

## Senate Bill No. 1116

### CHAPTER 286

An act to add Article 6 (commencing with Section 33195) to Chapter 2 of Part 20 of Division 2 of Title 2 of the Education Code, relating to heritage school instruction, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 23, 2010. Filed with  
Secretary of State September 24, 2010.]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 1116, Huff. Heritage school instruction.

(1) Existing law requires every entity offering or conducting private school instruction on the elementary or high school level to annually verify information by filing with the Superintendent of Public Instruction an affidavit or statement under penalty of perjury setting forth specified information relating to the current year. The affidavit or statement must be made available to any parent or guardian whose child is currently enrolled or is considering whether to enroll his or her child in the school, as specified. If the employees of any entities that have a contract with a private school to provide specified services may have any contact with pupils, those employees are required to submit their fingerprints to the Department of Justice for a background check. The Department of Justice is authorized to notify the private school when the employee has a pending criminal case, or a criminal conviction, of specified crimes. Private schools contracting with an entity for construction or other related services where employees of the entity will have other than limited contact with pupils, are required to ensure the safety of the pupils by utilizing one or more methods.

This bill would apply a substantially identical verification requirement to heritage schools, which is a school for children that serves children who are at least 4 years and 9 months of age to 18 years of age and who attend a public or private full-time school, and which offers foreign language education or tutoring and cultural education relating to a foreign country. The bill would require every person, firm, association, partnership, or corporation operating a heritage school to annually file with the Superintendent an electronic registration form, under penalty of perjury, by the owner or other head setting forth specified information, together with a fee determined by the Superintendent to be sufficient to cover, but not exceed, the costs of the department in implementing these provisions. Because the bill creates a new crime, it would impose a state-mandated local program.

The bill would require heritage school contractors to submit to the Department of Justice fingerprint images and related information required

by the Department of Justice of all employees of specified entities that contract with a heritage school to obtain criminal history information, as specified. The Department of Justice would be required to forward requests for criminal history information to the Federal Bureau of Investigation, review reply information received from the bureau, and provide a determination and response to the heritage school contractor. The bill would require the contractor to request subsequent arrest information, as specified, from the Department of Justice. The Department of Justice would be required to charge a sufficient fee for the costs of processing requests for criminal history information. The heritage school would also be required to maintain membership in a state or national cultural or language association, comply with relevant applicable local regulations, and not operate out of a residential home. The bill would require the director of a heritage school to undergo at least 15 hours of health and safety training, as specified, and would require employees and volunteers of the heritage school to be in good health, as verified by a health screening performed by a licensed physician and surgeon. The bill would exempt a heritage school from licensure by the State Department of Social Services as a child day care center, as specified. The bill would require a heritage school to provide a notice to the parent or guardian of a pupil enrolling in the school stating that the school is exempt from child care licensure and that attendance at a heritage school does not satisfy state compulsory education requirements.

The bill would establish the Heritage Enrichment Resource Fund. The Superintendent would be authorized to expend moneys deposited in the fund, upon appropriation by statute, as specified.

(2) 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 no reimbursement is required by this act for a specified reason.

(3) This bill would declare that it is to take effect immediately as an urgency statute.

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

SECTION 1. Article 6 (commencing with Section 33195) is added to Chapter 2 of Part 20 of Division 2 of Title 2 of the Education Code, to read:

Article 6. Verification of Heritage School Operation

33195. (a) Every person, firm, association, partnership, or corporation operating a heritage school as defined in Section 33195.4 shall, between the 1st and 31st day of January of each year, commencing on January 1, 2011, file with the Superintendent an electronic registration form, under penalty of perjury, by the owner or other head setting forth the following information for the current year:

(1) All names, whether real or fictitious, of the person, firm, association, partnership, or corporation under which it has done and is doing business.

(2) The address, including city and street, of every place of doing business of the person, firm, association, partnership, or corporation within the State of California.

(3) The names and addresses, including city and street, of the directors, if any, and principal officers of the person, firm, association, partnership, or corporation.

(4) The school enrollment, by grade span, number of teachers, and coeducational or enrollment limited to boys or girls.

(5) That the following records are maintained at the address stated, and are true and accurate:

(A) The courses of study offered by the institution.

(B) The names and addresses, including city and street, of its faculty, together with a record of the educational qualifications of each faculty member.

(6) Criminal record summary information that has been obtained pursuant to Section 44237.

(7) The heritage school telephone number.

(b) Whenever two or more heritage schools are under the effective control or supervision of a single administrative unit, the administrative unit may comply with the provisions of this section on behalf of each of the schools under its control or supervision by submitting one report.

(c) Filing pursuant to this section shall not be interpreted to mean, and it shall be unlawful for any school to expressly or impliedly represent, that the State of California, the Superintendent, the state board, the department, or any division or bureau of the department, or any accrediting agency has made any evaluation, recognition, approval, or endorsement of the school or course, unless this is an actual fact.

(d) Filing pursuant to this section does not grant a heritage school any right to receive state funding.

33195.1. (a) Commencing January 1, 2011, the electronic registration form filed with the Superintendent pursuant to Section 33195 shall, under penalty of perjury, include a statement manifesting compliance with the following paragraph:

(1) A person, firm, association, partnership, or corporation offering or conducting heritage school instruction shall not employ a person who would be prohibited from employment by a public school district pursuant to any provision of this code because of his or her conviction for any crime.

(b) In the case of any heritage school where an instructor also serves as the administrator of the school, the electronic registration form shall be made available upon request to the parents or guardians of all pupils currently enrolled in the school and to any parent or guardian considering whether to enroll his or her child in the school.

33195.2. (a) Except as provided in subdivisions (b) and (c), if the employees of any entity that has a contract with a heritage school to provide any of the following services may have any contact with pupils, those

employees shall submit or have submitted their fingerprints in a manner authorized by the Department of Justice together with a fee determined by the Department of Justice to be sufficient to reimburse the department for its costs incurred in processing the application:

- (1) School and classroom janitorial.
- (2) Schoolsite administrative.
- (3) Schoolsite grounds and landscape maintenance.
- (4) Pupil transportation.
- (5) Schoolsite food-related services.

(b) This section shall not apply to an entity providing any of the services listed in subdivision (a) to a heritage school in an emergency or exceptional situation, such as when a pupil's health or safety is endangered or when repairs are needed to make school facilities safe and habitable.

(c) This section shall not apply to an entity providing any of the services listed in subdivision (a) to a heritage school when the heritage school determines that the employees of the entity will have limited contact with pupils. In determining whether a contract employee has limited contact with pupils, the heritage school shall consider the totality of the circumstances, including factors such as the length of time the contractors will be on school grounds, whether pupils will be in proximity with the site where the contractors will be working, and whether the contractors will be working by themselves or with others. If a heritage school has made this determination, the heritage school shall take appropriate steps to protect the safety of any pupils that may come in contact with these employees.

(d) A heritage school may determine, on a case-by-case basis, to require an entity providing schoolsite services other than those listed in subdivision (a) or those described in Section 33195.3 and the entity's employees to comply with the requirements of this section, unless the heritage school determines that the employees of the entity will have limited contact with pupils. In determining whether a contract employee will have limited contact with pupils, the heritage school shall consider the totality of the circumstances, including factors such as the length of time the contractors will be on school grounds, whether pupils will be in proximity with the site where the contractors will be working, and whether the contractors will be working by themselves or with others. If a heritage school makes this determination, the heritage school shall take appropriate steps to protect the safety of any pupils that may come in contact with these employees. If a heritage school requires an entity providing services other than those listed in subdivision (a) and its employees to comply with the requirements of this section, the Department of Justice shall comply with subdivision (e).

(e) (1) The heritage school contractor shall submit to the Department of Justice fingerprint images and related information required by the Department of Justice of all employees of entities, as identified in subdivisions (a) and (d), that contract with a heritage school, as defined in Section 33195.4, for the purposes of obtaining information as to the existence and content of a record of state or federal convictions and state or federal arrests and also information as to the existence and content of a record of

state and federal arrests for which the Department of Justice establishes that the person is free on bail or on his or her own recognizance pending trial or appeal.

(2) When received, the Department of Justice shall forward to the Federal Bureau of Investigation requests for federal summary criminal history information received pursuant to this subdivision. The Department of Justice shall review the information returned from the Federal Bureau of Investigation and compile and disseminate a fitness determination to the heritage school contractor.

(3) The Department of Justice shall provide a state response to the heritage school contractor pursuant to paragraph (1) of subdivision (p) of Section 11105 of the Penal Code.

(4) The heritage school contractor shall request from the Department of Justice subsequent arrest notification service, as provided pursuant to Section 11105.2 of the Penal Code, for employees described in paragraph (1).

(5) The Department of Justice shall charge a fee sufficient to cover the cost of processing the request described in the subdivision.

(f) An entity having a contract as specified in subdivision (a) and an entity required to comply with this section pursuant to subdivision (d) shall not permit an employee to come in contact with pupils until the Department of Justice has ascertained that the employee has not been convicted of a felony as defined in Section 45122.1.

(1) This prohibition does not apply to an employee solely on the basis that the employee has been convicted of a felony if the employee has obtained a certificate of rehabilitation and pardon pursuant to Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code.

(2) This prohibition does not apply to an employee solely on the basis that the employee has been convicted of a serious felony that is not also a violent felony if that employee can prove to the sentencing court of the offense in question, by clear and convincing evidence, that he or she has been rehabilitated for the purposes of schoolsite employment for at least one year. If the offense in question occurred outside this state, then the person may seek a finding of rehabilitation from the court having jurisdiction where he or she is resident.

(g) An entity having a contract as specified in subdivision (a) and an entity required to comply with this section pursuant to subdivision (d) shall certify in writing to the heritage school that neither the employer nor any of its employees who are required by this section to submit or have their fingerprints submitted to the Department of Justice and who may come in contact with pupils have been convicted of a felony as defined in Section 45122.1.

(h) An entity having a contract as specified in subdivision (a) on the effective date of the act adding this section and an entity required to comply with this section pursuant to subdivision (d) by a heritage school with which it has a contract on the effective date of the act adding this section shall complete the requirements of this section within 90 days of that date.

(i) Where reasonable access to the statewide electronic fingerprinting network is available, the Department of Justice may request electronic submission of the fingerprint cards and other information required by this section.

33195.3. (a) A heritage school contracting with an entity for the construction, reconstruction, rehabilitation, or repair of a school facility where the employees of the entity will have contact, other than limited contact, with pupils shall ensure the safety of the pupils by one or more of the following methods:

(1) The installation of a physical barrier at the worksite to limit contact with pupils.

(2) Continual supervision and monitoring of all employees of the entity by an employee of the entity whom the Department of Justice has ascertained has not been convicted of a violent or serious felony. For purposes of this paragraph, an employee of the entity may submit his or her fingerprints to the Department of Justice pursuant to subdivision (a) of Section 33195.2 and the Department of Justice shall comply with subdivision (d) of Section 33195.2.

(3) Surveillance of employees of the entity by school personnel.

(b) An entity that contracts with a heritage school for the construction, reconstruction, rehabilitation, or repair of a school facility is not required to comply with the requirements of Section 33195.2 if one or more of the methods described in subdivision (a) is utilized.

(c) (1) This section shall not apply to an entity providing construction, reconstruction, rehabilitation, or repair services to a school facility in an emergency or exceptional situation, such as when a pupil's health or safety is endangered or when repairs are needed to make school facilities safe and habitable.

(2) For purposes of this section, a violent felony means any felony listed in subdivision (c) of Section 667.5 of the Penal Code and a serious felony means any felony listed in subdivision (c) of Section 1192.7 of the Penal Code.

33195.4. For purposes of this article, "heritage school" means a school that serves children who are at least 4 years and 9 months of age and no older than 18 years of age, who attend a public or private full-time day school, that does all of the following:

(a) Specifies regular hours of operation.

(b) Offers education or academic tutoring, or both, in a foreign language.

(c) Offers education on the culture, traditions, or history of a country other than the United States.

(d) Offers culturally enriching activities, including, but not limited to, art, dancing, games, or singing, based on the culture or customs of a country other than the United States.

(e) Maintains membership in a state or national cultural or language association.

(f) Complies with relevant local government regulations, where applicable.

(g) Does not operate out of a residential home.

(h) Complies with the requirements of Section 33195 and maintains in its possession a copy of the registration form electronically filed with the Superintendent. The heritage school shall make this form available upon request, including to the State Department of Social Services, to verify exemption from child care licensure.

33195.5. (a) The Heritage Enrichment Resource Fund is hereby established in the State Treasury. Moneys deposited in the fund may be expended by the Superintendent upon appropriation by statute, for the purposes of this article.

(b) The electronic registration form to be filed pursuant to this article shall be filed together with a fee determined by the Superintendent to be sufficient to cover, but not exceed, the costs of the department in implementing this article. The fees shall be deposited into the Heritage Enrichment Resource Fund. The fee shall be received by the Superintendent no later than January 31 of each year in which the registration form is filed.

33195.6. (a) A director of a heritage school shall undergo at least 15 hours of health and safety training. The training shall include all of the following components:

(1) Pediatric first aid.

(2) Pediatric cardiopulmonary resuscitation (CPR).

(3) A preventive health practices course or courses that include instruction in the recognition, management, and prevention of infectious diseases, including immunizations, and prevention of childhood injuries.

(4) Training in pediatric first aid and CPR pursuant to paragraphs (1) and (2) shall be provided by a program approved by the American Red Cross, the American Heart Association, or the Emergency Medical Services Authority pursuant to Section 1797.191 of the Health and Safety Code.

(5) Training in preventive health practices pursuant to paragraph (3) shall be provided by a training program approved by the Emergency Medical Services Authority.

(6) In addition to the training programs specified in paragraphs (4) and (5), training programs or courses in pediatric first aid, pediatric CPR, and preventive health practices offered or approved by an accredited postsecondary educational institution are considered to be approved sources of training that may be used to satisfy the training requirements of paragraphs (1) to (3), inclusive.

(7) Persons who, prior to the effective date of this section, have completed a course or courses in preventive health practices as described in paragraph (3), and have a certificate of completion of a course or courses in preventive health practices, or certified copies of transcripts that identify the number of hours and the specific course or courses taken for training in preventive health practices, shall be deemed to have met the training requirement for preventive health practices pursuant to paragraph (3).

(b) All employees and volunteers of a heritage school shall be in good health, as verified by a health screening, including a test for tuberculosis, performed by, or under the supervision of, a licensed physician and surgeon.

(c) Pupils attending heritage schools shall have access to working sinks, toilets, and drinking water.

(d) No pupil attending a heritage school shall have access to medication or cleaning supplies, except as otherwise provided by law.

(e) A heritage school, as defined in Section 33195.4, shall not be subject to licensure by the State Department of Social Services as a child day care center pursuant to Chapter 3.4 (commencing with Section 1596.70) or Chapter 3.5 (commencing with Section 1596.90) of Division 2 of the Health and Safety Code.

(f) Upon a pupil's enrollment in a heritage school, the heritage school shall provide a notice to the pupil's parent or guardian stating that the heritage school is exempt from child care licensure, and that attendance at a heritage school does not satisfy California's compulsory education requirements pursuant to Section 48200.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that pupils have the opportunity to attend heritage schools to supplement their full-time day school curriculum with education of a foreign language and the culture, traditions, or history of a country other than the United States, it is necessary that this act take effect immediately.