

AMENDED IN ASSEMBLY APRIL 23, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2109**

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**Introduced by Assembly Member Pan**  
(Principal coauthor: Senator Wolk)  
**(Coauthor: Assembly Member Fuentes)**

February 23, 2012

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An act to amend Section 120365 of the Health and Safety Code, relating to communicable disease.

LEGISLATIVE COUNSEL'S DIGEST

AB 2109, as amended, Pan. Communicable disease: immunization exemption.

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 his or her first admission to that institution he or she has been fully immunized against various diseases, as specified. Existing law prohibits admission or advancement of a pupil to the 7th grade level without a full immunization against hepatitis B.

Existing law exempts a person from the above-described immunization requirement if the parent or guardian or other specified persons file with the governing authority a letter or affidavit stating that the immunization is contrary to his or her beliefs. However, whenever there is good cause to believe that the person has been exposed to one of the diseases, a person may be temporarily excluded from the school or institution, as specified.

This bill would require, on and after July 1, 2013, the above-described letter or affidavit to be accompanied by a form prescribed by the State Department of Public Health that includes a written statement signed by a health care practitioner, as defined, that indicates that the health care practitioner provided the parent or guardian of the person, *the adult who has assumed responsibility for the care and custody of the person*, or the person, if an emancipated minor, who is subject to the immunization requirements with information regarding the benefits and risks of the immunization and the health risks of specified communicable diseases. *The bill would also require, if the person was admitted to the school prior to entering the 7th grade and is about to enter the 7th grade, an additional letter or affidavit to be filed with the form.* The bill would ~~also~~ require the form to include a written statement by the parent, guardian, *other specified persons*, or person, if an emancipated minor, that indicates that he or she received the information from the health care practitioner.

By imposing new duties upon local officials, this bill would create a state-mandated local program.

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 120365 of the Health and Safety Code
- 2 is amended to read:
- 3 120365. (a) Immunization of a person shall not be required
- 4 for admission to a school or other institution listed in Section
- 5 120335 if the parent or guardian or adult who has assumed
- 6 responsibility for his or her care and custody in the case of a minor,
- 7 or the person seeking admission if an emancipated minor, files
- 8 with the governing authority a letter or affidavit stating that the
- 9 immunization is contrary to his or her beliefs.

1 (b) On and after July 1, 2013, a separate form prescribed by the  
2 State Department of Public Health shall accompany the letter or  
3 affidavit filed pursuant to subdivision (a). The form shall include  
4 both of the following:

5 (1) A written statement signed by a health care practitioner that  
6 indicates that the health care practitioner provided the parent or  
7 guardian of the person, *the adult who has assumed responsibility*  
8 *for the care and custody of the person*, or the person if an  
9 emancipated minor, who is subject to the immunization  
10 requirements of this chapter with information regarding the benefits  
11 and risks of the immunization and the health risks of the  
12 communicable diseases listed in Section 120335 to the person and  
13 to the community. This statement shall be signed not more than  
14 six months from the date when the person subject to the  
15 immunization requirements is first admitted to the school. If the  
16 person was admitted to the school prior to entering the 7th grade  
17 and is about to enter the 7th grade, then an additional letter or  
18 affidavit shall be filed with the written statement signed by the  
19 health care practitioner not more than six months from the first  
20 day of school for a person about to enter the 7th grade.

21 (2) A written statement signed by the parent or guardian of the  
22 person, *the adult who has assumed responsibility for the care and*  
23 *custody of the person*, or the person if an emancipated minor, who  
24 is subject to the immunization requirements of this chapter that  
25 indicates that the signor has received the information provided by  
26 the health care practitioner described in paragraph (1). This  
27 statement shall be signed not more than six months from the date  
28 when the person subject to the immunization requirements is first  
29 admitted to the school. If the person was admitted to the school  
30 prior to entering the 7th grade and is about to enter the 7th grade,  
31 then an additional letter or affidavit shall be filed with the written  
32 statement signed by the parent, *guardian, or adult, or if an*  
33 *emancipated minor, the person* not more than six months from the  
34 first day of school for a person about to enter the 7th grade.

35 (c) When there is good cause to believe that the person has been  
36 exposed to one of the communicable diseases listed in subdivision  
37 (a) of Section 120325, that person may be temporarily excluded  
38 from the school or institution until the local health officer is  
39 satisfied that the person is no longer at risk of developing the  
40 disease.

1 (d) A copy of the signed written statement shall be accepted in  
2 lieu of the original form. A signed letter from the health care  
3 practitioner that references the person’s name shall be accepted in  
4 lieu of a statement on the original form.

5 (e) For purposes of this section, “health care practitioner” means  
6 *any of the following:*

7 (1) A physician and surgeon, licensed pursuant to Section 2050  
8 of the Business and Professions Code;~~a.~~

9 (2) A nurse practitioner who is authorized to furnish drugs  
10 pursuant to Section 2836.1 of the Business and Professions Code;  
11 ~~or a.~~

12 (3) A physician assistant who is authorized to administer or  
13 provide medication pursuant to Section 3502.1 of the Business  
14 and Professions Code.

15 (4) *An osteopathic physician and surgeon, as defined in the*  
16 *Osteopathic Initiative Act.*

17 (5) *A naturopathic doctor who is authorized to furnish or order*  
18 *drugs under a physician and surgeon’s supervision pursuant to*  
19 *Section 3640.5 of the Business and Professions Code.*

20 SEC. 2. If the Commission on State Mandates determines that  
21 this act contains costs mandated by the state, reimbursement to  
22 local agencies and school districts for those costs shall be made  
23 pursuant to Part 7 (commencing with Section 17500) of Division  
24 4 of Title 2 of the Government Code.

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