

AMENDED IN SENATE AUGUST 15, 2011
AMENDED IN ASSEMBLY APRIL 6, 2011
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~~; *immunization records*.

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, but not limited to, records or other proof of immunization history. ~~This~~ *The* bill would make a conforming change by requiring the governing authority to admit a foster child whose immunization records are not available or are missing *and prohibiting this change from altering specified obligations of the governing authority.* The bill would state the Legislature’s intent to reconcile the provisions of the Health and Safety Code with those of the Education Code.

The bill would also make technical, nonsubstantive changes.

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. It is the intent of the Legislature that a foster child
2 ~~be immediately~~ *immediately be* enrolled in and allowed to attend
3 school, even if he or she is unable to produce records normally
4 required for school enrollment. The intent of this act is to reconcile
5 the provisions of the Health and Safety Code with the provisions
6 of the Education Code.

7 SEC. 2. Section 48853.5 of the Education Code is amended to
8 read:

9 48853.5. (a) This section applies to a child who has been
10 removed from his or her home pursuant to Section 309 of the
11 Welfare and Institutions Code, is the subject of a petition filed
12 under Section 300 or 602 of the Welfare and Institutions Code, or
13 has been removed from his or her home and is the subject of a
14 petition filed under Section 300 or 602 of the Welfare and
15 Institutions Code (hereafter “foster child”).

16 (b) Each local educational agency shall designate a staff person
17 as the educational liaison for foster children. In a school district
18 that operates a foster children services program pursuant to Chapter

1 11.3 (commencing with Section 42920) of Part 24, the educational
2 liaison shall be affiliated with the local foster children services
3 program. The liaison shall do all of the following:

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

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

9 (c) This section does not grant authority to the educational
10 liaison that supersedes the authority granted under state and federal
11 law to a parent or guardian retaining educational rights, a
12 responsible adult appointed by the court to represent the child
13 pursuant to Section 361 or 726 of the Welfare and Institutions
14 Code, a surrogate parent, or a foster parent exercising the authority
15 granted under Section 56055. The role of the educational liaison
16 is advisory with respect to placement decisions and determination
17 of school of origin.

18 (d) (1) At the initial detention or placement, or any subsequent
19 change in placement of a foster child, the local educational agency
20 serving the foster child shall allow the foster child to continue his
21 or her education in the school of origin for the duration of the
22 jurisdiction of the court.

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

27 (3) To ensure that the foster child has the benefit of matriculating
28 with his or her peers in accordance with the established feeder
29 patterns of school districts, if the foster child is transitioning
30 between school grade levels, the local educational agency shall
31 allow the foster child to continue in the school district of origin in
32 the same attendance area, or, if the foster child is transitioning to
33 a middle school or high school, and the school designated for
34 matriculation is in another school district, to the school designated
35 for matriculation in that school district.

36 (4) Paragraphs (2) and (3) ~~of subdivision (d)~~ shall not be
37 construed to require a school district to provide transportation
38 services to allow a foster child to attend a school or school district,
39 unless otherwise required under federal law, nor shall this
40 paragraph be construed to prohibit a school district from, at its

1 discretion, providing transportation services to allow a foster child
2 to attend a school or school district.

3 (5) The liaison, in consultation with and with the agreement of
4 the foster child and the person holding the right to make
5 educational decisions for the foster child, may, in accordance with
6 the foster child’s best interests, recommend that the foster child’s
7 right to attend the school of origin be waived and the foster child
8 be enrolled in any public school that pupils living in the attendance
9 area in which the foster child resides are eligible to attend.

10 (6) Prior to making any recommendation to move a foster child
11 from his or her school of origin, the liaison shall provide the foster
12 child and the person holding the right to make educational decisions
13 for the foster child with a written explanation stating the basis for
14 the recommendation and how this recommendation serves the
15 foster child’s best interest.

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

22 (B) The new school shall immediately enroll the foster child
23 even if the foster child has outstanding fees, fines, textbooks, or
24 other items or moneys due to the school last attended or is unable
25 to produce clothing or records normally required for enrollment,
26 such as previous academic records, medical records, including,
27 but not limited to, records or other proof of immunization history
28 pursuant to ~~Section 120341~~ *Chapter 1 (commencing with Section*
29 *120325) of Part 2 of Division 105* of the Health and Safety Code,
30 proof of residency, other documentation, or school uniforms.

31 (C) The liaison for the new school shall, within two business
32 days of the foster child’s request for enrollment, contact the school
33 last attended by the foster child to obtain all academic and other
34 records. All required records shall be provided to the new school
35 regardless of any outstanding fees, fines, textbooks, or other items
36 or moneys owed to the school last attended. The school liaison for
37 the school last attended shall provide all records to the new school
38 within two business days of receiving the request.

39 (8) If a dispute arises regarding the request of a foster child to
40 remain in the school of origin, the foster child has the right to

1 remain in the school of origin pending resolution of the dispute.
2 The dispute shall be resolved in accordance with the existing
3 dispute resolution process available to any pupil served by the
4 local educational agency.

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

10 (10) It is the intent of the Legislature that *this* subdivision ~~(d)~~
11 shall not supersede or exceed other laws governing special
12 education services for eligible foster children.

13 (e) For purposes of this section, “school of origin” means the
14 school that the foster child attended when permanently housed or
15 the school in which the foster child was last enrolled. If the school
16 the foster child attended when permanently housed is different
17 from the school in which the foster child was last enrolled, or if
18 there is some other school that the foster child attended with which
19 the foster child is connected and that the foster child attended
20 within the immediately preceding 15 months, the liaison, in
21 consultation with and *with* the agreement of the foster child and
22 the person holding the right to make educational decisions for the
23 foster child, shall determine, in the best interests of the foster child,
24 the school that shall be deemed the school of origin.

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

29 SEC. 3. Section 120341 is added to the Health and Safety Code,
30 to read:

31 120341. (a) The governing authority shall admit a foster child,
32 as defined in subdivision (a) of Section 48853.5 of the Education
33 Code, whose immunization records are not available or are missing.

34 (b) *This section shall not alter the obligation of the governing*
35 *authority to obtain a foster child’s immunization records pursuant*
36 *to Section 48853.5 of the Education Code or to ensure the*
37 *immunization of a foster child pursuant to this chapter.*

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