



House of Representatives

General Assembly

File No. 514

January Session, 2009

Substitute House Bill No. 6497

House of Representatives, April 6, 2009

The Committee on Education reported through REP. FLEISCHMANN of the 18th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING EDUCATIONAL STABILITY FOR CHILDREN IN FOSTER CARE.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective July 1, 2010*) (a) Notwithstanding any
2 provision of the general statutes, any child in the care and custody of
3 the Commissioner of Children and Families pursuant to an order of
4 temporary custody or an order of commitment may, if it is in the best
5 interest of the child, continue to attend the school such child attended
6 prior to placement or change in placement. Subject to the provisions of
7 subsection (c) of this section, such child shall be considered a resident
8 of the school district in which such school is located during such
9 attendance for purposes of chapters 168 to 170, inclusive, 172 and 173
10 of the general statutes.

11 (b) There shall be a presumption that it is in the best interest of the
12 child to attend the school that the child attended prior to placement, or
13 change in placement, by the Department of Children and Families. The

14 department shall provide in writing to all parties the reasons for its
15 decision regarding the educational placement of such child. If a party
16 disagrees with the decision of the department, the court shall
17 determine whether continuation in such school is in the child's best
18 interest, and the child shall remain in such school until such
19 determination is made.

20 (c) If a child placed by the Department of Children and Families
21 attends the same school such child attended prior to placement or
22 change in placement, the department shall be responsible for
23 transportation, and the cost of such transportation, for such child from
24 the town in which the child is placed to such school. The department
25 shall maximize federal reimbursements under Title IV-E of the Social
26 Security Act, as amended, for costs of transporting Title IV-E eligible
27 children, and shall consider a range of cost-effective transportation
28 options, including reimbursing foster parents and relative caregivers
29 for such transportation.

30 Sec. 2. Subdivision (2) of subsection (e) of section 10-76d of the
31 general statutes is repealed and the following is substituted in lieu
32 thereof (*Effective July 1, 2010*):

33 (2) (A) For purposes of this subdivision, "public agency" includes
34 the offices of a government of a federally recognized Native American
35 tribe. [Notwithstanding any other provisions of the general statutes,
36 for] For the fiscal year ending June 30, 1987, and each fiscal year
37 thereafter, whenever a public agency, other than a local or regional
38 board of education, the State Board of Education or the Superior Court
39 acting pursuant to section 10-76h, places a child in a foster home,
40 group home, hospital, state institution, receiving home, custodial
41 institution or any other residential or day treatment facility, and such
42 child requires special education, the local or regional board of
43 education under whose jurisdiction the child would otherwise be
44 attending school or, if no such board can be identified, the local or
45 regional board of education of the town where the child is placed, shall
46 provide the requisite special education and related services to such

47 child in accordance with the provisions of this section. Within one
48 business day of such a placement by the Department of Children and
49 Families or offices of a government of a federally recognized Native
50 American tribe, said department or offices shall orally notify the local
51 or regional board of education responsible for providing special
52 education and related services to such child of such placement. The
53 department or offices shall provide written notification to such board
54 of such placement within two business days of the placement. Such
55 local or regional board of education shall convene a planning and
56 placement team meeting for such child within thirty days of the
57 placement and shall invite a representative of the Department of
58 Children and Families or offices of a government of a federally
59 recognized Native American tribe to participate in such meeting. [(A)
60 The] (i) Subject to the provisions of subparagraph (B) of this
61 subdivision, the local or regional board of education under whose
62 jurisdiction such child would otherwise be attending school shall be
63 financially responsible for the reasonable costs of such special
64 education and related services in an amount equal to the lesser of one
65 hundred per cent of the costs of such education or the average per
66 pupil educational costs of such board of education for the prior fiscal
67 year, determined in accordance with the provisions of subsection (a) of
68 section 10-76f. The State Board of Education shall pay on a current
69 basis, except as provided in subdivision (3) of this subsection, any
70 costs in excess of such local or regional board's basic contributions paid
71 by such board of education in accordance with the provisions of this
72 subdivision. [(B) Whenever] (ii) Subject to the provisions of
73 subparagraph (B) of this subdivision, whenever a child is placed
74 pursuant to this [subdivision] subparagraph, on or after July 1, 1995,
75 by the Department of Children and Families and the local or regional
76 board of education under whose jurisdiction such child would
77 otherwise be attending school cannot be identified, the local or
78 regional board of education under whose jurisdiction the child
79 attended school or in whose district the child resided at the time of
80 removal from the home by said department shall be responsible for the
81 reasonable costs of special education and related services provided to

82 such child, for one calendar year or until the child is committed to the
83 state pursuant to section 46b-129 or 46b-140 or is returned to the child's
84 parent or guardian, whichever is earlier. If the child remains in such
85 placement beyond one calendar year the Department of Children and
86 Families shall be responsible for such costs. During the period the local
87 or regional board of education is responsible for the reasonable cost of
88 special education and related services pursuant to this subparagraph,
89 the board shall be responsible for such costs in an amount equal to the
90 lesser of one hundred per cent of the costs of such education and
91 related services or the average per pupil educational costs of such
92 board of education for the prior fiscal year, determined in accordance
93 with the provisions of subsection (a) of section 10-76f. The State Board
94 of Education shall pay on a current basis, except as provided in
95 subdivision (3) of this subsection, any costs in excess of such local or
96 regional board's basic contributions paid by such board of education in
97 accordance with the provisions of this subdivision. The costs for
98 services other than educational shall be paid by the state agency which
99 placed the child. The provisions of this subdivision shall not apply to
100 the school districts established within the Department of Children and
101 Families, pursuant to section 17a-37, the Department of Correction,
102 pursuant to section 18-99a, or the Department of Developmental
103 Services, pursuant to section 17a-240, provided in any case in which
104 special education is being provided at a private residential institution,
105 including the residential components of regional educational service
106 centers, to a child for whom no local or regional board of education
107 can be found responsible under subsection (b) of this section, Unified
108 School District #2 shall provide the special education and related
109 services and be financially responsible for the reasonable costs of such
110 special education instruction for such children. Notwithstanding the
111 provisions of this subdivision, for the fiscal years ending June 30, 2004,
112 to June 30, 2007, inclusive, the amount of the grants payable to local or
113 regional boards of education in accordance with this subdivision shall
114 be reduced proportionately if the total of such grants in such year
115 exceeds the amount appropriated for the purposes of this subdivision
116 for such year.

117 (B) Notwithstanding any other provision of the general statutes, on
118 and after July 1, 2010, if any child in the care and custody of the
119 Commissioner of Children and Families pursuant to an order of
120 temporary custody or an order of commitment requires special
121 education and related services and such child continues to attend the
122 school such child attended prior to placement or change in placement,
123 in accordance with the provisions of section 1 of this act, the local or
124 regional board of education for the school district in which such child
125 attends such school shall provide or continue to provide the requisite
126 special education and related services to such child. Such local or
127 regional board of education shall be financially responsible for the
128 reasonable costs of such special education and related services in an
129 amount equal to the lesser of one hundred per cent of the costs of such
130 education or the average per pupil educational costs of such board of
131 education for the prior fiscal year, determined in accordance with the
132 provisions of subsection (a) of section 10-76f. The State Board of
133 Education shall pay on a current basis, except as provided in
134 subdivision (3) of this subsection, any costs in excess of such local or
135 regional board's basic contributions paid by such board of education in
136 accordance with the provisions of this subdivision.

137 Sec. 3. Subdivision (2) of subsection (e) of section 10-253 of the
138 general statutes is repealed and the following is substituted in lieu
139 thereof (*Effective July 1, 2010*):

140 (2) Children in temporary shelters shall be entitled to free school
141 privileges from either the school district in which the shelter is located
142 or the school district in which the child would otherwise reside, if not
143 for the need for temporary shelter. Upon notification from the school
144 district in which the temporary shelter is located, the school district in
145 which the child would otherwise reside, if identified, shall either pay
146 tuition to the school district in which the temporary shelter is located
147 for the child to attend school in that district or shall continue to
148 provide educational services, including transportation, to such child. If
149 the school district where the child would otherwise reside cannot be
150 identified, the school district in which the temporary shelter is located

151 shall be financially responsible for the educational costs for such child,
152 except that in the case of a child who requires special education and
153 related services and is placed by the Department of Children and
154 Families in a temporary shelter on or after July 1, 1995, the school
155 district in which the child resided immediately prior to such placement
156 or the Department of Children and Families shall be responsible for the
157 cost of such special education and related services, to the extent such
158 board or department is responsible for such costs under subparagraph
159 [(B)] (A)(ii) of subdivision (2) of subsection (e) of section 10-76d, as
160 amended by this act. If the school district where the child would
161 otherwise reside declines to provide free school privileges, the school
162 district where the temporary shelter is located shall provide free school
163 privileges and may recover tuition from the school district where the
164 child would otherwise reside. In the case of children requiring special
165 education who have been placed in out-of-district programs by either a
166 board of education or state agency, the school district in which the
167 child would otherwise reside shall continue to be responsible for the
168 child's education until such time as a new residence is established,
169 notwithstanding the fact that the child or child's family resides in a
170 temporary shelter.

171 Sec. 4. (*Effective July 1, 2010*) On or before October 1, 2010, the
172 Commissioner of Children and Families shall report, in accordance
173 with the provisions of section 11-4a of the general statutes, to the joint
174 standing committees of the General Assembly having cognizance of
175 matters relating to education and appropriations and the budgets of
176 state agencies, and to the select committee of the General Assembly
177 having cognizance of matters relating to children the following
178 information: (1) The number and ages of the children provided
179 transportation services under subsection (c) of section 1 of this act, (2)
180 the mode or modes of transportation for each child transported under
181 said subsection, (3) the distance traveled between the child's placement
182 and the school, (4) the annual costs of transporting each such child,
183 and (5) the number of children who did not remain in the school they
184 attended prior to placement or change in placement.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2010</i>	New section
Sec. 2	<i>July 1, 2010</i>	10-76d(e)(2)
Sec. 3	<i>July 1, 2010</i>	10-253(e)(2)
Sec. 4	<i>July 1, 2010</i>	New section

Statement of Legislative Commissioners:

In section 1(a), the phrase "subject to the provisions of section 4 of this act," was changed to "subject to the provisions of subsection (c) of this section," for accuracy.

ED *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 10 \$	FY 11 \$
Children & Families, Dept.	GF - Cost & Revenue Gain; Precludes Significant Loss of Federal Funds	None	Significant
Education, Dept.	GF - See Below	None	See Below

Note: GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 10 \$	FY 11 \$
Local and Regional Boards of Education	STATE MANDATE - See Below	See Below	See Below

Explanation

The Department of Children and Families (DCF) will incur significant costs to transport certain foster children to their home schools, commencing in FY 11. The bill would require, when it is in the child's best interest, transport to the school the child attended prior to placement, or change in placement.

An FY 11 cost to administer the transportation system of approximately \$2.5 million would result, with partially offsetting increased federal financial participation of about \$0.6 million. Approximate costs would increase to \$6.5 million in FY 12, and \$8.0 million in FY 13, to reflect the phase-in of new children. Federal revenues would correspondingly increase to about \$1.5 million in FY 12 and \$1.9 million in FY 13.

Additional one-time costs, which cannot be quantified at this time, may be associated with the reporting mandate in Section 4.

Information systems may need to be developed or modified in order to capture the required data.

Enactment of this bill will ensure continued receipt of federal Title IV-E reimbursements (estimated at \$97 million in FY 09). The Fostering Connections to Success and Increasing Adoptions Act of 2008 requires Connecticut adopt a transportation policy no later than during the 2010 legislative session and implement the same by 7/1/10.

The bill could result in a significant additional cost to the State Department of Education (SDE) of up to \$35,000 per year, per pupil, to reimburse local education authorities receiving a state agency placement grant, as the language in the bill clarifies that the state agency placement grant is available even though the child is being returned to their school of origin and neither the program nor the placement changes. This language could result in a significant cost to the state, while simultaneously resulting in a revenue increase to local and regional boards of education.

The bill also results in a potential cost savings to SDE and local and regional boards of education as DCF will be responsible for transporting the child from the district where he or she is placed to the child's school.

No funding has been included within sHB 6365, the FY 10-11 Biennial Budget, as favorably reported by the Appropriations Committee for purposes of this bill.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation and fluctuations in foster care caseloads.

Sources: H.R. 6893, The Fostering Connections to Success and Increasing Adoptions Act of 2008; "The Chauffeur Shuffle - Strapped School Districts Face a New Cost from the State," Williamette Week Online 3/4/09; Oregon Department of Education Memorandum

No. 008-2008-2009, School Transportation of Children in DHS Custody; CT Department of Children and Families, caseload data; CT Transit; Connecticut Voices for Children memorandum; "Child Welfare Outcomes 2002-2005: Report to Congress," Administration for Children and Families; AFCARS 2005; 2/10/09 Public Hearing Testimony.

OLR Bill Analysis

sHB 6497

AN ACT CONCERNING EDUCATIONAL STABILITY FOR CHILDREN IN FOSTER CARE.

SUMMARY:

Superseding any other state law to the contrary, this bill creates a presumption that it is in the best interest of a child in the care of the Department of Children and Families (DCF) under an order of temporary custody or commitment to continue to attend the school he or she attended before being placed in DCF's custody or before a change of placement. DCF must provide its reasons for the educational placement in writing to all parties. If a party disagrees, a court must make a determination and the child must remain in his or her school until the court decides the dispute.

Under the bill, the districts where such children attend school must count them as resident students for purposes of (1) school attendance requirements; (2) student health assessments and other health requirements; (3) school meal programs; (4) student records; (5) grading, curriculum, statistical reporting, and discipline; and (6) distribution formulas for state education grants, including Education Cost Sharing (ECS) and school construction project grants. The local or regional board of education for the district where the child attends school must provide or continue to provide needed special education and related services. Starting July 1, 2010, the State Board of Education must reimburse the district for 100% of any special education costs for the child that exceed the district's average per-pupil costs for the prior fiscal year.

The bill makes DCF responsible for transporting the child from the district where he or she is placed to the child's school. The department must (1) take full advantage of any reimbursements for the

transportation costs available under the federal Social Security Act for eligible foster children and (2) consider various cost-effective transportation options, including reimbursing foster parents and relatives for providing transportation to the child.

Finally, by October 1, 2010, the bill requires DCF to report the following information to the Education, Appropriations, and Children's committees: (1) the number and ages of the children for whom it provided transportation under the bill; (2) the types, distances, and annual costs of the transportation provided; and (3) the number of children who did not remain in their previous schools.

The bill also makes technical changes.

EFFECTIVE DATE: July 1, 2010

BACKGROUND

Federal Law

P.L. 110-351, the Fostering Connections to Success and Increasing Adoptions Act of 2008, requires a foster child's case plan to (1) assure that the child's foster care placement takes account of his or her current educational setting and proximity to the school; (2) assure that the state agency has coordinated with local educational agencies to ensure the child remains in school; (3) assure that the state and local agencies will provide immediate enrollment and transfer the child's records to a new school if remaining in the current school is not in the child's best interest; and (4) consider reasonable travel to allow the child to remain in his or her current school. Connecticut must implement the federal law by July 1, 2010.

Related Bill

sHB 5842, reported favorably by the Human Services Committee, establishes the same presumption as this bill. sHB 5842 differs from this bill by applying the presumption only to children in foster care, requiring transportation only if the placement is within 25 miles of the child's current school, and making the requirements effective July 1, 2009. Among other things, sHB 5842 excludes the provisions in this bill

requiring (1) the child to remain in his or her current school while a court decides a dispute about the child's best interest, (2) the State Board of Education to pay for 100% of the excess costs for any special education the child needs, and (3) DCF to report to the legislative committees.

COMMITTEE ACTION

Education Committee

Joint Favorable Substitute

Yea 31 Nay 0 (03/16/2009)