

AMENDED IN ASSEMBLY APRIL 7, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 224

Introduced by Assembly Member Jones-Sawyer

February 3, 2015

An act to amend Sections 48204, 48645.5, 48853, and 48853.5 of the Education Code, and to amend Sections 317 and 16010 of the Welfare and Institutions Code, relating to pupils.

LEGISLATIVE COUNSEL'S DIGEST

AB 224, as amended, Jones-Sawyer. Pupils: educational liaison for foster children.

Existing law requires each local educational agency, as defined, to designate a staff person as the educational liaison for foster children, as defined. Existing law requires the educational liaison to ensure and facilitate the proper educational placement, enrollment in school, and checkout from school of foster children, and to assist foster children when transferring from one school to another school or from one school district to another school district in ensuring the proper transfer of credits, records, and grades.

This bill would require the State Department of Education, in consultation with the California Foster Youth Education Task Force, to develop a standardized notice of the ~~education~~ *educational* rights of foster children, as specified, to post the notice on its Internet Web site, and to make copies of the notice available to educational liaison for foster children for dissemination. *The bill would require the department to consult with the Office of the State Foster Care Ombudsperson in developing specified notice provisions.* The bill would require an educational liaison for foster children to ensure that public notice of

the educational rights of foster children developed by the department is disseminated or posted in a public area at schools where pupils that are foster children are in attendance. The bill would additionally require an educational liaison for foster children, at the time a foster child seeks enrollment in a school and by the most cost efficient and effective means possible, to provide notice of the educational rights of foster children developed by the department to the foster child and to the parent, guardian, or educational rights holder for the foster child. By placing additional responsibilities upon an educational liaison designee of a local educational agency, the bill would impose a state-mandated local program. The bill would make other conforming changes.

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 48204 of the Education Code, as amended
- 2 by Section 1 of Chapter 93 of the Statutes of 2012, is amended to
- 3 read:
- 4 48204. (a) Notwithstanding Section 48200, a pupil complies
- 5 with the residency requirements for school attendance in a school
- 6 district, if he or she is any of the following:
- 7 (1) (A) A pupil placed within the boundaries of that school
- 8 district in a regularly established licensed children's institution,
- 9 or a licensed foster home, or a family home pursuant to a
- 10 commitment or placement under Chapter 2 (commencing with
- 11 Section 200) of Part 1 of Division 2 of the Welfare and Institutions
- 12 Code.
- 13 (B) An agency placing a pupil in a home or institution described
- 14 in subparagraph (A) shall provide evidence to the school that the
- 15 placement or commitment is pursuant to law.
- 16 (2) A pupil who is a foster child who remains in his or her school
- 17 of origin pursuant to subdivisions (e) and (f) of Section 48853.5.

1 (3) A pupil for whom interdistrict attendance has been approved
2 pursuant to Chapter 5 (commencing with Section 46600) of Part
3 26.

4 (4) A pupil whose residence is located within the boundaries of
5 that school district and whose parent or legal guardian is relieved
6 of responsibility, control, and authority through emancipation.

7 (5) A pupil who lives in the home of a caregiving adult that is
8 located within the boundaries of that school district. Execution of
9 an affidavit under penalty of perjury pursuant to Part 1.5
10 (commencing with Section 6550) of Division 11 of the Family
11 Code by the caregiving adult is a sufficient basis for a
12 determination that the pupil lives in the home of the caregiver,
13 unless the school district determines from actual facts that the pupil
14 is not living in the home of the caregiver.

15 (6) A pupil residing in a state hospital located within the
16 boundaries of that school district.

17 (b) A school district may deem a pupil to have complied with
18 the residency requirements for school attendance in the district if
19 at least one parent or the legal guardian of the pupil is physically
20 employed within the boundaries of that district for a minimum of
21 10 hours during the school week.

22 (1) This subdivision does not require the school district within
23 which at least one parent or the legal guardian of a pupil is
24 employed to admit the pupil to its schools. A school district shall
25 not, however, refuse to admit a pupil under this subdivision on the
26 basis, except as expressly provided in this subdivision, of race,
27 ethnicity, sex, parental income, scholastic achievement, or any
28 other arbitrary consideration.

29 (2) The school district in which the residency of either the
30 parents or the legal guardian of the pupil is established, or the
31 school district to which the pupil is to be transferred under this
32 subdivision, may prohibit the transfer of the pupil under this
33 subdivision if the governing board of the district determines that
34 the transfer would negatively impact the court-ordered or voluntary
35 desegregation plan of the district.

36 (3) The school district to which the pupil is to be transferred
37 under this subdivision may prohibit the transfer of the pupil if the
38 district determines that the additional cost of educating the pupil
39 would exceed the amount of additional state aid received as a result
40 of the transfer.

1 (4) The governing board of a school district that prohibits the
2 transfer of a pupil pursuant to paragraph (1), (2), or (3) is
3 encouraged to identify, and communicate in writing to the parents
4 or the legal guardian of the pupil, the specific reasons for that
5 determination and is encouraged to ensure that the determination,
6 and the specific reasons therefor, are accurately recorded in the
7 minutes of the board meeting in which the determination was made.

8 (5) The average daily attendance for pupils admitted pursuant
9 to this subdivision is calculated pursuant to Section 46607.

10 (6) Unless approved by the sending school district, this
11 subdivision does not authorize a net transfer of pupils out of a
12 school district, calculated as the difference between the number
13 of pupils exiting the district and the number of pupils entering the
14 district, in a fiscal year in excess of the following amounts:

15 (A) For a school district with an average daily attendance for
16 that fiscal year of less than 501, 5 percent of the average daily
17 attendance of the district.

18 (B) For a school district with an average daily attendance for
19 that fiscal year of 501 or more, but less than 2,501, 3 percent of
20 the average daily attendance of the district or 25 pupils, whichever
21 amount is greater.

22 (C) For a school district with an average daily attendance of
23 2,501 or more, 1 percent of the average daily attendance of the
24 district or 75 pupils, whichever amount is greater.

25 (7) Once a pupil is deemed to have complied with the residency
26 requirements for school attendance pursuant to this subdivision
27 and is enrolled in a school in a school district the boundaries of
28 which include the location where at least one parent or the legal
29 guardian of a pupil is physically employed, the pupil does not have
30 to reapply in the next school year to attend a school within that
31 district and the district governing board shall allow the pupil to
32 attend school through grade 12 in that district if the parent or legal
33 guardian so chooses and if at least one parent or the legal guardian
34 of the pupil continues to be physically employed by an employer
35 situated within the attendance boundaries of the district, subject
36 to paragraphs (1) to (6), inclusive.

37 (c) This section shall become inoperative on July 1, 2017, and
38 as of January 1, 2018, is repealed, unless a later enacted statute,
39 that becomes operative on or before January 1, 2018, deletes or
40 extends the dates on which it becomes inoperative and is repealed.

1 SEC. 2. Section 48204 of the Education Code, as amended by
2 Section 2 of Chapter 93 of the Statutes of 2012, is amended to
3 read:

4 48204. (a) Notwithstanding Section 48200, a pupil complies
5 with the residency requirements for school attendance in a school
6 district, if he or she is:

7 (1) (A) A pupil placed within the boundaries of that school
8 district in a regularly established licensed children's institution,
9 or a licensed foster home, or a family home pursuant to a
10 commitment or placement under Chapter 2 (commencing with
11 Section 200) of Part 1 of Division 2 of the Welfare and Institutions
12 Code.

13 (B) An agency placing a pupil in the home or institution
14 described in subparagraph (A) shall provide evidence to the school
15 that the placement or commitment is pursuant to law.

16 (2) A pupil who is a foster child who remains in his or her school
17 of origin pursuant to subdivisions (e) and (f) of Section 48853.5.

18 (3) A pupil for whom interdistrict attendance has been approved
19 pursuant to Chapter 5 (commencing with Section 46600) of Part
20 26.

21 (4) A pupil whose residence is located within the boundaries of
22 that school district and whose parent or legal guardian is relieved
23 of responsibility, control, and authority through emancipation.

24 (5) A pupil who lives in the home of a caregiving adult that is
25 located within the boundaries of that school district. Execution of
26 an affidavit under penalty of perjury pursuant to Part 1.5
27 (commencing with Section 6550) of Division 11 of the Family
28 Code by the caregiving adult is a sufficient basis for a
29 determination that the pupil lives in the home of the caregiver,
30 unless the school district determines from actual facts that the pupil
31 is not living in the home of the caregiver.

32 (6) A pupil residing in a state hospital located within the
33 boundaries of that school district.

34 (b) This section shall become operative on July 1, 2017.

35 SEC. 3. Section 48645.5 of the Education Code is amended to
36 read:

37 48645.5. (a) Each public school district and county office of
38 education shall accept for credit full or partial coursework
39 satisfactorily completed by a pupil while attending a public school,
40 juvenile court school, or nonpublic, nonsectarian school or agency.

1 The coursework shall be transferred by means of the standard state
2 transcript. If a pupil completes the graduation requirements of his
3 or her school district of residence while being detained, the school
4 district of residence shall issue to the pupil a diploma from the
5 school the pupil last attended before detention or, in the alternative,
6 the county superintendent of schools may issue the diploma.

7 (b) A pupil shall not be denied enrollment or readmission to a
8 public school solely on the basis that he or she has had contact
9 with the juvenile justice system, including, but not limited to:

- 10 (1) Arrest.
11 (2) Adjudication by a juvenile court.
12 (3) Formal or informal supervision by a probation officer.
13 (4) Detention for any length of time in a juvenile facility or
14 enrollment in a juvenile court school.

15 (c) Pursuant to subparagraph (B) of paragraph (8) of subdivision
16 (f) of Section 48853.5, a pupil who has had contact with the
17 juvenile justice system shall be immediately enrolled in a public
18 school.

19 SEC. 4. Section 48853 of the Education Code is amended to
20 read:

21 48853. (a) A pupil described in subdivision (a) of Section
22 48853.5 who is placed in a licensed children's institution or foster
23 family home shall attend programs operated by the local
24 educational agency, unless one of the following applies:

25 (1) The pupil is entitled to remain in his or her school of origin
26 pursuant to paragraph (1) of subdivision (e) of Section 48853.5.

27 (2) The pupil has an individualized education program requiring
28 placement in a nonpublic, nonsectarian school or agency, or in
29 another local educational agency.

30 (3) The parent or guardian, or other person holding the right to
31 make educational decisions for the pupil pursuant to Section 361
32 or 726 of the Welfare and Institutions Code or Section 56055,
33 determines that it is in the best interests of the pupil to be placed
34 in another educational program, in which case the parent or
35 guardian or other person holding the right to make educational
36 decisions for the pupil shall provide a written statement that he or
37 she has made that determination to the local educational agency.
38 This statement shall include a declaration that the parent, guardian,
39 or other person holding the right to make educational decisions
40 for the pupil is aware of all of the following:

1 (A) The pupil has a right to attend a regular public school in the
2 least restrictive environment.

3 (B) The alternate education program is a special education
4 program, if applicable.

5 (C) The decision to unilaterally remove the pupil from the
6 regular public school and to place the pupil in an alternate
7 education program may not be financed by the local educational
8 agency.

9 (D) Any attempt to seek reimbursement for the alternate
10 education program may be at the expense of the parent, guardian,
11 or other person holding the right to make educational decisions
12 for the pupil.

13 (b) For purposes of ensuring a parent, guardian, or other person
14 holding the right to make educational decisions for the pupil is
15 aware of the information described in subparagraphs (A) to (D),
16 inclusive, of paragraph (3) of subdivision (a), the local educational
17 agency may provide him or her with that information in writing.

18 (c) Before any decision is made to place a pupil in a juvenile
19 court school as defined by Section 48645.1, a community school
20 as described in Sections 1981 and 48660, or other alternative
21 educational setting, the parent or guardian, or person holding the
22 right to make educational decisions for the pupil pursuant to
23 Section 361 or 726 of the Welfare and Institutions Code or Section
24 56055, shall first consider placement in the regular public school.

25 (d) If any dispute arises as to the school placement of a pupil
26 subject to this section, the pupil has the right to remain in his or
27 her school of origin, as defined in subdivision (f) of Section
28 48853.5, pending resolution of the dispute. The dispute shall be
29 resolved in accordance with the existing dispute resolution process
30 available to any pupil served by the local educational agency.

31 (e) This section does not supersede other laws that govern pupil
32 expulsion.

33 (f) This section does not supersede any other law governing the
34 educational placement in a juvenile court school, as defined by
35 Section 48645.1, of a pupil detained in a county juvenile hall, or
36 committed to a county juvenile ranch, camp, forestry camp, or
37 regional facility.

38 (g) Foster children living in emergency shelters, as referenced
39 in the federal McKinney-Vento Homeless Assistance Act (42
40 U.S.C. Sec. 11301 et seq.), may receive educational services at

1 the emergency shelter as necessary for short periods of time for
2 either of the following reasons:

3 (1) For health and safety emergencies.

4 (2) To provide temporary, special, and supplementary services
5 to meet the child's unique needs if a decision regarding whether
6 it is in the child's best interests to attend the school of origin cannot
7 be made promptly, it is not practical to transport the child to the
8 school of origin, and the child would otherwise not receive
9 educational services.

10 The educational services may be provided at the shelter pending
11 a determination by the person holding the right regarding the
12 educational placement of the child.

13 (h) All educational and school placement decisions shall be
14 made to ensure that the child is placed in the least restrictive
15 educational programs and has access to academic resources,
16 services, and extracurricular and enrichment activities that are
17 available to all pupils. In all instances, educational and school
18 placement decisions shall be based on the best interests of the
19 child.

20 SEC. 5. Section 48853.5 of the Education Code is amended to
21 read:

22 48853.5. (a) This section applies to a foster child. "Foster
23 child" means a child who has been removed from his or her home
24 pursuant to Section 309 of the Welfare and Institutions Code, is
25 the subject of a petition filed under Section 300 or 602 of the
26 Welfare and Institutions Code, or has been removed from his or
27 her home and is the subject of a petition filed under Section 300
28 or 602 of the Welfare and Institutions Code.

29 (b) The department, in consultation with the California Foster
30 Youth Education Task Force, shall develop a standardized notice
31 of the ~~education~~ educational rights of foster children, as specified
32 in Sections 48850 to this section, inclusive, 48911, 48915.5,
33 49069.5, 49076, ~~51225.2, and 51225.3.~~ 51225.1, and 51225.2. *The*
34 *notice shall include complaint process information, as applicable.*
35 The department shall post the notice on its Internet Web site and
36 make copies of the notice available to educational liaison for foster
37 children for dissemination pursuant to this section. *Any version of*
38 *this notice prepared for use by foster children shall also include,*
39 *to the greatest extent practicable, the rights established pursuant*
40 *to Section 16001.9 of the Welfare and Institutions Code. In*

1 *developing the notice that includes the rights in Section 16001.9*
2 *of the Welfare and Institutions Code, the department shall consult*
3 *with the Office of the State Foster Care Ombudsperson.*

4 (c) Each local educational agency shall designate a staff person
5 as the educational liaison for foster children. In a school district
6 that operates a foster children services program pursuant to Chapter
7 11.3 (commencing with Section 42920) of Part 24 of Division 3,
8 the educational liaison shall be affiliated with the local foster
9 children services program. The educational liaison shall do all of
10 the following:

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

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

16 (3) Ensure that public notice of the educational rights of foster
17 children, developed by the department pursuant to subdivision (b),
18 is disseminated or posted in a public area at schools where pupils
19 that are foster children are in attendance.

20 (4) At the time a foster child seeks enrollment in a school and
21 by the most cost efficient and effective means possible, provide
22 notice of the educational rights of foster children, developed by
23 the department pursuant to subdivision (b), to the foster child and
24 to the parent, guardian, or educational rights holder for the foster
25 child.

26 (d) If so designated by the superintendent of the local
27 educational agency, the educational liaison shall notify a foster
28 child's attorney and the appropriate representative of the county
29 child welfare agency of pending expulsion proceedings if the
30 decision to recommend expulsion is a discretionary act, pending
31 proceedings to extend a suspension until an expulsion decision is
32 rendered if the decision to recommend expulsion is a discretionary
33 act, and, if the foster child is an individual with exceptional needs,
34 pending manifestation determinations pursuant to Section 1415(k)
35 of Title 20 of the United States Code if the local educational agency
36 has proposed a change in placement due to an act for which the
37 decision to recommend expulsion is at the discretion of the
38 principal or the district superintendent of schools.

39 (e) This section does not grant authority to the educational
40 liaison that supersedes the authority granted under state and federal

1 law to a parent or legal guardian retaining educational rights, a
2 responsible adult appointed by the court to represent the child
3 pursuant to Section 361 or 726 of the Welfare and Institutions
4 Code, a surrogate parent, or a foster parent exercising the authority
5 granted under Section 56055. The role of the educational liaison
6 is advisory with respect to placement decisions and determination
7 of the school of origin.

8 (f) (1) At the initial detention or placement, or any subsequent
9 change in placement of a foster child, the local educational agency
10 serving the foster child shall allow the foster child to continue his
11 or her education in the school of origin for the duration of the
12 jurisdiction of the court.

13 (2) If the jurisdiction of the court is terminated before the end
14 of an academic year, the local educational agency shall allow a
15 former foster child who is in kindergarten or any of grades 1 to 8,
16 inclusive, to continue his or her education in the school of origin
17 through the duration of the academic school year.

18 (3) (A) If the jurisdiction of the court is terminated while a
19 foster child is in high school, the local educational agency shall
20 allow the former foster child to continue his or her education in
21 the school of origin through graduation.

22 (B) For purposes of this paragraph, a school district is not
23 required to provide transportation to a former foster child who has
24 an individualized education program that does not require
25 transportation as a related service and who changes residence but
26 remains in his or her school of origin pursuant to this paragraph,
27 unless the individualized education program team determines that
28 transportation is a necessary related service.

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

38 (5) Paragraphs (2), (3), and (4) do not require a school district
39 to provide transportation services to allow a foster child to attend
40 a school or school district, unless otherwise required under federal

1 law. This paragraph does not prohibit a school district from, at its
2 discretion, providing transportation services to allow a foster child
3 to attend a school or school district.

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

12 (7) Before making a recommendation to move a foster child
13 from his or her school of origin, the educational liaison shall
14 provide the foster child and the person holding the right to make
15 educational decisions for the foster child with a written explanation
16 stating the basis for the recommendation and how the
17 recommendation serves the foster child's best interest.

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

24 (B) The new school shall immediately enroll the foster child
25 even if the foster child has outstanding fees, fines, textbooks, or
26 other items or moneys due to the school last attended or is unable
27 to produce clothing or records normally required for enrollment,
28 such as previous academic records, medical records, including,
29 but not limited to, records or other proof of immunization history
30 pursuant to Chapter 1 (commencing with Section 120325) of Part
31 2 of Division 105 of the Health and Safety Code, proof of
32 residency, other documentation, or school uniforms.

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

1 last attended shall provide all records to the new school within two
2 business days of receiving the request.

3 (9) If a dispute arises regarding the request of a foster child to
4 remain in the school of origin, the foster child has the right to
5 remain in the school of origin pending resolution of the dispute.
6 The dispute shall be resolved in accordance with the existing
7 dispute resolution process available to a pupil served by the local
8 educational agency.

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

14 (11) It is the intent of the Legislature that this subdivision shall
15 not supersede or exceed other laws governing special education
16 services for eligible foster children.

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

29 (h) This section does not supersede other law governing the
30 educational placements in juvenile court schools, as described in
31 Section 48645.1, by the juvenile court under Section 602 of the
32 Welfare and Institutions Code.

33 SEC. 6. Section 317 of the Welfare and Institutions Code is
34 amended to read:

35 317. (a) (1) When it appears to the court that a parent or
36 guardian of the child desires counsel but is presently financially
37 unable to afford and cannot for that reason employ counsel, the
38 court may appoint counsel as provided in this section.

39 (2) When it appears to the court that a parent or Indian custodian
40 in an Indian child custody proceeding desires counsel but is

1 presently unable to afford and cannot for that reason employ
2 counsel, the provisions of Section 1912(b) of Title 25 of the United
3 States Code and Section 23.13 of Title 25 of the Code of Federal
4 Regulations shall apply.

5 (b) When it appears to the court that a parent or guardian of the
6 child is presently financially unable to afford and cannot for that
7 reason employ counsel, and the child has been placed in
8 out-of-home care, or the petitioning agency is recommending that
9 the child be placed in out-of-home care, the court shall appoint
10 counsel for the parent or guardian, unless the court finds that the
11 parent or guardian has made a knowing and intelligent waiver of
12 counsel as provided in this section.

13 (c) If a child or nonminor dependent is not represented by
14 counsel, the court shall appoint counsel for the child or nonminor
15 dependent, unless the court finds that the child or nonminor
16 dependent would not benefit from the appointment of counsel. The
17 court shall state on the record its reasons for that finding. A primary
18 responsibility of counsel appointed to represent a child or nonminor
19 dependent pursuant to this section shall be to advocate for the
20 protection, safety, and physical and emotional well-being of the
21 child or nonminor dependent. Counsel may be a district attorney,
22 public defender, or other member of the bar, provided that he or
23 she does not represent another party or county agency whose
24 interests conflict with the child's or nonminor dependent's interests.
25 The fact that the district attorney represents the child or nonminor
26 dependent in a proceeding pursuant to Section 300 as well as
27 conducts a criminal investigation or files a criminal complaint or
28 information arising from the same or reasonably related set of facts
29 as the proceeding pursuant to Section 300 is not in and of itself a
30 conflict of interest. The court may fix the compensation for the
31 services of appointed counsel. The appointed counsel shall have
32 a caseload and training that ensures adequate representation of the
33 child or nonminor dependent. The Judicial Council shall
34 promulgate rules of court that establish caseload standards, training
35 requirements, and guidelines for appointed counsel for children
36 and shall adopt rules as required by Section 326.5 no later than
37 July 1, 2001. Those training requirements shall include instruction
38 on cultural competency and sensitivity relating to, and best
39 practices for, providing adequate care to lesbian, gay, bisexual,
40 and transgender youth in out-of-home care.

(d) Counsel shall represent the parent, guardian, child, or nonminor dependent at the detention hearing and at all subsequent proceedings before the juvenile court. Counsel shall continue to represent the parent, guardian, child, or nonminor dependent unless relieved by the court upon the substitution of other counsel or for cause. The representation shall include representing the parent, guardian, or the child in termination proceedings and in those proceedings relating to the institution or setting aside of a legal guardianship. On and after January 1, 2012, in the case of a nonminor dependent, as described in subdivision (v) of Section 11400, no representation by counsel shall be provided for a parent, unless the parent is receiving court-ordered family reunification services.

(e) (1) Counsel shall be charged in general with the representation of the child's interests. To that end, counsel shall make or cause to have made any further investigations that he or she deems in good faith to be reasonably necessary to ascertain the facts, including the interviewing of witnesses, and shall examine and cross-examine witnesses in both the adjudicatory and dispositional hearings. Counsel may also introduce and examine his or her own witnesses, make recommendations to the court concerning the child's welfare, and participate further in the proceedings to the degree necessary to adequately represent the child. When counsel is appointed to represent a nonminor dependent, counsel is charged with representing the wishes of the nonminor dependent except when advocating for those wishes conflicts with the protection or safety of the nonminor dependent. If the court finds that a nonminor dependent is not competent to direct counsel, the court shall appoint a guardian ad litem for the nonminor dependent.

(2) If the child is four years of age or older, counsel shall interview the child to determine the child's wishes and assess the child's well-being, and shall advise the court of the child's wishes. Counsel shall not advocate for the return of the child if, to the best of his or her knowledge, return of the child conflicts with the protection and safety of the child.

(3) Counsel shall investigate the interests of the child beyond the scope of the juvenile proceeding, and report to the court other interests of the child that may need to be protected by the institution of other administrative or judicial proceedings. Counsel

1 representing a child in a dependency proceeding is not required to
2 assume the responsibilities of a social worker, and is not expected
3 to provide nonlegal services to the child.

4 (4) (A) At least once every year, if the list of educational
5 liaisons is available on the Internet Web site for the State
6 Department of Education, both of the following shall apply:

7 (i) Counsel shall provide his or her contact information to the
8 educational liaison, as described in subdivision (c) of Section
9 48853.5 of the Education Code, of each local educational agency
10 serving counsel's foster child clients in the county of jurisdiction.

11 (ii) If counsel is part of a firm or organization representing foster
12 children, the firm or organization may provide its contact
13 information in lieu of contact information for the individual
14 counsel. The firm or organization may designate a person or
15 persons within the firm or organization to receive communications
16 from educational liaisons.

17 (B) The child's caregiver or other person holding the right to
18 make educational decisions for the child may provide the contact
19 information of the child's attorney to the child's local educational
20 agency.

21 (C) Counsel for the child and counsel's agent may, but are not
22 required to, disclose to an individual who is being assessed for the
23 possibility of placement pursuant to Section 361.3 the fact that the
24 child is in custody, the alleged reasons that the child is in custody,
25 and the projected likely date for the child's return home, placement
26 for adoption, or legal guardianship. Nothing in this paragraph shall
27 be construed to prohibit counsel from making other disclosures
28 pursuant to this subdivision, as appropriate.

29 (5) Nothing in this subdivision shall be construed to permit
30 counsel to violate a child's attorney-client privilege.

31 (6) The changes made to this subdivision during the 2011–12
32 Regular Session of the Legislature by the act adding subparagraph
33 (C) of paragraph (4) and paragraph (5) are declaratory of existing
34 law.

35 (7) The court shall take whatever appropriate action is necessary
36 to fully protect the interests of the child.

37 (f) Either the child or counsel for the child, with the informed
38 consent of the child if the child is found by the court to be of
39 sufficient age and maturity to consent, which shall be presumed,
40 subject to rebuttal by clear and convincing evidence, if the child

1 is over 12 years of age, may invoke the psychotherapist-client
2 privilege, physician-patient privilege, and clergyman-penitent
3 privilege. If the child invokes the privilege, counsel may not waive
4 it, but if counsel invokes the privilege, the child may waive it.
5 Counsel shall be the holder of these privileges if the child is found
6 by the court not to be of sufficient age and maturity to consent.
7 For the sole purpose of fulfilling his or her obligation to provide
8 legal representation of the child, counsel shall have access to all
9 records with regard to the child maintained by a health care facility,
10 as defined in Section 1545 of the Penal Code, health care providers,
11 as defined in Section 6146 of the Business and Professions Code,
12 a physician and surgeon or other health practitioner, as defined in
13 former Section 11165.8 of the Penal Code, as that section read on
14 January 1, 2000, or a child care custodian, as defined in former
15 Section 11165.7 of the Penal Code, as that section read on January
16 1, 2000. Notwithstanding any other law, counsel shall be given
17 access to all records relevant to the case that are maintained by
18 state or local public agencies. All information requested from a
19 child protective agency regarding a child who is in protective
20 custody, or from a child's guardian ad litem, shall be provided to
21 the child's counsel within 30 days of the request.

22 (g) In a county of the third class, if counsel is to be provided to
23 a child at the county's expense other than by counsel for the
24 agency, the court shall first use the services of the public defender
25 before appointing private counsel. Nothing in this subdivision shall
26 be construed to require the appointment of the public defender in
27 any case in which the public defender has a conflict of interest. In
28 the interest of justice, a court may depart from that portion of the
29 procedure requiring appointment of the public defender after
30 making a finding of good cause and stating the reasons therefor
31 on the record.

32 (h) In a county of the third class, if counsel is to be appointed
33 to provide legal counsel for a parent or guardian at the county's
34 expense, the court shall first use the services of the alternate public
35 defender before appointing private counsel. Nothing in this
36 subdivision shall be construed to require the appointment of the
37 alternate public defender in any case in which the public defender
38 has a conflict of interest. In the interest of justice, a court may
39 depart from that portion of the procedure requiring appointment

1 of the alternate public defender after making a finding of good
2 cause and stating the reasons therefor on the record.

3 SEC. 7. Section 16010 of the Welfare and Institutions Code is
4 amended to read:

5 16010. (a) When a child is placed in foster care, the case plan
6 for each child recommended pursuant to Section 358.1 shall include
7 a summary of the health and education information or records,
8 including mental health information or records, of the child. The
9 summary may be maintained in the form of a health and education
10 passport, or a comparable format designed by the child protective
11 agency. The health and education summary shall include, but not
12 be limited to, the names and addresses of the child's health, dental,
13 and education providers; the child's grade level performance; the
14 child's school record; assurances that the child's placement in
15 foster care takes into account proximity to the school in which the
16 child is enrolled at the time of placement; the number of school
17 transfers the child has already experienced; the child's educational
18 progress, as demonstrated by factors, including, but not limited
19 to, academic proficiency scores; credits earned toward graduation;
20 a record of the child's immunizations and allergies; the child's
21 known medical problems; the child's current medications, past
22 health problems, and hospitalizations; a record of the child's
23 relevant mental health history; the child's known mental health
24 condition and medications; and any other relevant mental health,
25 dental, health, and education information concerning the child
26 determined to be appropriate by the Director of Social Services.
27 The health and education summary may also include the name and
28 contact information for the educational liaison, as described in
29 subdivision (c) of Section 48853.5 of the Education Code, of the
30 child's local educational agency. If any other law imposes more
31 stringent information requirements, then that section shall prevail.

32 (b) Additionally, a court report or assessment required pursuant
33 to subdivision (g) of Section 361.5, Section 366.1, subdivision (d)
34 of Section 366.21, or subdivision (c) of Section 366.22 shall
35 include a copy of the current health and education summary
36 described in subdivision (a). With respect to a nonminor dependent,
37 as described in subdivision (v) of Section 11400, a copy of the
38 current health and education summary shall be included in the
39 court report only if and when the nonminor dependent consents in
40 writing to its inclusion.

(c) As soon as possible, but not later than 30 days after initial placement of a child into foster care, the child protective agency shall provide the caregiver with the child's current health and education summary as described in subdivision (a). For each subsequent placement of a child or nonminor dependent, the child protective agency shall provide the caregiver with a current summary as described in subdivision (a) within 48 hours of the placement. With respect to a nonminor dependent, as described in subdivision (v) of Section 11400, the social worker or probation officer shall advise the young adult of the social worker's or probation officer's obligation to provide the health and education summary to the new caregiver and the court, and shall discuss with the youth the benefits and liabilities of sharing that information.

(d) (1) Notwithstanding Section 827 or any other law, the child protective agency may disclose any information described in this section to a prospective caregiver or caregivers prior to placement of a child if all of the following requirements are met:

(A) The child protective agency intends to place the child with the prospective caregiver or caregivers.

(B) The prospective caregiver or caregivers are willing to become the adoptive parent or parents of the child.

(C) The prospective caregiver or caregivers have an approved adoption assessment or home study, a foster family home license, certification by a licensed foster family agency, or approval pursuant to the requirements in Sections 361.3 and 361.4.

(2) In addition to the information required to be provided under this section, the child protective agency may disclose to the prospective caregiver specified in paragraph (1), placement history or underlying source documents that are provided to adoptive parents pursuant to subdivisions (a) and (b) of Section 8706 of the Family Code.

(e) The child's caregiver shall be responsible for obtaining and maintaining accurate and thorough information from physicians and educators for the child's summary as described in subdivision (a) during the time that the child is in the care of the caregiver. On each required visit, the child protective agency or its designee family foster agency shall inquire of the caregiver whether there is any new information that should be added to the child's summary as described in subdivision (a). The child protective agency shall update the summary with the information as appropriate, but not

1 later than the next court date or within 48 hours of a change in
2 placement. The child protective agency or its designee family
3 foster agency shall take all necessary steps to assist the caregiver
4 in obtaining relevant health and education information for the
5 child's health and education summary as described in subdivision
6 (a). The caregiver of a nonminor dependent, as described in
7 subdivision (v) of Section 11400, is not responsible for obtaining
8 and maintaining the nonminor dependent's health and educational
9 information, but may assist the nonminor dependent with any
10 recordkeeping that the nonminor requests of the caregiver.

11 (f) At the initial hearing, the court shall direct each parent to
12 provide to the child protective agency complete medical, dental,
13 mental health, and educational information, and medical
14 background, of the child and of the child's mother and the child's
15 biological father if known. The Judicial Council shall create a form
16 for the purpose of obtaining health and education information from
17 the child's parents or guardians at the initial hearing. The court
18 shall determine at the hearing held pursuant to Section 358 whether
19 the medical, dental, mental health, and educational information
20 has been provided to the child protective agency.

21 SEC. 8. If the Commission on State Mandates determines that
22 this act contains costs mandated by the state, reimbursement to
23 local agencies and school districts for those costs shall be made
24 pursuant to Part 7 (commencing with Section 17500) of Division
25 4 of Title 2 of the Government Code.