

AMENDED IN SENATE JUNE 20, 2012

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 *instead require this letter or affidavit to document which required immunizations have been given, and which have not been given on the basis that they are contrary to the parent or guardian’s or other specified person’s beliefs. The bill would require, on and after July 1, 2013, January 1, 2014, 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 signed attestation from 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 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

1 120335 if the parent or guardian or adult who has assumed  
2 responsibility for his or her care and custody in the case of a minor,  
3 or the person seeking admission if an emancipated minor, files  
4 with the governing authority a letter or affidavit ~~stating that the~~  
5 ~~immunization is contrary to his or her beliefs that documents which~~  
6 ~~immunizations required by Section 120355 have been given, and~~  
7 ~~which immunizations have not been given on the basis that they~~  
8 ~~are contrary to his or her beliefs.~~

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

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

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

1 emancipated minor, the person not more than six months from the  
2 first day of school for a person about to enter the 7th grade.

3 (b) On and after January 1, 2014, a form prescribed by the State  
4 Department of Public Health shall accompany the letter or affidavit  
5 filed pursuant to subdivision (a). The form shall include both of  
6 the following:

7 (1) A signed attestation from the health care practitioner that  
8 indicates that the health care practitioner provided the parent or  
9 guardian of the person who is subject to the immunization  
10 requirements of this chapter, the adult who has assumed  
11 responsibility for the care and custody of the person, or the person  
12 if an emancipated minor, with information regarding the benefits  
13 and risks of the immunization and the health risks of the  
14 communicable diseases listed in Section 120335 to the person and  
15 to the community. This attestation shall be signed not more than  
16 six months prior to the date when the person first becomes subject  
17 to the immunization requirement for which exemption is being  
18 sought.

19 (2) A written statement signed by the parent or guardian of the  
20 person who is subject to the immunization requirements of this  
21 chapter, the adult who has assumed responsibility for the care and  
22 custody of the person, or the person if an emancipated minor, that  
23 indicates that the signer has received the information provided by  
24 the health care practitioner pursuant to paragraph (1). This  
25 statement shall be signed not more than six months prior to the  
26 date when the person first becomes subject to the immunization  
27 requirements as a condition of admittance to a school or institution  
28 pursuant to Section 120335.

29 (c) The following shall be accepted in lieu of the original form:

30 (1) A photocopy of the signed form.

31 (2) A letter signed by a health care practitioner that includes  
32 all information and attestations included on the form.

33 (d) Issuance and revision of the form shall be exempt from the  
34 rulemaking provisions of the Administrative Procedure Act  
35 (Chapter 3.5 (commencing with Section 11340) of Part 1 of  
36 Division 3 of Title 2 of the Government Code).

37 (e)

38 (e) When there is good cause to believe that the person has been  
39 exposed to one of the communicable diseases listed in subdivision  
40 (a) of Section 120325, that person may be temporarily excluded

1 from the school or institution until the local health officer is  
2 satisfied that the person is no longer at risk of developing the  
3 disease.

4 ~~(d) A copy of the signed written statement shall be accepted in  
5 lieu of the original form. A signed letter from the health care  
6 practitioner that references the person's name shall be accepted in  
7 lieu of a statement on the original form.~~

8 (e)

9 (f) For purposes of this section, "health care practitioner" means  
10 any of the following:

11 (1) A physician and surgeon, licensed pursuant to Section 2050  
12 of the Business and Professions Code.

13 (2) A nurse practitioner who is authorized to furnish drugs  
14 pursuant to Section 2836.1 of the Business and Professions Code.

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

18 (4) An osteopathic physician and surgeon, as defined in the  
19 Osteopathic Initiative Act.

20 (5) A naturopathic doctor who is authorized to furnish or order  
21 drugs under a physician and surgeon's supervision pursuant to  
22 Section 3640.5 of the Business and Professions Code.

23 SEC. 2. If the Commission on State Mandates determines that  
24 this act contains costs mandated by the state, reimbursement to  
25 local agencies and school districts for those costs shall be made  
26 pursuant to Part 7 (commencing with Section 17500) of Division  
27 4 of Title 2 of the Government Code.