

AMENDED IN SENATE MAY 6, 2010
AMENDED IN SENATE APRIL 5, 2010

SENATE BILL

No. 1059

Introduced by Senator Liu

February 16, 2010

An act to amend Sections 48204, 48645.2, and 56028 of the Education Code, relating to ~~school districts~~ *local educational agencies*.

LEGISLATIVE COUNSEL'S DIGEST

SB 1059, as amended, Liu. ~~School districts:~~ *Local educational agencies:* districts of residence.

(1) Existing law provides for residency requirements for school attendance, including the requirement that a pupil placed within the boundaries of that school district in a regularly licensed children's institution, a licensed foster home, or a family home pursuant to a placement under a designated statute, is deemed to comply with residency requirements for that district.

This bill would provide that a school district into which a pupil is placed in a regularly licensed children's institution, a licensed foster home, or a family home pursuant to a placement under a designated statute is the district of residence. The bill would further require that this school district of residence would be responsible for providing the pupil with a free appropriate public education, as defined. Because this provision would impose new requirements on school districts, it would constitute a state-mandated local program.

(2) Existing law requires a minor under the jurisdiction of the juvenile court as a consequence of delinquent conduct, in conformity with the interests of public safety and protection, to receive care, treatment, and guidance that is consistent with his or her best interest, that holds the

minor accountable for his or her behavior, and that is appropriate for his or her circumstances.

Existing law provides for the establishment of public schools in juvenile halls, juvenile homes, day centers, juvenile ranches, juvenile camps, regional youth educational facilities, or Orange County youth correctional centers, as specified, to provide juvenile court school pupils with quality education and training. Existing law requires a county board of education to provide for the administration and operation of juvenile court schools in the county, either by the county superintendent of schools, as specified, or by contract with the respective governing boards of the elementary, high school, or unified school district in which the juvenile court school is located.

This bill would require that the county board of education is ~~the district of residence for all pupils in a juvenile court school. The bill would further require that the county board of education would be~~ responsible for providing ~~the pupil~~ *pupils detained in juvenile halls who are individuals with exceptional needs* with a free appropriate public education, as defined. Because this provision would impose new requirements on ~~school districts~~ *local educational agencies*, it would constitute a state-mandated local program.

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

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

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

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

- 1 SECTION 1. Section 48204 of the Education Code, as amended
- 2 by Section 1 of Chapter 33 of the Statutes of 2007, 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) (i) A pupil placed within the boundaries of that school
- 8 district in a regularly established licensed children's institution,

1 or a licensed foster home, or a family home pursuant to a
2 commitment or placement under Chapter 2 (commencing with
3 Section 200) of Part 1 of Division 2 of the Welfare and Institutions
4 Code.

5 (ii) Notwithstanding Sections 48200 and 56028, for any pupil
6 placed pursuant to clause (i), the school district in which the pupil
7 resides is the district of residence, and it is that school district that
8 is responsible for providing the pupil with a free appropriate public
9 education within the meaning of Section 1412 of Title 20 of the
10 United States Code and Sections 104.33 and 300.104 of Title 34
11 of the Code of Federal Regulations, as these provisions exist on
12 January 1, 2011, pursuant to residential placement as specified in
13 Chapter 26.5 (commencing with Section 7570) of Division 7 of
14 Title 1 of the Government Code and Section 60200 of Title 2 of
15 the California Code of Regulations, as it exists on January 1, 2011.

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

19 (2) A pupil for whom interdistrict attendance has been approved
20 pursuant to Chapter 5 (commencing with Section 46600) of Part
21 26.

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

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

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

35 (b) A school district may deem a pupil to have complied with
36 the residency requirements for school attendance in the district if
37 at least one parent or the legal guardian of the pupil is physically
38 employed within the boundaries of that district.

39 (1) This subdivision does not require the school district within
40 which at least one parent or the legal guardian of a pupil is

1 employed to admit the pupil to its schools. A school district shall
2 not, however, refuse to admit a pupil under this subdivision on the
3 basis, except as expressly provided in this subdivision, of race,
4 ethnicity, sex, parental income, scholastic achievement, or any
5 other arbitrary consideration.

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

13 (3) The school district to which the pupil is to be transferred
14 under this subdivision may prohibit the transfer of the pupil if the
15 district determines that the additional cost of educating the pupil
16 would exceed the amount of additional state aid received as a result
17 of the transfer.

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

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

27 (6) Unless approved by the sending school district, this
28 subdivision does not authorize a net transfer of pupils out of a
29 school district, calculated as the difference between the number
30 of pupils exiting the district and the number of pupils entering the
31 district, in a fiscal year in excess of the following amounts:

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

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

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

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

16 (c) This section shall become inoperative on July 1, 2012, and
17 as of January 1, 2013, is repealed, unless a later enacted statute,
18 that becomes operative on or before January 1, 2013, deletes or
19 extends the dates on which it becomes inoperative and is repealed.

20 SEC. 2. Section 48204 of the Education Code, as amended by
21 Section 2 of Chapter 33 of the Statutes of 2007, is amended to
22 read:

23 48204. Notwithstanding Section 48200, a pupil complies with
24 the residency requirements for school attendance in a school
25 district, if he or she is:

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

32 (B) Notwithstanding Section 56028, for any pupil placed
33 pursuant to subparagraph (A), the school district in which the pupil
34 resides is the district of residence, and it is that school district that
35 is responsible for providing the pupil with a free appropriate public
36 education within the meaning of Section 1412 of Title 20 of the
37 United States Code and Sections 104.33 and 300.104 of Title 34
38 of the Code of Federal Regulations, as these provisions exist on
39 January 1, 2011, pursuant to residential placement as specified in
40 Chapter 26.5 (commencing with Section 7570) of Division 7 of

1 Title 1 of the Government Code and Section 60200 of Title 2 of
2 the California Code of Regulations, as it exists on January 1, 2011.

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

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

9 (c) 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 (d) 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 (e) A pupil residing in a state hospital located within the
21 boundaries of that school district.

22 (f) This section shall become operative on July 1, 2012.

23 SEC. 3. Section 48645.2 of the Education Code is amended to
24 read:

25 48645.2. The county board of education shall provide for the
26 administration and operation of juvenile court schools established
27 pursuant to Section 48645.1:

28 (a) By the county superintendent of schools, provided that, in
29 any county in which the board of supervisors is establishing or
30 maintaining juvenile court schools on January 1, 1978, the county
31 superintendent of schools may contract with the board of
32 supervisors for the administration and operation of such schools
33 if agreed upon between the board of education and the board of
34 supervisors. In any event, the county superintendent of schools
35 may contract with other educational agencies for supporting
36 services to the same extent that school districts may contract with
37 other such agencies.

38 (b) By contract with the respective governing boards of the
39 elementary, high school, or unified school district in which the
40 juvenile court school is located.

1 (c) ~~(1)~~ *This subdivision shall apply solely to pupils detained in*
2 *juvenile halls pursuant to Article 23 (commencing with Section*
3 *850) of Chapter 2 of Part 1 of Division 2 of the Welfare and*
4 *Institutions Code.*

5 (1) For a pupil in a juvenile court school established pursuant
6 to Section 48645.1, the county board of education is ~~the district~~
7 ~~of residence and is~~ responsible for the provision of a free
8 appropriate public education for individuals with exceptional needs,
9 including, but not necessarily limited to, paying and providing for
10 residential placement, any other related service, benefit, or aid,
11 whether located inside or outside of the juvenile court school,
12 needs. *The district of residence for the pupil shall maintain*
13 *responsibility for paying and providing for residential placement*
14 within the meaning of Sections 7572.5 and 7573 of the Government
15 Code and Sections 104.33 and 300.104 of Title 34 of the Code of
16 Federal Regulations, as these federal regulations exist on January
17 1, 2011.

18 (2) ~~When a pupil is placed at a residential placement under this~~
19 ~~subdivision, the county board of education shall remain the district~~
20 ~~of residence for that pupil after the disposition of the pupil's~~
21 ~~juvenile delinquency case and through the duration of the~~
22 ~~residential placement.~~

23 (3) ~~If a determination is made by a properly constituted~~
24 ~~individualized education program team that a less-restrictive~~
25 ~~environment is appropriate for the pupil, the county office of~~
26 ~~education is responsible for transitioning the pupil into a~~
27 ~~subsequent placement. This subsequent placement may be a public~~
28 ~~or nonpublic school certified by the State Department of Education.~~

29 (4) ~~The responsibility of the county board of education under~~
30 ~~this subdivision includes the development of an individualized~~
31 ~~education program that includes a transition plan to the public~~
32 ~~school as described in paragraph (4) of subdivision (b) of Section~~
33 ~~56345.~~

34 (5) ~~If a dispute arises regarding responsibility for subsequent~~
35 ~~placement or services, the county board of education is responsible~~
36 ~~for the placement and services determined by the individualized~~
37 ~~education program team until the dispute is resolved.~~

38 (6) ~~The county board of education may seek reimbursement~~
39 ~~from public agencies that fail to accept timely responsibility for a~~
40 ~~pupil placed under this subdivision.~~

1 (2) For purposes of this section, “district of residence” means
2 the last school district at which the pupil was enrolled prior to
3 placement in the juvenile court school.

4 (3) Within 20 days of the date that the pupil was detained in the
5 juvenile hall, the county office of education shall do both of the
6 following:

7 (A) Determine the district of residence, as defined in paragraph
8 (2).

9 (B) Notify the district of residence of its responsibility under
10 this section.

11 (4) When a pupil is placed at a residential placement under this
12 subdivision, the school district, as determined in paragraph (3),
13 shall remain the district of residence for that pupil through the
14 duration of the residential placement, including after the
15 disposition of the pupil’s juvenile delinquency case.

16 (5) If a determination is made by a properly constituted
17 individualized education program team that a less-restrictive
18 environment is appropriate for the pupil, the district of residence,
19 as determined in paragraph (3), is responsible for transitioning
20 the pupil into a subsequent placement, including by creating a
21 transition plan as described in paragraph (4) of subdivision (b)
22 of Section 56345. This subsequent placement may be a public or
23 nonpublic school certified by the State Department of Education.

24 (6) If a dispute arises regarding responsibility for placement
25 or services, the district of residence, as determined in paragraph
26 (3), shall immediately implement the individual education plan,
27 including, but not necessarily limited to, paying and providing for
28 the residential placement, and any other related service, benefit,
29 or aid within the meaning of Sections 7572.5 and 7573 of the
30 Government Code and Sections 104.33 and 300.104 of Title 34 of
31 the Code of Federal Regulations, as these federal regulations exist
32 on January 1, 2011, and maintaining responsibility for the pupil’s
33 placement or services, or both, during the duration of the dispute.
34 A school district impacted by the decision made under paragraph
35 (3) may appeal to the county superintendent of schools, who shall
36 issue a written decision within 60 days, and that decision shall be
37 final.

38 SEC. 4. Section 56028 of the Education Code is amended to
39 read:

40 56028. (a) “Parent” means any of the following:

1 (1) A biological or adoptive parent of a child.

2 (2) A foster parent if the authority of the biological or adoptive
3 parents to make educational decisions on the child's behalf
4 specifically has been limited by court order in accordance with
5 Section 300.30(b)(1) or (2) of Title 34 of the Code of Federal
6 Regulations.

7 (3) A guardian generally authorized to act as the child's parent,
8 or authorized to make educational decisions for the child, including
9 a responsible adult appointed for the child in accordance with
10 Sections 361 and 726 of the Welfare and Institutions Code.

11 (4) An individual acting in the place of a biological or adoptive
12 parent, including a grandparent, stepparent, or other relative, with
13 whom the child lives, or an individual who is legally responsible
14 for the child's welfare.

15 (5) A surrogate parent who has been appointed pursuant to
16 Section 7579.5 or 7579.6 of the Government Code, and in
17 accordance with Section 300.519 of Title 34 of the Code of Federal
18 Regulations and Section 1439(a)(5) of Title 20 of the United States
19 Code.

20 (b) (1) Except as provided in paragraph (2), the biological or
21 adoptive parent, when attempting to act as the parent under this
22 part and when more than one party is qualified under subdivision
23 (a) to act as a parent, shall be presumed to be the parent for
24 purposes of this section unless the biological or adoptive parent
25 does not have legal authority to make educational decisions for
26 the child.

27 (2) If a judicial decree or order identifies a specific person or
28 persons under paragraphs (1) to (4), inclusive, of subdivision (a)
29 to act as the "parent" of a child or to make educational decisions
30 on behalf of a child, then that person or persons shall be determined
31 to be the "parent" for purposes of this part, Article 1 (commencing
32 with Section 48200) of Chapter 2 of Part 27, and Chapter 26.5
33 (commencing with Section 7570) of Division 7 of Title 1 of the
34 Government Code, and Sections 361 and 726 of the Welfare and
35 Institutions Code.

36 (c) "Parent" does not include the state or any political
37 subdivision of government.

38 (d) "Parent" does not include a nonpublic, nonsectarian school
39 or agency under contract with a local educational agency for the

1 provision of special education or designated instruction and
2 services for a child.

3 (e) For a pupil placed pursuant to subparagraph (A) of paragraph
4 (1) of subdivision (a) of Section 48204, the school district of
5 residence is the school district wherein the pupil resides. The
6 residence of the person or persons listed in paragraph (5) of
7 subdivision (a), or paragraph (2) of subdivision (b), of this section
8 does not determine the school district of residence.

9 SEC. 5. If the Commission on State Mandates determines that
10 this act contains costs mandated by the state, reimbursement to
11 local agencies and school districts for those costs shall be made
12 pursuant to Part 7 (commencing with Section 17500) of Division
13 4 of Title 2 of the Government Code.