the
10 educational placements in juvenile court schools, as defined by
11 Section 48645.1, by the juvenile court under Section 602 of the
12 Welfare and Institutions Code.

13 SEC. 3. Section 48859 of the Education Code is amended to
14 read:

15 48859. For purposes of this chapter, the following terms have
16 the following meanings:

17 (a) “County placing agency” means the county social services
18 department or county probation department.

19 (b) “Educational authority” means an entity designated to
20 represent the interests of a child for educational and related
21 services.

22 (c) “Local educational agency” means a school district, a
23 county office of education, a charter school participating as a
24 member of a special education local plan area, or a special
25 education local plan area.

26 SEC. 4. Section 49069.5 of the Education Code is amended to
27 read:

28 49069.5. (a) The Legislature finds and declares that the
29 mobility of pupils in foster care often disrupts their educational
30 experience. The Legislature also finds that efficient transfer
31 procedures and transfer of pupil records is a critical factor in the
32 swift placement of foster children in educational settings.

33 (b) The proper and timely transfer between schools of pupils
34 in foster care is the responsibility of both the local educational
35 agency and the county placing agency.

36 (c) As soon as the county placing agency becomes aware of
37 the need to transfer a pupil in foster care out of his or her current
38 school, the county placing agency shall contact the appropriate
39 person at the local educational agency of the pupil. The county
40 placing agency shall notify the local educational agency of the

1 date that the pupil will be leaving the school and request that the
2 pupil be transferred out.

3 (d) Upon receiving a transfer request from a county placing
4 agency, the local educational agency shall, within two business
5 days, transfer the pupil out of school and deliver the educational
6 information and records of the pupil to the next educational
7 placement.

8 (e) As part of the transfer process described under
9 subdivisions (c) and (d), the local educational agency shall
10 compile the complete educational record of the pupil including a
11 determination of seat time, full or partial credits earned, current
12 classes and grades, immunization and other records, and, if
13 applicable, a copy of the pupil's plan adopted pursuant to Section
14 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794
15 et seq.) or individualized education program adopted pursuant to
16 the federal Individuals with Disabilities Education Act (20
17 U.S.C. Sec. 1400 et seq.).

18 (f) The local educational agency shall assign the duties listed
19 in this section to a person competent to handle the transfer
20 procedure and aware of the specific educational recordkeeping
21 needs of homeless, foster, and other transient children who
22 transfer between schools.

23 (g) The local educational agency shall ensure that if the pupil
24 in foster care is absent from school due to a decision to change
25 the placement of a pupil made by a court or placing agency, the
26 grades and credits of the pupil will be calculated as of the date
27 the pupil left school, and no lowering of grades will occur as a
28 result of the absence of the pupil under these circumstances.

29 (h) The local educational agency shall ensure that if the pupil
30 in foster care is absent from school due to a verified court
31 appearance or related court ordered activity, no lowering of his or
32 her grades will occur as a result of the absence of the pupil under
33 these circumstances.

34 (i) For the purposes of this section, "pupil in foster care"
35 means any child who has been removed from his or her home
36 pursuant to Section 309 of the Welfare and Institutions Code, is
37 the subject of a petition filed under Section 300 or 602 of the
38 Welfare and Institutions Code, or has been removed from his or
39 her home and is the subject of a petition filed under Section 300
40 or 602 of the Welfare and Institutions Code.

1 SEC. 5. Section 52052 of the Education Code is amended to
2 read:

3 52052. (a) (1) The Superintendent of Public Instruction,
4 with approval of the State Board of Education, shall develop an
5 Academic Performance Index (API), to measure the performance
6 of schools, especially the academic performance of pupils.

7 (2) A school shall demonstrate comparable improvement in
8 academic achievement as measured by the API by all
9 numerically significant pupil subgroups at the school, including:

- 10 (A) Ethnic subgroups.
11 (B) Socioeconomically disadvantaged pupils.
12 (C) English language learners.
13 (D) Pupils with disabilities.

14 (3) (A) For purposes of this section, a numerically significant
15 pupil subgroup is one that meets both of the following criteria:

16 (i) The subgroup consists of at least 50 pupils each of whom
17 has a valid test score.

18 (ii) The subgroup constitutes at least 15 percent of a school's
19 total population of pupils who have valid test scores.

20 (B) If a subgroup does not constitute 15 percent of the
21 school's total population of pupils with valid test scores, the
22 subgroup may constitute a numerically significant pupil subgroup
23 if it has at least 100 valid test scores.

24 (C) For a school with an API score that is based on no fewer
25 than 11 and no more than 99 pupils with valid test scores,
26 numerically significant subgroups shall be defined by the
27 Superintendent of Public Instruction, with approval by the State
28 Board of Education.

29 (4) The API shall consist of a variety of indicators currently
30 reported to the department including, but not limited to, the
31 results of the achievement test administered pursuant to Section
32 60640, attendance rates for pupils in elementary schools, middle
33 schools, and secondary schools, and the graduation rates for
34 pupils in secondary schools.

35 (A) The pupil data collected for the API that comes from the
36 achievement test administered pursuant to Sections 60640 and
37 60644 and the high school exit examination administered
38 pursuant to Section 60851, when fully implemented, shall be
39 disaggregated by special education status, English language
40 learners, socioeconomic status, gender and ethnic group. Only

1 the test scores of pupils who were counted as part of the
2 enrollment in the annual California Basic Education Data
3 System’s data collection for the current fiscal year and who were
4 continuously enrolled during that year may be included in the test
5 result reports in the school’s API. Results of the achievement test
6 and other tests specified in subdivision (b) shall constitute at least
7 60 percent of the value of the index.

8 (B) Before including high school graduation rates and
9 attendance rates in the index, the Superintendent of Public
10 Instruction shall determine the extent to which the data are
11 currently reported to the state and the accuracy of the data.

12 (b) Pupil scores from the following tests, when available and
13 when found to be valid and reliable for this purpose, shall be
14 incorporated into the API:

15 (1) The assessment of the applied academic skills matrix test
16 developed pursuant to Section 60604.

17 (2) The nationally normed test designated pursuant to Section
18 60642.

19 (3) The standards-based achievement tests provided for in
20 Section 60642.5.

21 (4) The high school exit examination.

22 (c) Based on the API, the Superintendent of Public Instruction
23 shall develop, and the State Board of Education shall adopt,
24 expected annual percentage growth targets for all schools based
25 on their API baseline score from the previous year. Schools are
26 expected to meet these growth targets through effective
27 allocation of available resources. For schools below the statewide
28 API performance target adopted by the State Board of Education
29 pursuant to subdivision (d), the minimum annual percentage
30 growth target shall be 5 percent of the difference between a
31 school’s actual API score and the statewide API performance
32 target, or one API point, whichever is greater. Schools at or
33 above the statewide API performance target shall have, as their
34 growth target, maintenance of their API score above the
35 statewide API performance target. However, the State Board of
36 Education may set differential growth targets based on grade
37 level of instruction and may set higher growth targets for the
38 lowest performing schools because they have the greatest room
39 for improvement. To meet its growth target, a school shall
40 demonstrate that the annual growth in its API is equal to or more

1 than its schoolwide annual percentage growth target and that all
2 numerically significant pupil subgroups, as defined in
3 subdivision (a), are making comparable improvement.

4 (d) Upon adoption of state performance standards by the State
5 Board of Education, the Superintendent of Public Instruction
6 shall recommend, and the State Board of Education shall adopt, a
7 statewide API performance target that includes consideration of
8 performance standards and represents the proficiency level
9 required to meet the state performance target. When the API is
10 fully developed, schools must, at a minimum, meet their annual
11 API growth targets to be eligible for the Governor's Performance
12 Award Program as set forth in Section 52057. The State Board of
13 Education may establish additional criteria that schools must
14 meet to be eligible for the Governor's Performance Awards
15 Program.

16 (e) The API shall be used for both of the following:

17 (1) Measuring the progress of schools selected for
18 participation in the Immediate Intervention/Underperforming
19 Schools Program pursuant to Section 52053.

20 (2) Ranking all public schools in the state for the purpose of
21 the High Achieving/Improving Schools Program pursuant to
22 Section 52056.

23 (f) (1) A school with 11 to 99 pupils with valid test scores
24 shall receive an API score with an asterisk that indicates less
25 statistical certainty than API scores based on 100 or more test
26 scores.

27 (2) A school shall annually receive an API score, unless the
28 Superintendent of Public Instruction determines that an API
29 score would be an invalid measure of the school's performance
30 for one or more of the following reasons:

31 (A) Irregularities in testing procedures occurred.

32 (B) The data used to calculate the school's API score are not
33 representative of the pupil population at the school.

34 (C) Significant demographic changes in the pupil population
35 render year-to-year comparisons of pupil performance invalid.

36 (D) The department discovers or receives information
37 indicating that the integrity of the API score has been
38 compromised.

39 (E) Insufficient pupil participation in the assessments included
40 in the API.

1 (3) If a school has less than 100 pupils with valid test scores,
2 the calculation of the API or adequate yearly progress pursuant to
3 the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec.
4 6301 et seq.) and federal regulations may be calculated over
5 more than one annual administration of the tests administered
6 pursuant to Sections 60640 and 60644 and the high school exit
7 exam administered pursuant to Section 60851, consistent with
8 regulations adopted by the State Board of Education.

9 (g) Only schools with 100 or more test scores contributing to
10 the API may be included in the API rankings.

11 (h) The Superintendent of Public Instruction, with the
12 approval of the State Board of Education, shall develop an
13 alternative accountability system for schools under the
14 jurisdiction of a county board of education or a county
15 superintendent of schools, community day schools, nonpublic,
16 nonsectarian schools pursuant to Section 56366, and alternative
17 schools serving high-risk pupils, including continuation high
18 schools and opportunity schools. Schools in the alternative
19 accountability system may receive an API score, but shall not be
20 included in the API rankings.

21 SEC. 6. Section 319 of the Welfare and Institutions Code is
22 amended to read:

23 319. (a) At the initial petition hearing, the court shall
24 examine the child's parents, guardians, or other persons having
25 relevant knowledge and hear the relevant evidence as the child,
26 the child's parents or guardians, the petitioner, or their counsel
27 desires to present. The court may examine the child, as provided
28 in Section 350.

29 (b) The social worker shall report to the court on the reasons
30 why the child has been removed from the parent's physical
31 custody; the need, if any, for continued detention; the available
32 services and the referral methods to those services that could
33 facilitate the return of the child to the custody of the child's
34 parents or guardians; and whether there are any relatives who are
35 able and willing to take temporary physical custody of the child.
36 The court shall order the release of the child from custody unless
37 a prima facie showing has been made that the child comes within
38 Section 300, the court finds that continuance in the parent's or
39 guardian's home is contrary to the child's welfare, and any of the
40 following circumstances exist:

- 1 (1) There is a substantial danger to the physical health of the
2 child or the child is suffering severe emotional damage, and there
3 are no reasonable means by which the child’s physical or
4 emotional health may be protected without removing the child
5 from the parent’s or guardian’s physical custody.
- 6 (2) There is substantial evidence that a parent, guardian, or
7 custodian of the child is likely to flee the jurisdiction of the court.
- 8 (3) The child has left a placement in which he or she was
9 placed by the juvenile court.
- 10 (4) The child indicates an unwillingness to return home, if the
11 child has been physically or sexually abused by a person residing
12 in the home.
- 13 (c) If the matter is continued pursuant to Section 322 or for
14 any other reason, the court shall find that the continuance of the
15 child in the parent’s or guardian’s home is contrary to the child’s
16 welfare at the initial petition hearing or order the release of the
17 child from custody.
- 18 (d) (1) The court shall also make a determination on the
19 record, referencing the social worker’s report or other evidence
20 relied upon, as to whether reasonable efforts were made to
21 prevent or eliminate the need for removal of the child from his or
22 her home, pursuant to subdivision (b) of Section 306, and
23 whether there are available services that would prevent the need
24 for further detention. Services to be considered for purposes of
25 making this determination are case management, counseling,
26 emergency shelter care, emergency in-home caretakers,
27 out-of-home respite care, teaching and demonstrating
28 homemakers, parenting training, transportation, and any other
29 child welfare services authorized by the State Department of
30 Social Services pursuant to Chapter 5 (commencing with Section
31 16500) of Part 4 of Division 9. The court shall also review
32 whether the social worker has considered whether a referral to
33 public assistance services pursuant to Chapter 2 (commencing
34 with Section 11200) and Chapter 7 (commencing with Section
35 14000) of Part 3, Chapter 1 (commencing with Section 17000) of
36 Part 5, and Chapter 10 (commencing with Section 18900) of Part
37 6 of Division 9 would have eliminated the need to take temporary
38 custody of the child or would prevent the need for further
39 detention.

1 (2) If the child can be returned to the custody of his or her
2 parent or guardian through the provision of those services, the
3 court shall place the child with his or her parent or guardian and
4 order that the services shall be provided. If the child cannot be
5 returned to the physical custody of his or her parent or guardian,
6 the court shall determine if there is a relative who is able and
7 willing to care for the child, and has been assessed pursuant to
8 paragraph (1) of subdivision (d) of Section 309.

9 (e) Whenever a court orders a child detained, the court shall
10 state the facts on which the decision is based, shall specify why
11 the initial removal was necessary, shall reference the social
12 worker's report or other evidence relied upon to make its
13 determination whether continuance in the home of the parent or
14 legal guardian in contrary to the child's welfare, shall order
15 temporary placement and care of the child to be vested with the
16 county child welfare department pending the hearing held
17 pursuant to Section 355 or further order of the court, and shall
18 order services to be provided as soon as possible to reunify the
19 child and his or her family if appropriate.

20 (f) When the child is not released from custody, the court may
21 order that the child shall be placed in the assessed home of a
22 relative, in an emergency shelter or other suitable licensed place,
23 in a place exempt from licensure designated by the juvenile
24 court, or in the assessed home of a nonrelative extended family
25 member as defined in Section 362.7 for a period not to exceed 15
26 judicial days.

27 As used in this section, "relative" means an adult who is
28 related to the child by blood, adoption, or affinity within the fifth
29 degree of kinship, including stepparents, stepsiblings, and all
30 relatives whose status is preceded by the words "great,"
31 "great-great," or "grand," or the spouse of any of these persons,
32 even if the marriage was terminated by death or dissolution.
33 However, only the following relatives shall be given preferential
34 consideration for placement of the child: an adult who is a
35 grandparent, aunt, uncle, or sibling of the child.

36 The court shall consider the recommendations of the social
37 worker based on the assessment pursuant to paragraph (1) of
38 subdivision (d) of Section 309 of the relative's home, including
39 the results of a criminal records check and prior child abuse
40 allegations, if any, prior to ordering that the child be placed with

1 a relative. The court shall order the parent to disclose to the
2 social worker the names, residences, and any known identifying
3 information of any maternal or paternal relatives of the child. The
4 social worker shall initiate the assessment pursuant to Section
5 361.3 of any relative to be considered for continuing placement.

6 (g) (1) At the initial hearing upon the petition filed in
7 accordance with subdivision (c) of Rule 1406 of the California
8 Rules of Court or anytime thereafter up until the time that the
9 minor is adjudged a dependent child of the court or a finding is
10 made dismissing the petition, the court may temporarily limit the
11 right of the parent or guardian to make educational decisions for
12 the child and temporarily appoint a responsible adult to make
13 educational decisions for the child if all of the following
14 conditions are found:

15 (A) The parent or guardian is unavailable, unable, or unwilling
16 to exercise educational rights for the child.

17 (B) The county placing agency has made diligent efforts to
18 locate and secure the participation of the parent or guardian in
19 educational decisionmaking.

20 (C) The child's educational needs cannot be met without the
21 temporary appointment of a responsible adult.

22 (2) If the court cannot identify a responsible adult to make
23 educational decisions for the child and the appointment of a
24 surrogate parent as defined in subdivision (a) of Section 56050 of
25 the Education Code is not warranted, the court may, with the
26 input of any interested person, make educational decisions for the
27 child. *If the court makes educational decisions for the child, the*
28 *court shall also issue appropriate orders to ensure that every*
29 *effort is made to identify a responsible adult to make future*
30 *educational decisions for the child.*

31 (3) Any temporary appointment of a responsible adult and
32 temporary limitation on the right of the parent or guardian to
33 make educational decisions for the child shall be specifically
34 addressed in the court order. Any order made under this section
35 shall expire at the conclusion of the hearing held pursuant to
36 Section 361 or upon dismissal of the petition. Upon the entering
37 of disposition orders any additional needed limitation on the
38 parent's or guardian's educational rights shall be addressed
39 pursuant to Section 361.

1 SEC. 7. Section 361 of the Welfare and Institutions Code is
2 amended to read:

3 361. (a) In all cases in which a minor is adjudged a
4 dependent child of the court on the ground that the minor is a
5 person described by Section 300, the court may limit the control
6 to be exercised over the dependent child by any parent or
7 guardian and shall by its order clearly and specifically set forth
8 all those limitations. Any limitation on the right of the parent or
9 guardian to make educational decisions for the child shall be
10 specifically addressed in the court order. The limitations may not
11 exceed those necessary to protect the child. If the court
12 specifically limits the right of the parent or guardian to make
13 educational decisions for the child, the court shall at the same
14 time appoint a responsible adult to make educational decisions
15 for the child until one of the following occurs:

16 (1) The minor reaches 18 years of age, unless the child
17 chooses not to make educational decisions for himself or herself,
18 or is deemed by the court to be incompetent.

19 (2) Another responsible adult is appointed to make educational
20 decisions for the minor pursuant to this section.

21 (3) The right of the parent or guardian to make educational
22 decisions for the minor is fully restored.

23 (4) A successor guardian or conservator is appointed.

24 (5) The child is placed into a planned permanent living
25 arrangement pursuant to paragraph (3) of subdivision (g) of
26 Section 366.21, Section 366.22, or Section 366.26, at which time
27 the foster parent, relative caretaker, or nonrelative extended
28 family member as defined in Section 362.7, has the right to
29 represent the child in educational matters pursuant to Section
30 56055 of the Education Code.

31 An individual who would have a conflict of interest in
32 representing the child may not be appointed to make educational
33 decisions. For purposes of this section, “an individual who would
34 have a conflict of interest,” means a person having any interests
35 that might restrict or bias his or her ability to make educational
36 decisions, including, but not limited to, those conflicts of interest
37 prohibited by Section 1126 of the Government Code, and the
38 receipt of compensation or attorneys’ fees for the provision of
39 services pursuant to this section. A foster parent may not be
40 deemed to have a conflict of interest solely because he or she

1 receives compensation for the provision of services pursuant to
2 this section.

3 If the court is unable to appoint a responsible adult to make
4 educational decisions for the child and paragraphs (1) to (5),
5 inclusive, do not apply, and the child has either been referred to
6 the local educational agency for special education and related
7 services, or has a valid individualized education program, the
8 court shall refer the child to the local educational agency for
9 appointment of a surrogate parent pursuant to Section 7579.5 of
10 the Government Code.

11 If the court cannot identify a responsible adult to make
12 educational decisions for the child, the appointment of a
13 surrogate parent as defined in subdivision (a) of Section 56050 of
14 the Education Code is not warranted, and there is no foster parent
15 to exercise the authority granted by Section 56055 of the
16 Education Code, the court may, with the input of any interested
17 person, make educational decisions for the child.

18 All educational and school placement decisions shall seek to
19 ensure that the child is in the least restrictive educational
20 programs and has access to the academic resources, services, and
21 extracurricular and enrichment activities that are available to all
22 pupils. In all instances, educational and school placement
23 decisions shall be based on the best interests of the child.

24 (b) Subdivision (a) does not limit the ability of a parent to
25 voluntarily relinquish his or her child to the State Department of
26 Social Services or to a licensed county adoption agency at any
27 time while the child is a dependent child of the juvenile court, if
28 the department or agency is willing to accept the relinquishment.

29 (c) A dependent child may not be taken from the physical
30 custody of his or her parents or guardian or guardians with whom
31 the child resides at the time the petition was initiated, unless the
32 juvenile court finds clear and convincing evidence of any of the
33 following:

34 (1) There is or would be a substantial danger to the physical
35 health, safety, protection, or physical or emotional well-being of
36 the minor if the minor were returned home, and there are no
37 reasonable means by which the minor's physical health can be
38 protected without removing the minor from the minor's parent's
39 or guardian's physical custody. The fact that a minor has been
40 adjudicated a dependent child of the court pursuant to

1 subdivision (e) of Section 300 shall constitute prima facie
2 evidence that the minor cannot be safely left in the physical
3 custody of the parent or guardian with whom the minor resided at
4 the time of injury. The court shall consider, as a reasonable
5 means to protect the minor, the option of removing an offending
6 parent or guardian from the home. The court shall also consider,
7 as a reasonable means to protect the minor, allowing a
8 nonoffending parent or guardian to retain physical custody as
9 long as that parent or guardian presents a plan acceptable to the
10 court demonstrating that he or she will be able to protect the
11 child from future harm.

12 (2) The parent or guardian of the minor is unwilling to have
13 physical custody of the minor, and the parent or guardian has
14 been notified that if the minor remains out of their physical
15 custody for the period specified in Section 366.26, the minor may
16 be declared permanently free from their custody and control.

17 (3) The minor is suffering severe emotional damage, as
18 indicated by extreme anxiety, depression, withdrawal, or
19 untoward aggressive behavior toward himself or herself or
20 others, and there are no reasonable means by which the minor's
21 emotional health may be protected without removing the minor
22 from the physical custody of his or her parent or guardian.

23 (4) The minor or a sibling of the minor has been sexually
24 abused, or is deemed to be at substantial risk of being sexually
25 abused, by a parent, guardian, or member of his or her household,
26 or other person known to his or her parent, and there are no
27 reasonable means by which the minor can be protected from
28 further sexual abuse or a substantial risk of sexual abuse without
29 removing the minor from his or her parent or guardian, or the
30 minor does not wish to return to his or her parent or guardian.

31 (5) The minor has been left without any provision for his or
32 her support, or a parent who has been incarcerated or
33 institutionalized cannot arrange for the care of the minor, or a
34 relative or other adult custodian with whom the child has been
35 left by the parent is unwilling or unable to provide care or
36 support for the child and the whereabouts of the parent is
37 unknown and reasonable efforts to locate him or her have been
38 unsuccessful.

39 (d) The court shall make a determination as to whether
40 reasonable efforts were made to prevent or to eliminate the need

1 for removal of the minor from his or her home or, if the minor is
2 removed for one of the reasons stated in paragraph (5) of
3 subdivision (c), whether it was reasonable under the
4 circumstances not to make any of those efforts. The court shall
5 state the facts on which the decision to remove the minor is
6 based.

7 (e) The court shall make all of the findings required by
8 subdivision (a) of Section 366 in either of the following
9 circumstances:

10 (1) The minor has been taken from the custody of his or her
11 parent or guardian and has been living in an out-of-home
12 placement pursuant to Section 319.

13 (2) The minor has been living in a voluntary out-of-home
14 placement pursuant to Section 16507.4.

15 SEC. 8. Section 391 of the Welfare and Institutions Code is
16 amended to read:

17 391. At any hearing to terminate jurisdiction over a
18 dependent child who has reached the age of majority the county
19 welfare department shall do both of the following:

20 (a) Ensure that the child is present in court, unless the child
21 does not wish to appear in court, or document efforts by the
22 county welfare department to locate the child when the child is
23 not available.

24 (b) Submit a report verifying that the following information,
25 documents, and services have been provided to the child:

26 (1) Written information concerning the child's dependency
27 case, including his or her family history and placement history,
28 the whereabouts of any siblings under the jurisdiction of the
29 juvenile court, unless the court determines that sibling contact
30 would jeopardize the safety or welfare of the sibling, directions
31 on how to access the documents the child is entitled to inspect
32 under Section 827, and the date on which the jurisdiction of the
33 juvenile court would be terminated.

34 (2) The following documents, where applicable: social
35 security card, certified birth certificate, health and education
36 summary as described in subdivision (a) of Section 16010,
37 identification card, as described in Section 13000 of the Vehicle
38 Code, death certificate of parent or parents, and proof of
39 citizenship or residence.

1 (3) Assistance in completing an application for Medi-Cal or
2 assistance in obtaining other health insurance; referral to
3 transitional housing, if available, or assistance in securing other
4 housing; and assistance in obtaining employment or other
5 financial support.

6 (4) Assistance in applying for admission to college or to a
7 vocational training program or other educational institution and
8 in obtaining financial aid, where appropriate.

9 (5) Assistance in maintaining relationships with individuals
10 who are important to a child who has been in out-of-home
11 placement in a group home for six months or longer from the
12 date the child entered foster care, based on the child's best
13 interests.

14 (c) The court may continue jurisdiction if it finds that the
15 county welfare department has not met the requirements of
16 subdivision (b) and that termination of jurisdiction would be
17 harmful to the best interests of the child. If the court determines
18 that continued jurisdiction is warranted pursuant to this section,
19 the continuation shall only be ordered for that period of time
20 necessary for the county welfare department to meet the
21 requirements of subdivision (b). This section shall not be
22 construed to limit the discretion of the juvenile court to continue
23 jurisdiction for other reasons. The court may terminate
24 jurisdiction if the county welfare department has offered the
25 required services, and the child either has refused the services or,
26 after reasonable efforts by the county welfare department, cannot
27 be located.

28 (d) The Judicial Council shall develop and implement
29 standards, and develop and adopt appropriate forms, necessary to
30 implement this section.

31 SEC. 9. If the Commission on State Mandates determines that
32 this act contains costs mandated by the state, reimbursement to
33 local agencies and school districts for those costs shall be made
34 pursuant to Part 7 (commencing with Section 17500) of Division
35 4 of Title 2 of the Government Code.

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