

AMENDED IN ASSEMBLY MARCH 23, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 709

Introduced by Assembly Member Brownley

February 17, 2011

An act to amend Section 48853.5 of the Education Code, *and to add Section 120341 to the Health and Safety Code*, relating to foster children.

LEGISLATIVE COUNSEL'S DIGEST

AB 709, as amended, Brownley. Foster children: school placement: disputes.

Existing law provides that at the initial detention or placement, or any subsequent change in placement of a foster child, the local educational agency serving the foster child shall allow the foster child to continue his or her education in the school of origin for the duration of the jurisdiction of the court. However, if the educational liaison for foster children and the person holding the right to make educational decisions for the foster child agree that the best interests of the foster child would best be served by waiver of this right and transfer to a school other than the school of origin, the foster child shall immediately be enrolled in the new school. Existing law requires the new school to immediately enroll the foster child even if he or she is unable to produce clothing or records normally required for enrollment, such as previous academic records, medical records, proof of residency, other documentation, or school uniforms.

Existing law prohibits the governing authority of a school or other institution from unconditionally admitting any person as a pupil of any private or public elementary or secondary school, child care center, day nursery, nursery school, family day care home, or development

center, unless prior to the pupil’s first admission to that institution the pupil has been fully immunized against specified diseases.

This bill would specify that the new school is required to immediately enroll the foster child even if he or she is unable to produce medical records, including records or other proof of immunization history; ~~notwithstanding other provisions of law requiring documentation of immunizations prior to school admission.~~ *This bill would require the governing authority to admit a foster child whose immunization records are not available or are missing.*

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

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

1 SECTION 1. Section 48853.5 of the Education Code is
2 amended to read:
3 48853.5. (a) This section applies to a child who has been
4 removed from his or her home pursuant to Section 309 of the
5 Welfare and Institutions Code, is the subject of a petition filed
6 under Section 300 or 602 of the Welfare and Institutions Code, or
7 has been removed from his or her home and is the subject of a
8 petition filed under Section 300 or 602 of the Welfare and
9 Institutions Code (hereafter “foster child”).
10 (b) Each local educational agency shall designate a staff person
11 as the educational liaison for foster children. In a school district
12 that operates a foster children services program pursuant to Chapter
13 11.3 (commencing with Section 42920) of Part 24, the educational
14 liaison shall be affiliated with the local foster children services
15 program. The liaison shall do all of the following:
16 (1) Ensure and facilitate the proper educational placement,
17 enrollment in school, and checkout from school of foster children.
18 (2) Assist foster children when transferring from one school to
19 another or from one school district to another in ensuring proper
20 transfer of credits, records, and grades.
21 (c) This section does not grant authority to the educational
22 liaison that supersedes the authority granted under state and federal
23 law to a parent or guardian retaining educational rights, a
24 responsible adult appointed by the court to represent the child
25 pursuant to Section 361 or 726 of the Welfare and Institutions
26 Code, a surrogate parent, or a foster parent exercising the authority

1 granted under Section 56055. The role of the educational liaison
2 is advisory with respect to placement decisions and determination
3 of school of origin.

4 (d) (1) At the initial detention or placement, or any subsequent
5 change in placement of a foster child, the local educational agency
6 serving the foster child shall allow the foster child to continue his
7 or her education in the school of origin for the duration of the
8 jurisdiction of the court.

9 (2) If the jurisdiction of the court is terminated prior to the end
10 of an academic year, the foster child shall be allowed to continue
11 his or her education in the school of origin through the duration
12 of the academic school year.

13 (3) To ensure that the foster child has the benefit of matriculating
14 with his or her peers in accordance with the established feeder
15 patterns of school districts, if the foster child is transitioning
16 between school grade levels, the local educational agency shall
17 allow the foster child to continue in the school district of origin in
18 the same attendance area, or, if the foster child is transitioning to
19 a middle school or high school, and the school designated for
20 matriculation is in another school district, to the school designated
21 for matriculation in that school district.

22 (4) Paragraphs (2) and (3) of subdivision (d) shall not be
23 construed to require a school district to provide transportation
24 services to allow a foster child to attend a school or school district,
25 unless otherwise required under federal law, nor shall this
26 paragraph be construed to prohibit a school district from, at its
27 discretion, providing transportation services to allow a foster child
28 to attend a school or school district.

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

36 (6) Prior to making any recommendation to move a foster child
37 from his or her school of origin, the liaison shall provide the foster
38 child and the person holding the right to make educational decisions
39 for the foster child with a written explanation stating the basis for

1 the recommendation and how this recommendation serves the
2 foster child’s best interest.

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

9 (B) The new school shall immediately enroll the foster child
10 even if the foster child has outstanding fees, fines, textbooks, or
11 other items or moneys due to the school last attended or is unable
12 to produce clothing or records normally required for enrollment,
13 such as previous academic records, medical records, including
14 records or other proof of immunization history, ~~notwithstanding~~
15 ~~the requirements of Chapter 1 (commencing with Section 120325)~~
16 ~~of Part 2 of Division 105 of the Health and Safety Code governing~~
17 ~~documentation of immunizations prior to school admission~~
18 ~~pursuant to Section 120341 of the Health and Safety Code~~, proof
19 of residency, other documentation, or school uniforms.

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

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

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

1 (10) It is the intent of the Legislature that subdivision (d) shall
2 not supersede or exceed other laws governing special education
3 services for eligible foster children.

4 (e) For purposes of this section, “school of origin” means the
5 school that the foster child attended when permanently housed or
6 the school in which the foster child was last enrolled. If the school
7 the foster child attended when permanently housed is different
8 from the school in which the foster child was last enrolled, or if
9 there is some other school that the foster child attended with which
10 the foster child is connected and that the foster child attended
11 within the immediately preceding 15 months, the liaison, in
12 consultation with and the agreement of the foster child and the
13 person holding the right to make educational decisions for the
14 foster child, shall determine, in the best interests of the foster child,
15 the school that shall be deemed the school of origin.

16 (f) This section does not supersede other law governing the
17 educational placements in juvenile court schools, as described in
18 Section 48645.1, by the juvenile court under Section 602 of the
19 Welfare and Institutions Code.

20 *SEC. 2. Section 120341 is added to the Health and Safety Code,*
21 *to read:*

22 *120341. The governing authority shall admit a foster child*
23 *whose immunization records are not available or are missing.*