

Assembly Bill No. 709

CHAPTER 463

An act to amend Section 48853.5 of the Education Code, and to add Section 120341 to the Health and Safety Code, relating to foster children.

[Approved by Governor October 4, 2011. Filed with
Secretary of State October 4, 2011.]

LEGISLATIVE COUNSEL'S DIGEST

AB 709, Brownley. Foster children: school placement: immunization records.

Existing law provides that at the initial detention or placement, or any subsequent change in placement of a foster child, the local educational agency serving the foster child shall allow the foster child to continue his or her education in the school of origin for the duration of the jurisdiction of the court. However, if the educational liaison for foster children and the person holding the right to make educational decisions for the foster child agree that the best interests of the foster child would best be served by waiver of this right and transfer to a school other than the school of origin, the foster child shall immediately be enrolled in the new school. Existing law requires the new school to immediately enroll the foster child even if he or she is unable to produce clothing or records normally required for enrollment, such as previous academic records, medical records, proof of residency, other documentation, or school uniforms.

Existing law prohibits the governing authority of a school or other institution from unconditionally admitting any person as a pupil of any private or public elementary or secondary school, child care center, day nursery, nursery school, family day care home, or development center, unless prior to the pupil's first admission to that institution the pupil has been fully immunized against specified diseases.

This bill would specify that the new school is required to immediately enroll the foster child even if he or she is unable to produce medical records, including, but not limited to, records or other proof of immunization history. The bill would make a conforming change by requiring the governing authority to admit a foster child whose immunization records are not available or are missing and prohibiting this change from altering specified obligations of the governing authority. The bill would state the Legislature's intent to reconcile the provisions of the Health and Safety Code with those of the Education Code.

The bill would also make technical, nonsubstantive changes.

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

SECTION 1. It is the intent of the Legislature that a foster child immediately be enrolled in and allowed to attend school, even if he or she is unable to produce records normally required for school enrollment. The intent of this act is to reconcile the provisions of the Health and Safety Code with the provisions of the Education Code.

SEC. 2. Section 48853.5 of the Education Code is amended to read:

48853.5. (a) This section applies to a child who has been removed from his or her home pursuant to Section 309 of the Welfare and Institutions Code, is the subject of a petition filed under Section 300 or 602 of the Welfare and Institutions Code, or has been removed from his or her home and is the subject of a petition filed under Section 300 or 602 of the Welfare and Institutions Code (hereafter “foster child”).

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

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

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

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

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

(2) If the jurisdiction of the court is terminated prior to the end of an academic year, the foster child shall be allowed to continue his or her education in the school of origin through the duration of the academic school year.

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

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

(4) Paragraphs (2) and (3) shall not be construed to require a school district to provide transportation services to allow a foster child to attend a school or school district, unless otherwise required under federal law, nor shall this paragraph be construed to prohibit a school district from, at its discretion, providing transportation services to allow a foster child to attend a school or school district.

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

(6) Prior to making any recommendation to move a foster child from his or her school of origin, the liaison shall provide the foster child and the person holding the right to make educational decisions for the foster child with a written explanation stating the basis for the recommendation and how this recommendation serves the foster child's best interest.

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

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

(C) The liaison for the new school shall, within two business days of the foster child's request for enrollment, contact the school last attended by the foster child to obtain all academic and other records. All required records shall be provided to the new school regardless of any outstanding fees, fines, textbooks, or other items or moneys owed to the school last attended. The school liaison for the school last attended shall provide all records to the new school within two business days of receiving the request.

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

(9) The local educational agency and the county placing agency are encouraged to collaborate to ensure maximum utilization of available federal

moneys, explore public-private partnerships, and access any other funding sources to promote the well-being of foster children through educational stability.

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

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

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

SEC. 3. Section 120341 is added to the Health and Safety Code, to read:

120341. (a) The governing authority shall admit a foster child, as defined in subdivision (a) of Section 48853.5 of the Education Code, whose immunization records are not available or are missing.

(b) This section shall not alter the obligation of the governing authority to obtain a foster child’s immunization records pursuant to Section 48853.5 of the Education Code or to ensure the immunization of a foster child pursuant to this chapter.