

AMENDED IN ASSEMBLY MARCH 29, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1320**

**Introduced by Assembly Member Canciamilla**

February 22, 2005

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An act to amend Section 48204 of the Education Code, *and to amend Section 6552 of the Family Code*, relating to school attendance.

LEGISLATIVE COUNSEL'S DIGEST

AB 1320, as amended, Canciamilla. Residency requirements: exceptions.

Existing law provides that a pupil is deemed to have complied with the residency requirements for school attendance in a school district, provided the pupil meets one of the specified requirements, including, but not limited to, the pupil is placed within the boundaries of the school district in a regularly established licensed children's home, the pupil is residing in a state hospital located within the boundaries of the school district, *the pupil resides in the home of a caregiving adult that is located within the boundaries of the school district*, or an interdistrict transfer has been approved for the pupil.

~~This bill would provide that if the school in which a pupil would be placed pursuant to the above-described requirements under existing law is closed or impacted, the governing board of the school district may place the pupil at another schoolsite within the district, without regard to the pupil's address.~~

*The bill would require a caregiving adult, with whom a pupil resides under existing law, to pay certain costs relating to the pupil, and would require a school district to direct any communication required to be given to the parent or legal guardian of the pupil to the caregiving adult of the pupil if the parent or legal guardian of a pupil*

*is unavailable or unwilling to accept responsibility for the pupil. The bill would also amend the language of the Caregiver’s Authorization Affidavit to reflect these changes.*

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.*

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

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 48204 of the Education Code, as added  
2 by Section 2 of Chapter 529 of the Statutes of 2003, is amended  
3 to read:

4 48204. (a) Notwithstanding Section 48200, and subject to  
5 subdivision (c) a pupil is deemed to have complied with the  
6 residency requirements for school attendance in a school district,  
7 if he or she is any of the following:

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

14 An agency placing a pupil in a home or institution described in  
15 this subdivision shall provide evidence to the school that the  
16 placement or commitment is pursuant to law.

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

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

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

9 (5) A pupil residing in a state hospital located within the  
10 boundaries of that school district.

11 (b) A school district may deem a pupil as having complied  
12 with the residency requirements for school attendance in the  
13 school district if one or both the parents or legal guardians of the  
14 pupil is employed within the boundaries of that school district.

15 (1) This subdivision does not require the school district within  
16 which the parents or guardians of a pupil are employed to admit  
17 the pupil to its schools. Districts may not, however, refuse to  
18 admit pupils under this subdivision on the basis, except as  
19 expressly provided in this subdivision, of race, ethnicity, sex,  
20 parental income, scholastic achievement, or any other arbitrary  
21 consideration.

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

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

34 (4) The governing board of a school district that prohibits the  
35 transfer of a pupil pursuant to paragraph (1), (2), or (3) is  
36 encouraged to identify, and communicate in writing to the  
37 parents or guardians of the pupil, the specific reasons for that  
38 determination and is encouraged to ensure that the determination,  
39 and the specific reasons therefor, are accurately recorded in the

1 minutes of the board meeting in which the determination was  
2 made.

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

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

10 (A) For any district with an average daily attendance for that  
11 fiscal year of less than 501, 5 percent of the average daily  
12 attendance of the district.

13 (B) For any district with an average daily attendance for that  
14 fiscal year of 501 or more, but less than 2,501, 3 percent of the  
15 average daily attendance of the district or 25 pupils, whichever  
16 amount is greater.

17 (C) For any district with an average daily attendance of 2,501  
18 or more, 1 percent of the average daily attendance of the district  
19 or 75 pupils, whichever amount is greater.

20 (7) Once a pupil is deemed to have complied with the  
21 residency requirements for school attendance pursuant to this  
22 subdivision and is enrolled in a school in a school district whose  
23 boundaries include the location where one or both parents of a  
24 pupil is employed, or where the legal guardian of the pupil is  
25 employed, the pupil does not have to reapply in the next school  
26 year to attend a school within that school district and the district  
27 governing board shall allow the pupil to attend school through  
28 the 12th grade in that district if the parent or guardian so chooses  
29 and if one or both of the pupil's parents or guardians continues to  
30 be employed by an employer situated within the attendance  
31 boundaries of the school district, subject to paragraphs (1) to (6),  
32 inclusive.

33 *(c) (1) The caregiving adult of a pupil described in paragraph*  
34 *(4) of subdivision (a) shall pay all school-related costs of the*  
35 *pupil, including, but not limited to, transportation costs, costs*  
36 *relating to lost instructional materials, library fines, costs for*  
37 *pupil identification cards, and other school fees.*

38 *(2) If the parent or legal guardian of a pupil described in*  
39 *paragraph (4) of subdivision (a) is unavailable or unwilling to*  
40 *accept responsibility for the pupil, the school district shall direct*

1 *any communication required to be given to the parent or legal*  
2 *guardian of the pupil to the caregiving adult of the pupil.*

3 ~~(e) If the school in which a pupil would be placed pursuant to~~  
4 ~~this section is closed or impacted, the governing board of the~~  
5 ~~school district may place the pupil at an other schoolsite within~~  
6 ~~the district, without regard to the pupils' address.~~

7 (d) This section is inoperative on and after July 1, 2007, and as  
8 of January 1, 2008, is repealed, unless a later enacted statute, that  
9 becomes operative on or before January 1, 2008, deletes or  
10 extends the dates on which it becomes inoperative and is  
11 repealed.

12 SEC. 2. Section 48204 of the Education Code, as amended by  
13 Section 3 of Chapter ~~524~~ 529 of the Statutes of 2003, is amended  
14 to read:

15 48204. (a) Notwithstanding Section 48200, and subject to  
16 subdivision (b), a pupil is deemed to have complied with the  
17 residency requirements for school attendance in a school district,  
18 if he or she is:

19 (1) A pupil placed within the boundaries of that school district  
20 in a regularly established licensed children's institution, or a  
21 licensed foster home, or a family home pursuant to a  
22 commitment or placement under Chapter 2 (commencing with  
23 Section 200) of Part 1 of Division 2 of the Welfare and  
24 Institutions Code.

25 An agency placing a pupil in the home or institution shall  
26 provide evidence to the school that the placement or commitment  
27 is pursuant to law.

28 (2) A pupil for whom interdistrict attendance has been  
29 approved pursuant to Chapter 5 (commencing with Section  
30 46600) of Part 26.

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

35 (4) A pupil who lives in the home of a caregiving adult that is  
36 located within the boundaries of that school district. Execution of  
37 an affidavit under penalty of perjury pursuant to Part 1.5  
38 (commencing with Section 6550) of Division 11 of the Family  
39 Code by the caregiving adult is a sufficient basis for a  
40 determination that the pupil lives in the caregiver's home, unless

1 the school district determines from actual facts that the pupil is  
2 not living in the caregiver’s home.

3 (5) A pupil residing in a state hospital located within the  
4 boundaries of that school district.

5 (b) (1) *The caregiving adult of a pupil described in paragraph*  
6 *(4) of subdivision (a) shall pay all school-related costs of the*  
7 *pupil, including, but not limited to, transportation costs, costs*  
8 *relating to lost instructional materials, library fines, costs for*  
9 *pupil identification cards, and other school fees.*

10 (2) *If the parent or legal guardian of a pupil described in*  
11 *paragraph (4) of subdivision (a) is unavailable or unwilling to*  
12 *accept responsibility for the pupil, the school district shall direct*  
13 *any communication required to be given to the parent or legal*  
14 *guardian of the pupil to the caregiving adult of the pupil.*

15 ~~(b) If the school in which a pupil would be placed pursuant to~~  
16 ~~this section is closed or impacted, the governing board of the~~  
17 ~~school district may place the pupil at another schoolsite within~~  
18 ~~the district, without regard to the pupil's address.~~

19 (c) This section is operative on and after July 1, 2007.

20 SEC. 3. *Section 6552 of the Family Code is amended to read:*  
21 6552. The caregiver’s authorization affidavit shall be in  
22 substantially the following form:

Caregiver’s Authorization Affidavit

Use of this affidavit is authorized by Part 1.5 (commencing with Section 6550) of Division 11 of the California Family Code.

Instructions: Completion of items 1–4 and the signing of the affidavit is sufficient to authorize enrollment of a minor in school and authorize school-related medical care. Completion of items 5–8 is additionally required to authorize any other medical care. Print clearly.

The minor named below lives in my home and I am 18 years of age or older.

1. Name of minor: \_\_\_\_ .2. Minor’s birth date: \_\_\_\_ .3. My name (adult giving authorization): \_\_\_\_\_ .4. My home address: \_\_\_\_\_ .

5.  I am a grandparent, aunt, uncle, or other qualified relative of the minor (see back of this form for a definition of “qualified relative”).

6. Check one or both (for example, if one parent was advised and the other cannot be located):  
 I have advised the parent(s) or other person(s) having legal custody of the minor of my intent to authorize medical care, and have received no objection.

I am unable to contact the parent(s) or other person(s) having legal custody of the minor at this time, to notify them of my intended authorization.

7. My date of birth: \_\_\_\_\_ .

8. My California driver’s license or identification card number: \_\_\_\_\_ .

Warning: Do not sign this form if any of the statements above are incorrect, or you will be committing a crime punishable by a fine, imprisonment, or both.

1 I declare under penalty of perjury under the laws of the State  
 2 of California that the foregoing is true and correct.  
 3 Dated: \_\_\_\_\_ Signed: \_\_\_\_\_

4  
 5

6 Notices:

7

8 1. This declaration does not affect the rights of the minor’s  
 9 parents or legal guardian regarding the care, custody, and control  
 10 of the minor, and does not mean that the caregiver has legal  
 11 custody of the minor.

12

13 2. A person who relies on this affidavit has no obligation to  
 14 make any further inquiry or investigation.

15

16 Additional Information:

17

18 TO CAREGIVERS:

19

20 1. “Qualified relative,” for purposes of item 5, means a spouse,  
 21 parent, stepparent, brother, sister, stepbrother, stepsister, half  
 22 brother, half sister, uncle, aunt, niece, nephew, first cousin, or  
 23 any person denoted by the prefix “grand” or “great,” or the  
 24 spouse of any of the persons specified in this definition, even  
 25 after the marriage has been terminated by death or dissolution.

26

27 2. The law may require you, if you are not a relative or a  
 28 currently licensed foster parent, to obtain a foster home license in  
 29 order to care for a minor. If you have any questions, please  
 30 contact your local department of social services.

31

32 3. If the minor stops living with you, you are required to notify  
 33 any school, health care provider, or health care service plan to  
 34 which you have given this affidavit. The affidavit is invalid after  
 35 the school, health care provider, or health care service plan  
 36 receives notice that the minor no longer lives with you.

37

38 4. If you do not have the information requested in item 8  
 39 (California driver’s license or I.D.), provide another form of

1 identification such as your social security number or Medi-Cal  
2 number.

3

4 5. The caregiver of a pupil is responsible for all school-related  
5 costs of the pupil, including, but not limited to, transportation  
6 costs, costs relating to lost instructional materials, library fines,  
7 costs for pupil identification cards, and other school fees. The  
8 caregiver may also receive communication from a school in the  
9 place of the parent or legal guardian of the pupil.

10

11 TO SCHOOL OFFICIALS:

12

13 1. Section 48204 of the Education Code provides that this  
14 affidavit constitutes a sufficient basis for a determination of  
15 residency of the minor, without the requirement of a  
16 guardianship or other custody order, unless the school district  
17 determines from actual facts that the minor is not living with the  
18 caregiver.

19

20 2. The school district may require additional reasonable  
21 evidence that the caregiver lives at the address provided in item  
22 4.

23

24 TO HEALTH CARE PROVIDERS AND HEALTH CARE  
25 SERVICE PLANS:

26

27 1. A person who acts in good faith reliance upon a caregiver's  
28 authorization affidavit to provide medical or dental care, without  
29 actual knowledge of facts contrary to those stated on the  
30 affidavit, is not subject to criminal liability or to civil liability to  
31 any person, and is not subject to professional disciplinary action,  
32 for that reliance if the applicable portions of the form are  
33 completed.

34

35 2. This affidavit does not confer dependency for health care  
36 coverage purposes.

37 *SEC. 4. If the Commission on State Mandates determines*  
38 *that this act contains costs mandated by the state, reimbursement*  
39 *to local agencies and school districts for those costs shall be*

- 1 *made pursuant to Part 7 (commencing with Section 17500) of*
- 2 *Division 4 of Title 2 of the Government Code.*

O