

AMENDED IN SENATE SEPTEMBER 3, 2015

AMENDED IN SENATE SEPTEMBER 1, 2015

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: notice of educational rights of 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 educational rights of foster children, as specified, and to make the notice available to educational liaisons for foster children for dissemination by posting the notice on

its Internet Web site.. The bill would also make conforming and nonsubstantive changes.

This bill would incorporate changes to Section 48204 of the Education Code proposed by both this bill and SB 200, which would become operative only if both bills are enacted and become effective on or before January 1, 2016, and this bill is chaptered last. *The bill would incorporate changes to Sections 48853 and 48853.5 of the Education Code proposed by this bill and AB 379 which would become operative only if both bills are enacted and become effective on or before January 1, 2016, and this bill is chaptered last. The bill would incorporate changes to Section 317 of the Welfare and Institutions Code proposed by this bill, SB 238, and SB 316, to be operative only if this bill and either or both of those bills are chaptered and become effective on or before January 1, 2016, and this bill is chaptered last.*

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

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 (f) and (g) 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.

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

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

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

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

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

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

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

38 (4) The governing board of a school district that prohibits the
39 transfer of a pupil pursuant to paragraph (1), (2), or (3) is
40 encouraged to identify, and communicate in writing to the parents

1 or the legal guardian of the pupil, the specific reasons for that
2 determination and is encouraged to ensure that the determination,
3 and the specific reasons for the determination, are accurately
4 recorded in the minutes of the board meeting in which the
5 determination was made.

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

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

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

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

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

24 (7) Once a pupil is deemed to have complied with the residency
25 requirements for school attendance pursuant to this subdivision
26 and is enrolled in a school in a school district the boundaries of
27 which include the location where at least one parent or the legal
28 guardian of a pupil is physically employed, the pupil does not have
29 to reapply in the next school year to attend a school within that
30 school district and the governing board of the school district shall
31 allow the pupil to attend school through grade 12 in that school
32 district if the parent or legal guardian so chooses and if at least
33 one parent or the legal guardian of the pupil continues to be
34 physically employed by an employer situated within the attendance
35 boundaries of the school district, subject to paragraphs (1) to (6),
36 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. 1.5. 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 (f) and (g) 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 (7) A pupil whose parent or legal guardian resides outside of
35 the boundaries of that school district but is employed and lives
36 with the pupil at the place of his or her employment within the
37 boundaries of the school district for a minimum of three days
38 during the school week.

39 (b) A school district may deem a pupil to have complied with
40 the residency requirements for school attendance in the school

1 district if at least one parent or the legal guardian of the pupil is
2 physically employed within the boundaries of that school district
3 for a minimum of 10 hours during the school week.

4 (1) This subdivision does not require the school district within
5 which at least one parent or the legal guardian of a pupil is
6 employed to admit the pupil to its schools. A school district shall
7 not, however, refuse to admit a pupil under this subdivision on the
8 basis, except as expressly provided in this subdivision, of race,
9 ethnicity, sex, parental income, scholastic achievement, or any
10 other arbitrary consideration.

11 (2) The school district in which the residency of either the
12 parents or the legal guardian of the pupil is established, or the
13 school district to which the pupil is to be transferred under this
14 subdivision, may prohibit the transfer of the pupil under this
15 subdivision if the governing board of the school district determines
16 that the transfer would negatively impact the court-ordered or
17 voluntary desegregation plan of the school district.

18 (3) The school district to which the pupil is to be transferred
19 under this subdivision may prohibit the transfer of the pupil if the
20 school district determines that the additional cost of educating the
21 pupil would exceed the amount of additional state aid received as
22 a result of the transfer.

23 (4) The governing board of a school district that prohibits the
24 transfer of a pupil pursuant to paragraph (1), (2), or (3) is
25 encouraged to identify, and communicate in writing to the parents
26 or the legal guardian of the pupil, the specific reasons for that
27 determination and is encouraged to ensure that the determination,
28 and the specific reasons for the determination, are accurately
29 recorded in the minutes of the board meeting in which the
30 determination was made.

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

33 (6) Unless approved by the sending school district, this
34 subdivision does not authorize a net transfer of pupils out of a
35 school district, calculated as the difference between the number
36 of pupils exiting the school district and the number of pupils
37 entering the school district, in a fiscal year in excess of the
38 following amounts:

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

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

8 (C) For a school district with an average daily attendance of
9 2,501 or more, 1 percent of the average daily attendance of the
10 school district or 75 pupils, whichever amount is greater.

11 (7) Once a pupil is deemed to have complied with the residency
12 requirements for school attendance pursuant to this subdivision
13 and is enrolled in a school in a school district the boundaries of
14 which include the location where at least one parent or the legal
15 guardian of a pupil is physically employed, the pupil does not have
16 to reapply in the next school year to attend a school within that
17 school district and the governing board of the school district shall
18 allow the pupil to attend school through grade 12 in that school
19 district if the parent or legal guardian so chooses and if at least
20 one parent or the legal guardian of the pupil continues to be
21 physically employed by an employer situated within the attendance
22 boundaries of the school district, subject to paragraphs (1) to (6),
23 inclusive.

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

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

31 48204. (a) Notwithstanding Section 48200, a pupil complies
32 with the residency requirements for school attendance in a school
33 district, if he or she is:

34 (1) (A) A pupil placed within the boundaries of that school
35 district in a regularly established licensed children's institution,
36 or a licensed foster home, or a family home pursuant to a
37 commitment or placement under Chapter 2 (commencing with
38 Section 200) of Part 1 of Division 2 of the Welfare and Institutions
39 Code.

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

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

6 (3) A pupil for whom interdistrict attendance has been approved
7 pursuant to Chapter 5 (commencing with Section 46600) of Part
8 26.

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

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

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

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

23 SEC. 2.5. Section 48204 of the Education Code, as amended
24 by Section 2 of Chapter 93 of the Statutes of 2012, is amended to
25 read:

26 48204. (a) Notwithstanding Section 48200, a pupil complies
27 with the residency requirements for school attendance in a school
28 district, if he or she is:

29 (1) (A) A pupil placed within the boundaries of that school
30 district in a regularly established licensed children’s institution,
31 or a licensed foster home, or a family home pursuant to a
32 commitment or placement under Chapter 2 (commencing with
33 Section 200) of Part 1 of Division 2 of the Welfare and Institutions
34 Code.

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

38 (2) A pupil who is a foster child who remains in his or her school
39 of origin pursuant to subdivisions (f) and (g) 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 (7) A pupil whose parent or legal guardian resides outside of
18 the boundaries of that school district but is employed and lives
19 with the pupil at the place of his or her employment within the
20 boundaries of the school district for a minimum of three days
21 during the school week.

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

23 SEC. 3. Section 48645.5 of the Education Code is amended to
24 read:

25 48645.5. (a) Each public school district and county office of
26 education shall accept for credit full or partial coursework
27 satisfactorily completed by a pupil while attending a public school,
28 juvenile court school, or nonpublic, nonsectarian school or agency.
29 The coursework shall be transferred by means of the standard state
30 transcript. If a pupil completes the graduation requirements of his
31 or her school district of residence while being detained, the school
32 district of residence shall issue to the pupil a diploma from the
33 school the pupil last attended before detention or, in the alternative,
34 the county superintendent of schools may issue the diploma.

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

38 (1) Arrest.

39 (2) Adjudication by a juvenile court.

40 (3) Formal or informal supervision by a probation officer.

1 (4) Detention for any length of time in a juvenile facility or
2 enrollment in a juvenile court school.

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

7 SEC. 4. Section 48853 of the Education Code is amended to
8 read:

9 48853. (a) A pupil described in subdivision (a) of Section
10 48853.5 who is placed in a licensed children’s institution or foster
11 family home shall attend programs operated by the local
12 educational agency, unless one of the following applies:

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

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

18 (3) The parent or guardian, or other person holding the right to
19 make educational decisions for the pupil pursuant to Section 361
20 or 726 of the Welfare and Institutions Code or Section 56055,
21 determines that it is in the best interests of the pupil to be placed
22 in another educational program, in which case the parent or
23 guardian or other person holding the right to make educational
24 decisions for the pupil shall provide a written statement that he or
25 she has made that determination to the local educational agency.
26 This statement shall include a declaration that the parent, guardian,
27 or other person holding the right to make educational decisions
28 for the pupil is aware of all of the following:

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

31 (B) The alternate education program is a special education
32 program, if applicable.

33 (C) The decision to unilaterally remove the pupil from the
34 regular public school and to place the pupil in an alternate
35 education program may not be financed by the local educational
36 agency.

37 (D) Any attempt to seek reimbursement for the alternate
38 education program may be at the expense of the parent, guardian,
39 or other person holding the right to make educational decisions
40 for the pupil.

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

6 (c) Before any decision is made to place a pupil in a juvenile
7 court school as defined by Section 48645.1, a community school
8 as described in Sections 1981 and 48660, or other alternative
9 educational setting, the parent or guardian, or person holding the
10 right to make educational decisions for the pupil pursuant to
11 Section 361 or 726 of the Welfare and Institutions Code or Section
12 56055, shall first consider placement in the regular public school.

13 (d) If any dispute arises as to the school placement of a pupil
14 subject to this section, the pupil has the right to remain in his or
15 her school of origin, as defined in subdivision (f) of Section
16 48853.5, pending resolution of the dispute. The dispute shall be
17 resolved in accordance with the existing dispute resolution process
18 available to any pupil served by the local educational agency.

19 (e) This section does not supersede other laws that govern pupil
20 expulsion.

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

26 (g) Foster children living in emergency shelters, as referenced
27 in the federal McKinney-Vento Homeless Assistance Act (42
28 U.S.C. Sec. 11301 et seq.), may receive educational services at
29 the emergency shelter as necessary for short periods of time for
30 either of the following reasons:

31 (1) For health and safety emergencies.

32 (2) To provide temporary, special, and supplementary services
33 to meet the child's unique needs if a decision regarding whether
34 it is in the child's best interests to attend the school of origin cannot
35 be made promptly, it is not practical to transport the child to the
36 school of origin, and the child would otherwise not receive
37 educational services.

38 The educational services may be provided at the shelter pending
39 a determination by the person holding the right regarding the
40 educational placement of the child.

1 (h) All educational and school placement decisions shall be
2 made to ensure that the child is placed in the least restrictive
3 educational programs and has access to academic resources,
4 services, and extracurricular and enrichment activities that are
5 available to all pupils. In all instances, educational and school
6 placement decisions shall be based on the best interests of the
7 child.

8 *SEC. 4.5. Section 48853 of the Education Code is amended to*
9 *read:*

10 48853. (a) A pupil described in subdivision (a) of Section
11 48853.5 who is placed in a licensed children's institution or foster
12 family home shall attend programs operated by the local
13 educational agency, unless one of the following applies:

14 (1) The pupil is entitled to remain in his or her school of origin
15 pursuant to paragraph (1) of subdivision ~~(d)~~ (e) of Section 48853.5.

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

19 (3) The parent or guardian, or other person holding the right to
20 make educational decisions for the pupil pursuant to Section 361
21 or 726 of the Welfare and Institutions Code or Section 56055,
22 determines that it is in the best interests of the pupil to be placed
23 in another educational program, in which case the parent or
24 guardian or other person holding the right to make educational
25 decisions for the pupil shall provide a written statement that he or
26 she has made that determination to the local educational agency.
27 This statement shall include a declaration that the parent, guardian,
28 or other person holding the right to make educational decisions
29 for the pupil is aware of all of the following:

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

32 (B) The alternate education program is a special education
33 program, if applicable.

34 (C) The decision to unilaterally remove the pupil from the
35 regular public school and to place the pupil in an alternate
36 education program may not be financed by the local educational
37 agency.

38 (D) Any attempt to seek reimbursement for the alternate
39 education program may be at the expense of the parent, guardian,

1 or other person holding the right to make educational decisions
2 for the pupil.

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

8 (c) Before any decision is made to place a pupil in a juvenile
9 court school as defined by Section 48645.1, a community school
10 as described in Sections 1981 and 48660, or other alternative
11 educational setting, the parent or guardian, or person holding the
12 right to make educational decisions for the pupil pursuant to
13 Section 361 or 726 of the Welfare and Institutions Code or Section
14 56055, shall first consider placement in the regular public school.

15 (d) If any dispute arises as to the school placement of a pupil
16 subject to this section, the pupil has the right to remain in his or
17 her school of origin, as defined in subdivision ~~(e)~~ (f) of Section
18 48853.5, pending resolution of the dispute. The dispute shall be
19 resolved in accordance with the existing dispute resolution process
20 available to any pupil served by the local educational agency.

21 (e) This section does not supersede other laws that govern pupil
22 expulsion.

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

28 (g) (1) Foster children living in emergency shelters, as
29 referenced in the federal McKinney-Vento Homeless Assistance
30 Act (42 U.S.C. Sec. 11301 et seq.), may receive educational
31 services at the emergency shelter as necessary for short periods of
32 time for either of the following reasons:

33 (1)

34 (A) For health and safety emergencies.

35 (2)

36 (B) To provide temporary, special, and supplementary services
37 to meet the child's unique needs if a decision regarding whether
38 it is in the child's best interests to attend the school of origin cannot
39 be made promptly, it is not practical to transport the child to the

1 school of origin, and the child would otherwise not receive
2 educational services.

3 ~~The~~

4 (2) *The* educational services may be provided at the shelter
5 pending a determination by the person holding the right regarding
6 the educational placement of the child.

7 (h) All educational and school placement decisions shall be
8 made to ensure that the child is placed in the least restrictive
9 educational programs and has access to academic resources,
10 services, and extracurricular and enrichment activities that are
11 available to all pupils. In all instances, educational and school
12 placement decisions shall be based on the best interests of the
13 child.

14 (i) (1) *A complaint of noncompliance with the requirements of*
15 *this section may be filed with the local educational agency under*
16 *the Uniform Complaint Procedures set forth in Chapter 5.1*
17 *(commencing with Section 4600) of Division 1 of Title 5 of the*
18 *California Code of Regulations.*

19 (2) *A complainant not satisfied with the decision of a local*
20 *educational agency may appeal the decision to the department*
21 *pursuant to Chapter 5.1 (commencing with Section 4600) of*
22 *Division 1 of Title 5 of the California Code of Regulations and*
23 *shall receive a written decision regarding the appeal within 60*
24 *days of the department's receipt of the appeal.*

25 (3) *If a local educational agency finds merit in a complaint, or*
26 *the Superintendent finds merit in an appeal, the local educational*
27 *agency shall provide a remedy to the affected pupil.*

28 (4) *Information regarding the requirements of this section shall*
29 *be included in the annual notification distributed to, among others,*
30 *pupils, parents or guardians of pupils, employees, and other*
31 *interested parties pursuant to Section 4622 of Title 5 of the*
32 *California Code of Regulations.*

33 SEC. 5. Section 48853.5 of the Education Code is amended to
34 read:

35 48853.5. (a) This section applies to a foster child. "Foster
36 child" means a child who has been removed from his or her home
37 pursuant to Section 309 of the Welfare and Institutions Code, is
38 the subject of a petition filed under Section 300 or 602 of the
39 Welfare and Institutions Code, or has been removed from his or

1 her home and is the subject of a petition filed under Section 300
2 or 602 of the Welfare and Institutions Code.

3 (b) The department, in consultation with the California Foster
4 Youth Education Task Force, shall develop a standardized notice
5 of the educational rights of foster children, as specified in Sections
6 48850 to this section, inclusive, 48911, 48915.5, 49069.5, 49076,
7 51225.1, and 51225.2. The notice shall include complaint process
8 information, as applicable. The department shall make the notice
9 available to educational liaisons for foster children for
10 dissemination by posting the notice on its Internet Web site. Any
11 version of this notice prepared for use by foster children shall also
12 include, to the greatest extent practicable, the rights established
13 pursuant to Section 16001.9 of the Welfare and Institutions Code.
14 In developing the notice that includes the rights in Section 16001.9
15 of the Welfare and Institutions Code, the department shall consult
16 with the Office of the State Foster Care Ombudsperson.

17 (c) Each local educational agency shall designate a staff person
18 as the educational liaison for foster children. In a school district
19 that operates a foster children services program pursuant to Chapter
20 11.3 (commencing with Section 42920) of Part 24 of Division 3,
21 the educational liaison shall be affiliated with the local foster
22 children services program. The educational liaison shall do both
23 of the following:

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

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

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

1 decision to recommend expulsion is at the discretion of the
2 principal or the district superintendent of schools.

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

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

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

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

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

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

1 matriculation is in another school district, to the school designated
2 for matriculation in that school district.

3 (5) Paragraphs (2), (3), and (4) do not require a school district
4 to provide transportation services to allow a foster child to attend
5 a school or school district, unless otherwise required under federal
6 law. This paragraph does not prohibit a school district from, at its
7 discretion, providing transportation services to allow a foster child
8 to attend a school or school district.

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

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

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

29 (B) The new school shall immediately enroll the foster child
30 even if the foster child has outstanding fees, fines, textbooks, or
31 other items or moneys due to the school last attended or is unable
32 to produce clothing or records normally required for enrollment,
33 such as previous academic records, medical records, including,
34 but not limited to, records or other proof of immunization history
35 pursuant to Chapter 1 (commencing with Section 120325) of Part
36 2 of Division 105 of the Health and Safety Code, proof of
37 residency, other documentation, or school uniforms.

38 (C) Within two business days of the foster child's request for
39 enrollment, the educational liaison for the new school shall contact
40 the school last attended by the foster child to obtain all academic

1 and other records. The last school attended by the foster child shall
2 provide all required records to the new school regardless of any
3 outstanding fees, fines, textbooks, or other items or moneys owed
4 to the school last attended. The educational liaison for the school
5 last attended shall provide all records to the new school within two
6 business days of receiving the request.

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

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

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

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

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

37 *SEC. 5.5. Section 48853.5 of the Education Code is amended*
38 *to read:*

39 48853.5. (a) This section applies to a foster child. “Foster
40 child” means a child who has been removed from his or her home

1 pursuant to Section 309 of the Welfare and Institutions Code, is
2 the subject of a petition filed under Section 300 or 602 of the
3 Welfare and Institutions Code, or has been removed from his or
4 her home and is the subject of a petition filed under Section 300
5 or 602 of the Welfare and Institutions Code.

6 *(b) The department, in consultation with the California Foster*
7 *Youth Education Task Force, shall develop a standardized notice*
8 *of the educational rights of foster children, as specified in Sections*
9 *48850 to this section, inclusive, 48911, 48915.5, 49069.5, 49076,*
10 *51225.1, and 51225.2. The notice shall include complaint process*
11 *information, as applicable. The department shall make the notice*
12 *available to educational liaisons for foster children for*
13 *dissemination by posting the notice on its Internet Web site. Any*
14 *version of this notice prepared for use by foster children shall also*
15 *include, to the greatest extent practicable, the rights established*
16 *pursuant to Section 16001.9 of the Welfare and Institutions Code.*
17 *In developing the notice that includes the rights in Section 16001.9*
18 *of the Welfare and Institutions Code, the department shall consult*
19 *with the Office of the State Foster Care Ombudsperson.*

20 ~~(b)~~

21 *(c) Each local educational agency shall designate a staff person*
22 *as the educational liaison for foster children. In a school district*
23 *that operates a foster children services program pursuant to Chapter*
24 *11.3 (commencing with Section 42920) of Part 24 of Division 3,*
25 *the educational liaison shall be affiliated with the local foster*
26 *children services program. The educational liaison shall do ~~all~~ both*
27 *of the following:*

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

30 *(2) Assist foster children when transferring from one school to*
31 *another school or from one school district to another school district*
32 *in ensuring proper transfer of credits, records, and grades.*

33 ~~(e)~~

34 *(d) If so designated by the superintendent of the local*
35 *educational agency, the educational liaison shall notify a foster*
36 *child's attorney and the appropriate representative of the county*
37 *child welfare agency of pending expulsion proceedings if the*
38 *decision to recommend expulsion is a discretionary act, pending*
39 *proceedings to extend a suspension until an expulsion decision is*
40 *rendered if the decision to recommend expulsion is a discretionary*

1 act, and, if the foster child is an individual with exceptional needs,
 2 pending manifestation determinations pursuant to Section 1415(k)
 3 of Title 20 of the United States Code if the local educational agency
 4 has proposed a change in placement due to an act for which the
 5 decision to recommend expulsion is at the discretion of the
 6 principal or the district superintendent of schools.

7 ~~(d)~~

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

17 ~~(e)~~

18 (f) (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 before the end
 24 of an academic year, the local educational agency shall allow a
 25 former foster child who is in kindergarten or any of grades 1 to 8,
 26 inclusive, to continue his or her education in the school of origin
 27 through the duration of the academic school year.

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

32 (B) For purposes of this paragraph, a school district is not
 33 required to provide transportation to a former foster child who has
 34 an individualized education program that does not require
 35 transportation as a related service and who changes residence but
 36 remains in his or her school of origin pursuant to this paragraph,
 37 unless the individualized education program team determines that
 38 transportation is a necessary related service.

39 (4) To ensure that the foster child has the benefit of matriculating
 40 with his or her peers in accordance with the established feeder

1 patterns of school districts, if the foster child is transitioning
2 between school grade levels, the local educational agency shall
3 allow the foster child to continue in the school district of origin in
4 the same attendance area, or, if the foster child is transitioning to
5 a middle school or high school, and the school designated for
6 matriculation is in another school district, to the school designated
7 for matriculation in that school district.

8 (5) Paragraphs (2), (3), and (4) do not require a school district
9 to provide transportation services to allow a foster child to attend
10 a school or school district, unless otherwise required under federal
11 law. This paragraph does not prohibit a school district from, at its
12 discretion, providing transportation services to allow a foster child
13 to attend a school or school district.

14 (6) The educational liaison, in consultation with, and with the
15 agreement of, the foster child and the person holding the right to
16 make educational decisions for the foster child, may recommend,
17 in accordance with the foster child's best interests, that the foster
18 child's right to attend the school of origin be waived and the foster
19 child be enrolled in a public school that pupils living in the
20 attendance area in which the foster child resides are eligible to
21 attend.

22 (7) Before making a recommendation to move a foster child
23 from his or her school of origin, the educational liaison shall
24 provide the foster child and the person holding the right to make
25 educational decisions for the foster child with a written explanation
26 stating the basis for the recommendation and how the
27 recommendation serves the foster child's best ~~interest~~ *interests*.

28 (8) (A) If the educational liaison, in consultation with the foster
29 child and the person holding the right to make educational decisions
30 for the foster child, agrees that the best interests of the foster child
31 would best be served by his or her transfer to a school other than
32 the school of origin, the foster child shall immediately be enrolled
33 in the new school.

34 (B) The new school shall immediately enroll the foster child
35 even if the foster child has outstanding fees, fines, textbooks, or
36 other items or moneys due to the school last attended or is unable
37 to produce clothing or records normally required for enrollment,
38 such as previous academic records, medical records, including,
39 but not limited to, records or other proof of immunization history
40 pursuant to Chapter 1 (commencing with Section 120325) of Part

1 2 of Division 105 of the Health and Safety Code, proof of
2 residency, other documentation, or school uniforms.

3 (C) Within two business days of the foster child's request for
4 enrollment, the educational liaison for the new school shall contact
5 the school last attended by the foster child to obtain all academic
6 and other records. The last school attended by the foster child shall
7 provide all required records to the new school regardless of any
8 outstanding fees, fines, textbooks, or other items or moneys owed
9 to the school last attended. The educational liaison for the school
10 last attended shall provide all records to the new school within two
11 business days of receiving the request.

12 (9) If a dispute arises regarding the request of a foster child to
13 remain in the school of origin, the foster child has the right to
14 remain in the school of origin pending resolution of the dispute.
15 The dispute shall be resolved in accordance with the existing
16 dispute resolution process available to a pupil served by the local
17 educational agency.

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

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

26 (f)

27 (g) For purposes of this section, "school of origin" means the
28 school that the foster child attended when permanently housed or
29 the school in which the foster child was last enrolled. If the school
30 the foster child attended when permanently housed is different
31 from the school in which the foster child was last enrolled, or if
32 there is some other school that the foster child attended with which
33 the foster child is connected and that the foster child attended
34 within the immediately preceding 15 months, the educational
35 liaison, in consultation with, and with the agreement of, the foster
36 child and the person holding the right to make educational decisions
37 for the foster child, shall determine, in the best interests of the
38 foster child, the school that shall be deemed the school of origin.

39 (g)

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

5 (i) (1) *A complaint of noncompliance with the requirements of*
6 *this section may be filed with the local educational agency under*
7 *the Uniform Complaint Procedures set forth in Chapter 5.1*
8 *(commencing with Section 4600) of Division 1 of Title 5 of the*
9 *California Code of Regulations.*

10 (2) *A complainant not satisfied with the decision of a local*
11 *educational agency may appeal the decision to the department*
12 *pursuant to Chapter 5.1 (commencing with Section 4600) of*
13 *Division 1 of Title 5 of the California Code of Regulations and*
14 *shall receive a written decision regarding the appeal within 60*
15 *days of the department's receipt of the appeal.*

16 (3) *If a local educational agency finds merit in a complaint, or*
17 *the Superintendent finds merit in an appeal, the local educational*
18 *agency shall provide a remedy to the affected pupil.*

19 (4) *Information regarding the requirements of this section shall*
20 *be included in the annual notification distributed to, among others,*
21 *pupils, parents or guardians of pupils, employees, and other*
22 *interested parties pursuant to Section 4622 of Title 5 of the*
23 *California Code of Regulations.*

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

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

30 (2) When it appears to the court that a parent or Indian custodian
31 in an Indian child custody proceeding desires counsel but is
32 presently unable to afford and cannot for that reason employ
33 counsel, the provisions of Section 1912(b) of Title 25 of the United
34 States Code and Section 23.13 of Title 25 of the Code of Federal
35 Regulations shall apply.

36 (b) When it appears to the court that a parent or guardian of the
37 child is presently financially unable to afford and cannot for that
38 reason employ counsel, and the child has been placed in
39 out-of-home care, or the petitioning agency is recommending that
40 the child be placed in out-of-home care, the court shall appoint

1 counsel for the parent or guardian, unless the court finds that the
2 parent or guardian has made a knowing and intelligent waiver of
3 counsel as provided in this section.

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

32 (d) Counsel shall represent the parent, guardian, child, or
33 nonminor dependent at the detention hearing and at all subsequent
34 proceedings before the juvenile court. Counsel shall continue to
35 represent the parent, guardian, child, or nonminor dependent unless
36 relieved by the court upon the substitution of other counsel or for
37 cause. The representation shall include representing the parent,
38 guardian, or the child in termination proceedings and in those
39 proceedings relating to the institution or setting aside of a legal
40 guardianship. On and after January 1, 2012, in the case of a

1 nonminor dependent, as described in subdivision (v) of Section
2 11400, no representation by counsel shall be provided for a parent,
3 unless the parent is receiving court-ordered family reunification
4 services.

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

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

28 (3) Counsel shall investigate the interests of the child beyond
29 the scope of the juvenile proceeding, and report to the court other
30 interests of the child that may need to be protected by the institution
31 of other administrative or judicial proceedings. Counsel
32 representing a child in a dependency proceeding is not required to
33 assume the responsibilities of a social worker, and is not expected
34 to provide nonlegal services to the child.

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

38 (i) Counsel shall provide his or her contact information to the
39 educational liaison, as described in subdivision (c) of Section

1 48853.5 of the Education Code, of each local educational agency
2 serving counsel's foster child clients in the county of jurisdiction.

3 (ii) If counsel is part of a firm or organization representing foster
4 children, the firm or organization may provide its contact
5 information in lieu of contact information for the individual
6 counsel. The firm or organization may designate a person or
7 persons within the firm or organization to receive communications
8 from educational liaisons.

9 (B) The child's caregiver or other person holding the right to
10 make educational decisions for the child may provide the contact
11 information of the child's attorney to the child's local educational
12 agency.

13 (C) Counsel for the child and counsel's agent may, but are not
14 required to, disclose to an individual who is being assessed for the
15 possibility of placement pursuant to Section 361.3 the fact that the
16 child is in custody, the alleged reasons that the child is in custody,
17 and the projected likely date for the child's return home, placement
18 for adoption, or legal guardianship. Nothing in this paragraph shall
19 be construed to prohibit counsel from making other disclosures
20 pursuant to this subdivision, as appropriate.

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

23 (6) The changes made to this subdivision during the 2011-12
24 Regular Session of the Legislature by the act adding subparagraph
25 (C) of paragraph (4) and paragraph (5) are declaratory of existing
26 law.

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

29 (f) Either the child or counsel for the child, with the informed
30 consent of the child if the child is found by the court to be of
31 sufficient age and maturity to consent, which shall be presumed,
32 subject to rebuttal by clear and convincing evidence, if the child
33 is over 12 years of age, may invoke the psychotherapist-client
34 privilege, physician-patient privilege, and clergyman-penitent
35 privilege. If the child invokes the privilege, counsel may not waive
36 it, but if counsel invokes the privilege, the child may waive it.
37 Counsel shall be the holder of these privileges if the child is found
38 by the court not to be of sufficient age and maturity to consent.
39 For the sole purpose of fulfilling his or her obligation to provide
40 legal representation of the child, counsel shall have access to all

1 records with regard to the child maintained by a health care facility,
2 as defined in Section 1545 of the Penal Code, health care providers,
3 as defined in Section 6146 of the Business and Professions Code,
4 a physician and surgeon or other health practitioner, as defined in
5 former Section 11165.8 of the Penal Code, as that section read on
6 January 1, 2000, or a child care custodian, as defined in former
7 Section 11165.7 of the Penal Code, as that section read on January
8 1, 2000. Notwithstanding any other law, counsel shall be given
9 access to all records relevant to the case that are maintained by
10 state or local public agencies. All information requested from a
11 child protective agency regarding a child who is in protective
12 custody, or from a child's guardian ad litem, shall be provided to
13 the child's counsel within 30 days of the request.

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

24 (h) In a county of the third class, if counsel is to be appointed
25 to provide legal counsel for a parent or guardian at the county's
26 expense, the court shall first use the services of the alternate public
27 defender before appointing private counsel. Nothing in this
28 subdivision shall be construed to require the appointment of the
29 alternate public defender in any case in which the public defender
30 has a conflict of interest. In the interest of justice, a court may
31 depart from that portion of the procedure requiring appointment
32 of the alternate public defender after making a finding of good
33 cause and stating the reasons therefor on the record.

34 *SEC. 6.1. Section 317 of the Welfare and Institutions Code is*
35 *amended to read:*

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

1 (2) When it appears to the court that a parent or Indian custodian
2 in an Indian child custody proceeding desires counsel but is
3 presently unable to afford and cannot for that reason employ
4 counsel, the provisions of Section 1912(b) of Title 25 of the United
5 States Code and Section 23.13 of Title 25 of the Code of Federal
6 Regulations shall apply.

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

15 (c) (1) If a child or nonminor dependent is not represented by
16 counsel, the court shall appoint counsel for the child or nonminor
17 dependent, unless the court finds that the child or nonminor
18 dependent would not benefit from the appointment of counsel. The
19 court shall state on the record its reasons for that finding. ~~A~~

20 (2) A primary responsibility of counsel appointed to represent
21 a child or nonminor dependent pursuant to this section shall be to
22 advocate for the protection, safety, and physical and emotional
23 well-being of the child or nonminor dependent. ~~Counsel~~

24 (3) *Counsel* may be a district attorney, public defender, or other
25 member of the bar, provided that he or she does not represent
26 another party or county agency whose interests conflict with the
27 child's or nonminor dependent's interests. The fact that the district
28 attorney represents the child or nonminor dependent in a
29 proceeding pursuant to Section 300 as well as conducts a criminal
30 investigation or files a criminal complaint or information arising
31 from the same or reasonably related set of facts as the proceeding
32 pursuant to Section 300 is not in and of itself a conflict of interest.
33 ~~The~~

34 (4) *The* court may fix the compensation for the services of
35 appointed counsel. ~~The~~

36 (5) (A) *The* appointed counsel shall have a caseload and training
37 that ensures adequate representation of the child or nonminor
38 dependent. The Judicial Council shall promulgate rules of court
39 that establish caseload standards, training requirements, and
40 guidelines for appointed counsel for children and shall adopt rules

1 as required by Section 326.5 no later than July 1, 2001. ~~Those~~
2 ~~training requirements shall include instruction on cultural~~
3 ~~competency and sensitivity relating to, and best practices for,~~
4 ~~providing adequate care to lesbian, gay, bisexual, and transgender~~
5 ~~youth in out-of-home care.~~

6 *(B) The training requirements imposed pursuant to*
7 *subparagraph (A) shall include instruction on both of the*
8 *following:*

9 *(i) Cultural competency and sensitivity relating to, and best*
10 *practices for, providing adequate care to lesbian, gay, bisexual,*
11 *and transgender youth in out-of-home care.*

12 *(ii) The information described in subdivision (d) of Section*
13 *16501.4.*

14 (d) Counsel shall represent the parent, guardian, child, or
15 nonminor dependent at the detention hearing and at all subsequent
16 proceedings before the juvenile court. Counsel shall continue to
17 represent the parent, guardian, child, or nonminor dependent unless
18 relieved by the court upon the substitution of other counsel or for
19 cause. The representation shall include representing the parent,
20 guardian, or the child in termination proceedings and in those
21 proceedings relating to the institution or setting aside of a legal
22 guardianship. On and after January 1, 2012, in the case of a
23 nonminor dependent, as described in subdivision (v) of Section
24 11400, no representation by counsel shall be provided for a parent,
25 unless the parent is receiving court-ordered family reunification
26 services.

27 (e) (1) Counsel shall be charged in general with the
28 representation of the child's interests. To that end, counsel shall
29 make or cause to have made any further investigations that he or
30 she deems in good faith to be reasonably necessary to ascertain
31 the facts, including the interviewing of witnesses, and shall
32 examine and cross-examine witnesses in both the adjudicatory and
33 dispositional hearings. Counsel may also introduce and examine
34 his or her own witnesses, make recommendations to the court
35 concerning the child's welfare, and participate further in the
36 proceedings to the degree necessary to adequately represent the
37 child. When counsel is appointed to represent a nonminor
38 dependent, counsel is charged with representing the wishes of the
39 nonminor dependent except when advocating for those wishes
40 conflicts with the protection or safety of the nonminor dependent.

1 If the court finds that a nonminor dependent is not competent to
 2 direct counsel, the court shall appoint a guardian ad litem for the
 3 nonminor dependent.

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

10 (3) Counsel shall investigate the interests of the child beyond
 11 the scope of the juvenile proceeding, and report to the court other
 12 interests of the child that may need to be protected by the institution
 13 of other administrative or judicial proceedings. Counsel
 14 representing a child in a dependency proceeding is not required to
 15 assume the responsibilities of a social worker, and is not expected
 16 to provide nonlegal services to the child.

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

20 (i) Counsel shall provide his or her contact information to the
 21 educational liaison, as described in subdivision ~~(b)~~ (c) of Section
 22 48853.5 of the Education Code, of each local educational agency
 23 serving counsel’s foster child clients in the county of jurisdiction.

24 (ii) If counsel is part of a firm or organization representing foster
 25 children, the firm or organization may provide its contact
 26 information in lieu of contact information for the individual
 27 counsel. The firm or organization may designate a person or
 28 persons within the firm or organization to receive communications
 29 from educational liaisons.

30 (B) The child’s caregiver or other person holding the right to
 31 make educational decisions for the child may provide the contact
 32 information of the child’s attorney to the child’s local educational
 33 agency.

34 (C) Counsel for the child and counsel’s agent may, but are not
 35 required to, disclose to an individual who is being assessed for the
 36 possibility of placement pursuant to Section 361.3 the fact that the
 37 child is in custody, the alleged reasons that the child is in custody,
 38 and the projected likely date for the child’s return home, placement
 39 for adoption, or legal guardianship. Nothing in this paragraph shall

1 be construed to prohibit counsel from making other disclosures
2 pursuant to this subdivision, as appropriate.

3 (5) Nothing in this subdivision shall be construed to permit
4 counsel to violate a child’s attorney-client privilege.

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

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

11 (f) Either the child or counsel for the child, with the informed
12 consent of the child if the child is found by the court to be of
13 sufficient age and maturity to consent, which shall be presumed,
14 subject to rebuttal by clear and convincing evidence, if the child
15 is over 12 years of age, may invoke the psychotherapist-client
16 privilege, physician-patient privilege, and clergyman-penitent
17 privilege. If the child invokes the privilege, counsel may not waive
18 it, but if counsel invokes the privilege, the child may waive it.
19 Counsel shall be the holder of these privileges if the child is found
20 by the court not to be of sufficient age and maturity to consent.
21 For the sole purpose of fulfilling his or her obligation to provide
22 legal representation of the child, counsel shall have access to all
23 records with regard to the child maintained by a health care facility,
24 as defined in Section 1545 of the Penal Code, health care providers,
25 as defined in Section 6146 of the Business and Professions Code,
26 a physician and surgeon or other health practitioner, as defined in
27 former Section 11165.8 of the Penal Code, as that section read on
28 January 1, 2000, or a child care custodian, as defined in former
29 Section 11165.7 of the Penal Code, as that section read on January
30 1, 2000. Notwithstanding any other law, counsel shall be given
31 access to all records relevant to the case that are maintained by
32 state or local public agencies. All information requested from a
33 child protective agency regarding a child who is in protective
34 custody, or from a child’s guardian ad litem, shall be provided to
35 the child’s counsel within 30 days of the request.

36 (g) In a county of the third class, if counsel is to be provided to
37 a child at the county’s expense other than by counsel for the
38 agency, the court shall first use the services of the public defender
39 before appointing private counsel. Nothing in this subdivision shall
40 be construed to require the appointment of the public defender in

1 any case in which the public defender has a conflict of interest. In
2 the interest of justice, a court may depart from that portion of the
3 procedure requiring appointment of the public defender after
4 making a finding of good cause and stating the reasons therefor
5 on the record.

6 (h) In a county of the third class, if counsel is to be appointed
7 to provide legal counsel for a parent or guardian at the county's
8 expense, the court shall first use the services of the alternate public
9 defender before appointing private counsel. Nothing in this
10 subdivision shall be construed to require the appointment of the
11 alternate public defender in any case in which the public defender
12 has a conflict of interest. In the interest of justice, a court may
13 depart from that portion of the procedure requiring appointment
14 of the alternate public defender after making a finding of good
15 cause and stating the reasons therefor on the record.

16 *SEC. 6.2. Section 317 of the Welfare and Institutions Code is*
17 *amended to read:*

18 317. (a) (1) ~~When~~ *If* it appears to the court that a parent or
19 guardian of the child desires counsel but is presently financially
20 unable to afford and cannot for that reason employ counsel, the
21 court may appoint counsel as provided in this section.

22 (2) ~~When~~ *If* it appears to the court that a parent or Indian
23 custodian in an Indian child custody proceeding desires counsel
24 but is presently unable to afford and cannot for that reason employ
25 counsel, the provisions of Section 1912(b) of Title 25 of the United
26 States Code and Section 23.13 of Title 25 of the Code of Federal
27 Regulations shall apply.

28 (b) ~~When~~ *If* it appears to the court that a parent or guardian of
29 the child is presently financially unable to afford and cannot for
30 that reason employ counsel, and the child has been placed in
31 out-of-home care, or the petitioning agency is recommending that
32 the child be placed in out-of-home care, the court shall appoint
33 counsel for the parent or guardian, unless the court finds that the
34 parent or guardian has made a knowing and intelligent waiver of
35 counsel as provided in this section.

36 (c) If a child or nonminor dependent is not represented by
37 counsel, the court shall appoint counsel for the child or nonminor
38 dependent, unless the court finds that the child or nonminor
39 dependent would not benefit from the appointment of counsel. The
40 court shall state on the record its reasons for that finding. A primary

1 responsibility of counsel appointed to represent a child or nonminor
2 dependent pursuant to this section shall be to advocate for the
3 protection, safety, and physical and emotional well-being of the
4 child or nonminor dependent. Counsel may be a district attorney,
5 public defender, or other member of the bar, provided that he or
6 she does not represent another party or county agency whose
7 interests conflict with the child's or nonminor dependent's interests.
8 The fact that the district attorney represents the child or nonminor
9 dependent in a proceeding pursuant to Section 300 as well as
10 conducts a criminal investigation or files a criminal complaint or
11 information arising from the same or reasonably related set of facts
12 as the proceeding pursuant to Section 300 is not in and of itself a
13 conflict of interest. The court may fix the compensation for the
14 services of appointed counsel. The appointed counsel shall have
15 a caseload and training that ensures adequate representation of the
16 child or nonminor dependent. *Counsel representing a child or*
17 *nonminor dependent shall not have a caseload that exceeds 77*
18 *child or nonminor dependent clients, unless the counsel has the*
19 *assistance of, at a minimum, a social worker or investigator who*
20 *is employed on a half-time or greater than half-time basis, in which*
21 *case the caseload shall not exceed 188 child or nonminor*
22 *dependent clients. The Judicial Council shall promulgate rules of*
23 *court that establish ~~caseload standards, training requirements,~~*
24 *requirements and guidelines for appointed counsel for children*
25 *and shall adopt rules as required by Section 326.5 no later than*
26 *July 1, 2001. Those training requirements shall include instruction*
27 *on cultural competency and sensitivity relating to, and best*
28 *practices for, providing adequate care to lesbian, gay, bisexual,*
29 *and transgender youth in out-of-home care.*

30 (d) Counsel shall represent the parent, guardian, child, or
31 nonminor dependent at the detention hearing and at all subsequent
32 proceedings before the juvenile court. Counsel shall continue to
33 represent the parent, guardian, child, or nonminor dependent unless
34 relieved by the court upon the substitution of other counsel or for
35 cause. The representation shall include representing the parent,
36 guardian, or the child in termination proceedings and in those
37 proceedings relating to the institution or setting aside of a legal
38 guardianship. On and after January 1, 2012, in the case of a
39 nonminor dependent, as described in subdivision (v) of Section
40 11400, no representation by counsel shall be provided for a parent,

1 unless the parent is receiving court-ordered family reunification
2 services.

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

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

26 (3) Counsel shall investigate the interests of the child beyond
27 the scope of the juvenile proceeding, and report to the court other
28 interests of the child that may need to be protected by the institution
29 of other administrative or judicial proceedings. Counsel
30 representing a child in a dependency proceeding is not required to
31 assume the responsibilities of a social worker, and is not expected
32 to provide nonlegal services to the child.

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

36 (i) Counsel shall provide his or her contact information to the
37 educational liaison, as described in subdivision ~~(b)~~ (c) of Section
38 48853.5 of the Education Code, of each local educational agency
39 serving counsel's foster child clients in the county of jurisdiction.

1 (ii) If counsel is part of a firm or organization representing foster
2 children, the firm or organization may provide its contact
3 information in lieu of contact information for the individual
4 counsel. The firm or organization may designate a person or
5 persons within the firm or organization to receive communications
6 from educational liaisons.

7 (B) The child’s caregiver or other person holding the right to
8 make educational decisions for the child may provide the contact
9 information of the child’s attorney to the child’s local educational
10 agency.

11 (C) Counsel for the child and counsel’s agent may, but are not
12 required to, disclose to an individual who is being assessed for the
13 possibility of placement pursuant to Section 361.3 the fact that the
14 child is in custody, the alleged reasons that the child is in custody,
15 and the projected likely date for the child’s return home, placement
16 for adoption, or legal guardianship. Nothing in this paragraph shall
17 be construed to prohibit counsel from making other disclosures
18 pursuant to this subdivision, as appropriate.

19 (5) Nothing in this subdivision shall be construed to permit
20 counsel to violate a child’s attorney-client privilege.

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

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

27 (f) Either the child or counsel for the child, with the informed
28 consent of the child if the child is found by the court to be of
29 sufficient age and maturity to consent, which shall be presumed,
30 subject to rebuttal by clear and convincing evidence, if the child
31 is over 12 years of age, may invoke the psychotherapist-client
32 privilege, physician-patient privilege, and clergyman-penitent
33 privilege. If the child invokes the privilege, counsel may not waive
34 it, but if counsel invokes the privilege, the child may waive it.
35 Counsel shall be the holder of these privileges if the child is found
36 by the court not to be of sufficient age and maturity to consent.
37 For the sole purpose of fulfilling his or her obligation to provide
38 legal representation of the child, counsel shall have access to all
39 records with regard to the child maintained by a health care facility,
40 as defined in Section 1545 of the Penal Code, health care providers,

1 as defined in Section 6146 of the Business and Professions Code,
2 a physician and surgeon or other health practitioner, as defined in
3 former Section 11165.8 of the Penal Code, as that section read on
4 January 1, 2000, or a child care custodian, as defined in former
5 Section 11165.7 of the Penal Code, as that section read on January
6 1, 2000. Notwithstanding any other law, counsel shall be given
7 access to all records relevant to the case that are maintained by
8 state or local public agencies. All information requested from a
9 child protective agency regarding a child who is in protective
10 custody, or from a child's guardian ad litem, shall be provided to
11 the child's counsel within 30 days of the request.

12 (g) In a county of the third class, if counsel is to be provided to
13 a child at the county's expense other than by counsel for the
14 agency, the court shall first use the services of the public defender
15 before appointing private counsel. Nothing in this subdivision shall
16 be construed to require the appointment of the public defender in
17 any case in which the public defender has a conflict of interest. In
18 the interest of justice, a court may depart from that portion of the
19 procedure requiring appointment of the public defender after
20 making a finding of good cause and stating the reasons therefor
21 on the record.

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

32 *SEC. 6.3. Section 317 of the Welfare and Institutions Code is*
33 *amended to read:*

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

38 (2) ~~When~~ *If* it appears to the court that a parent or Indian
39 custodian in an Indian child custody proceeding desires counsel
40 but is presently unable to afford and cannot for that reason employ

1 counsel, the provisions of Section 1912(b) of Title 25 of the United
2 States Code and Section 23.13 of Title 25 of the Code of Federal
3 Regulations shall apply.

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

12 (c) (1) If a child or nonminor dependent is not represented by
13 counsel, the court shall appoint counsel for the child or nonminor
14 dependent, unless the court finds that the child or nonminor
15 dependent would not benefit from the appointment of counsel. The
16 court shall state on the record its reasons for that finding. ~~A~~

17 (2) A primary responsibility of counsel appointed to represent
18 a child or nonminor dependent pursuant to this section shall be to
19 advocate for the protection, safety, and physical and emotional
20 well-being of the child or nonminor dependent. ~~Counsel~~

21 (3) *Counsel* may be a district attorney, public defender, or other
22 member of the bar, provided that he or she does not represent
23 another party or county agency whose interests conflict with the
24 child's or nonminor dependent's interests. The fact that the district
25 attorney represents the child or nonminor dependent in a
26 proceeding pursuant to Section 300 as well as conducts a criminal
27 investigation or files a criminal complaint or information arising
28 from the same or reasonably related set of facts as the proceeding
29 pursuant to Section 300 is not in and of itself a conflict of interest.
30 ~~The~~

31 (4) *The* court may fix the compensation for the services of
32 appointed counsel. ~~The~~

33 (5) (A) *The* appointed counsel shall have a caseload and training
34 that ensures adequate representation of the child or nonminor
35 dependent. *Counsel representing a child or nonminor dependent*
36 *shall not have a caseload that exceeds 77 child or nonminor*
37 *dependent clients, unless the counsel has the assistance of, at a*
38 *minimum, a social worker or investigator who is employed on a*
39 *half-time or greater than half-time basis, in which case the*
40 *caseload shall not accede 188 child or nonminor dependent clients.*

1 The Judicial Council shall promulgate rules of court that establish
2 caseload standards; training requirements, *requirements* and
3 guidelines for appointed counsel for children and shall adopt rules
4 as required by Section 326.5 no later than July 1, 2001. ~~Those~~
5 ~~training requirements shall include instruction on cultural~~
6 ~~competency and sensitivity relating to, and best practices for,~~
7 ~~providing adequate care to lesbian, gay, bisexual, and transgender~~
8 ~~youth in out-of-home care.~~

9 *(B) The training requirements imposed pursuant to*
10 *subparagraph (A) shall include instruction on both of the*
11 *following:*

12 *(i) Cultural competency and sensitivity relating to, and best*
13 *practices for, providing adequate care to lesbian, gay, bisexual,*
14 *and transgender youth in out-of-home care.*

15 *(ii) The information described in subdivision (d) of Section*
16 *16501.4.*

17 (d) Counsel shall represent the parent, guardian, child, or
18 nonminor dependent at the detention hearing and at all subsequent
19 proceedings before the juvenile court. Counsel shall continue to
20 represent the parent, guardian, child, or nonminor dependent unless
21 relieved by the court upon the substitution of other counsel or for
22 cause. The representation shall include representing the parent,
23 guardian, or the child in termination proceedings and in those
24 proceedings relating to the institution or setting aside of a legal
25 guardianship. On and after January 1, 2012, in the case of a
26 nonminor dependent, as described in subdivision (v) of Section
27 11400, no representation by counsel shall be provided for a parent,
28 unless the parent is receiving court-ordered family reunification
29 services.

30 (e) (1) Counsel shall be charged in general with the
31 representation of the child's interests. To that end, counsel shall
32 make or cause to have made any further investigations that he or
33 she deems in good faith to be reasonably necessary to ascertain
34 the facts, including the interviewing of witnesses, and shall
35 examine and cross-examine witnesses in both the adjudicatory and
36 dispositional hearings. Counsel may also introduce and examine
37 his or her own witnesses, make recommendations to the court
38 concerning the child's welfare, and participate further in the
39 proceedings to the degree necessary to adequately represent the
40 child. When counsel is appointed to represent a nonminor

1 dependent, counsel is charged with representing the wishes of the
2 nonminor dependent except when advocating for those wishes
3 conflicts with the protection or safety of the nonminor dependent.
4 If the court finds that a nonminor dependent is not competent to
5 direct counsel, the court shall appoint a guardian ad litem for the
6 nonminor dependent.

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

13 (3) Counsel shall investigate the interests of the child beyond
14 the scope of the juvenile proceeding, and report to the court other
15 interests of the child that may need to be protected by the institution
16 of other administrative or judicial proceedings. Counsel
17 representing a child in a dependency proceeding is not required to
18 assume the responsibilities of a social worker, and is not expected
19 to provide nonlegal services to the child.

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

23 (i) Counsel shall provide his or her contact information to the
24 educational liaison, as described in subdivision ~~(b)~~ (c) of Section
25 48853.5 of the Education Code, of each local educational agency
26 serving counsel's foster child clients in the county of jurisdiction.

27 (ii) If counsel is part of a firm or organization representing foster
28 children, the firm or organization may provide its contact
29 information in lieu of contact information for the individual
30 counsel. The firm or organization may designate a person or
31 persons within the firm or organization to receive communications
32 from educational liaisons.

33 (B) The child's caregiver or other person holding the right to
34 make educational decisions for the child may provide the contact
35 information of the child's attorney to the child's local educational
36 agency.

37 (C) Counsel for the child and counsel's agent may, but are not
38 required to, disclose to an individual who is being assessed for the
39 possibility of placement pursuant to Section 361.3 the fact that the
40 child is in custody, the alleged reasons that the child is in custody,

1 and the projected likely date for the child's return home, placement
2 for adoption, or legal guardianship. Nothing in this paragraph shall
3 be construed to prohibit counsel from making other disclosures
4 pursuant to this subdivision, as appropriate.

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

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

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

13 (f) Either the child or counsel for the child, with the informed
14 consent of the child if the child is found by the court to be of
15 sufficient age and maturity to consent, which shall be presumed,
16 subject to rebuttal by clear and convincing evidence, if the child
17 is over 12 years of age, may invoke the psychotherapist-client
18 privilege, physician-patient privilege, and clergyman-penitent
19 privilege. If the child invokes the privilege, counsel may not waive
20 it, but if counsel invokes the privilege, the child may waive it.
21 Counsel shall be the holder of these privileges if the child is found
22 by the court not to be of sufficient age and maturity to consent.
23 For the sole purpose of fulfilling his or her obligation to provide
24 legal representation of the child, counsel shall have access to all
25 records with regard to the child maintained by a health care facility,
26 as defined in Section 1545 of the Penal Code, health care providers,
27 as defined in Section 6146 of the Business and Professions Code,
28 a physician and surgeon or other health practitioner, as defined in
29 former Section 11165.8 of the Penal Code, as that section read on
30 January 1, 2000, or a child care custodian, as defined in former
31 Section 11165.7 of the Penal Code, as that section read on January
32 1, 2000. Notwithstanding any other law, counsel shall be given
33 access to all records relevant to the case that are maintained by
34 state or local public agencies. All information requested from a
35 child protective agency regarding a child who is in protective
36 custody, or from a child's guardian ad litem, shall be provided to
37 the child's counsel within 30 days of the request.

38 (g) In a county of the third class, if counsel is to be provided to
39 a child at the county's expense other than by counsel for the
40 agency, the court shall first use the services of the public defender

1 before appointing private counsel. Nothing in this subdivision shall
2 be construed to require the appointment of the public defender in
3 any case in which the public defender has a conflict of interest. In
4 the interest of justice, a court may depart from that portion of the
5 procedure requiring appointment of the public defender after
6 making a finding of good cause and stating the reasons therefor
7 on the record.

8 (h) In a county of the third class, if counsel is to be appointed
9 to provide legal counsel for a parent or guardian at the county's
10 expense, the court shall first use the services of the alternate public
11 defender before appointing private counsel. Nothing in this
12 subdivision shall be construed to require the appointment of the
13 alternate public defender in any case in which the public defender
14 has a conflict of interest. In the interest of justice, a court may
15 depart from that portion of the procedure requiring appointment
16 of the alternate public defender after making a finding of good
17 cause and stating the reasons therefor on the record.

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

20 16010. (a) When a child is placed in foster care, the case plan
21 for each child recommended pursuant to Section 358.1 shall include
22 a summary of the health and education information or records,
23 including mental health information or records, of the child. The
24 summary may be maintained in the form of a health and education
25 passport, or a comparable format designed by the child protective
26 agency. The health and education summary shall include, but not
27 be limited to, the names and addresses of the child's health, dental,
28 and education providers; the child's grade level performance; the
29 child's school record; assurances that the child's placement in
30 foster care takes into account proximity to the school in which the
31 child is enrolled at the time of placement; the number of school
32 transfers the child has already experienced; the child's educational
33 progress, as demonstrated by factors, including, but not limited
34 to, academic proficiency scores; credits earned toward graduation;
35 a record of the child's immunizations and allergies; the child's
36 known medical problems; the child's current medications, past
37 health problems, and hospitalizations; a record of the child's
38 relevant mental health history; the child's known mental health
39 condition and medications; and any other relevant mental health,
40 dental, health, and education information concerning the child

1 determined to be appropriate by the Director of Social Services.
2 The health and education summary may also include the name and
3 contact information for the educational liaison, as described in
4 subdivision (c) of Section 48853.5 of the Education Code, of the
5 child's local educational agency. If any other law imposes more
6 stringent information requirements, then that section shall prevail.

7 (b) Additionally, a court report or assessment required pursuant
8 to subdivision (g) of Section 361.5, Section 366.1, subdivision (d)
9 of Section 366.21, or subdivision (c) of Section 366.22 shall
10 include a copy of the current health and education summary
11 described in subdivision (a). With respect to a nonminor dependent,
12 as described in subdivision (v) of Section 11400, a copy of the
13 current health and education summary shall be included in the
14 court report only if and when the nonminor dependent consents in
15 writing to its inclusion.

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

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

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

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

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

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

7 (e) The child's caregiver shall be responsible for obtaining and
8 maintaining accurate and thorough information from physicians
9 and educators for the child's summary as described in subdivision
10 (a) during the time that the child is in the care of the caregiver. On
11 each required visit, the child protective agency or its designee
12 family foster agency shall inquire of the caregiver whether there
13 is any new information that should be added to the child's summary
14 as described in subdivision (a). The child protective agency shall
15 update the summary with the information as appropriate, but not
16 later than the next court date or within 48 hours of a change in
17 placement. The child protective agency or its designee family
18 foster agency shall take all necessary steps to assist the caregiver
19 in obtaining relevant health and education information for the
20 child's health and education summary as described in subdivision
21 (a). The caregiver of a nonminor dependent, as described in
22 subdivision (v) of Section 11400, is not responsible for obtaining
23 and maintaining the nonminor dependent's health and educational
24 information, but may assist the nonminor dependent with any
25 recordkeeping that the nonminor requests of the caregiver.

26 (f) At the initial hearing, the court shall direct each parent to
27 provide to the child protective agency complete medical, dental,
28 mental health, and educational information, and medical
29 background, of the child and of the child's mother and the child's
30 biological father if known. The Judicial Council shall create a form
31 for the purpose of obtaining health and education information from
32 the child's parents or guardians at the initial hearing. The court
33 shall determine at the hearing held pursuant to Section 358 whether
34 the medical, dental, mental health, and educational information
35 has been provided to the child protective agency.

36 SEC. 8. (a) Sections 1.5 and 2.5 of this bill incorporate
37 amendments to Section 48204 of the Education Code proposed by
38 both this bill and Senate Bill 200. They shall only become operative
39 if (1) both bills are enacted and become effective on or before
40 January 1, 2016, (2) each bill amends Section 48204 of the

1 Education Code, and (3) this bill is enacted after Senate Bill 200,
2 in which case Sections 1 and 2 of this bill shall not become
3 operative.

4 *(b) Section 4.5 of this bill incorporates amendments to Section*
5 *48853 of the Education Code proposed by both this bill and*
6 *Assembly Bill 379. It shall only become operative if (1) both bills*
7 *are enacted and become effective on or before January 1, 2016,*
8 *(2) each bill amends Section 48853 of the Education Code, and*
9 *(3) this bill is enacted after Assembly Bill 379, in which case*
10 *Section 4 of this bill shall not become operative.*

11 *(c) Section 5.5 of this bill incorporates amendments to Section*
12 *48853.5 of the Education Code proposed by both this bill and*
13 *Assembly Bill 379. It shall only become operative if (1) both bills*
14 *are enacted and become effective on or before January 1, 2016,*
15 *(2) each bill amends Section 48853.5 of the Education Code, and*
16 *(3) this bill is enacted after Assembly Bill 379, in which case*
17 *Section 5 of this bill shall not become operative.*

18 *(d) Section 6.1 of this bill incorporates amendments to Section*
19 *317 of the Welfare and Institutions Code proposed by both this*
20 *bill and Senate Bill 238. It shall only become operative if (1) both*
21 *bills are enacted and become effective on or before January 1,*
22 *2016, (2) each bill amends Section 317 of the Welfare and*
23 *Institutions Code, (3) Senate Bill 316 is not enacted or as enacted*
24 *does not amend that section, and (4) this bill is enacted after Senate*
25 *Bill 238, in which case Sections 6, 6.2, and 6.3 of this bill shall*
26 *not become operative.*

27 *(e) Section 6.2 of this bill incorporates amendments to Section*
28 *317 of the Welfare and Institutions Code proposed by both this*
29 *bill and Senate Bill 316. It shall only become operative if (1) both*
30 *bills are enacted and become effective on or before January 1,*
31 *2016, (2) each bill amends Section 317 of the Welfare and*
32 *Institutions Code, (3) Senate Bill 238 is not enacted or as enacted*
33 *does not amend that section, and (4) this bill is enacted after Senate*
34 *Bill 316 in which case Sections 6, 6.1, and 6.3 of this bill shall not*
35 *become operative.*

36 *(f) Section 6.3 of this bill incorporates amendments to Section*
37 *317 of the Welfare and Institutions Code proposed by this bill,*
38 *Senate Bill 238, and Senate Bill 316. It shall only become operative*
39 *if (1) all three bills are enacted and become effective on or before*
40 *January 1, 2016, (2) all three bills amend Section 317 of the*

- 1 *Welfare and Institutions Code, and (3) this bill is enacted after*
- 2 *Senate Bill 238 and Senate Bill 316, in which case Sections 6, 6.1,*
- 3 *and 6.2 of this bill shall not become operative.*

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