



General Assembly

February Session, 2010

Raised Bill No. 5066

LCO No. 653

00653_____HS_

Referred to Committee on Human Services

Introduced by:
(HS)

AN ACT CONCERNING EDUCATIONAL STABILITY FOR CHILDREN IN THE CARE AND CUSTODY OF THE DEPARTMENT OF CHILDREN AND FAMILIES.

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

1 Section 1. (NEW) (*Effective July 1, 2010*) (a) For purposes of this
2 section:

3 (1) "Child" means (A) any school-aged child, (B) any child age three
4 to five, inclusive, who has been identified as eligible for special
5 education pursuant to sections 10-76a to 10-76d, inclusive, of the
6 general statutes or under the Individuals with Disabilities Education
7 Act, 20 USC 1400 et seq., as amended from time to time, or (C) any
8 child age three to five, inclusive, who has been referred to a planning
9 and placement team to determine eligibility for special education and
10 related services pursuant to sections 10-76a to 10-76d, inclusive, of the
11 general statutes or under said Individuals with Disabilities Education
12 Act, who is placed in out-of-home care by the Commissioner of
13 Children and Families pursuant to an order of temporary custody, an
14 emergency removal of a child from the child's home, in accordance
15 with subsection (e) of section 17a-101g of the general statutes, or an

16 order of commitment, in accordance with section 46b-129 of the
17 general statutes.

18 (2) "School of origin" means the school that the child is attending at
19 the time the department places the child in out-of-home care or the
20 school the child is attending at the time of any change of out-of-home
21 care, by the commissioner.

22 (3) "Receiving school" means the school that a child is attending
23 following a school placement decision by the department in cases in
24 which remaining in the school of origin is determined not to be in the
25 child's best interests.

26 (4) "School placement decision" means a decision made by the
27 department regarding the school in which the child will attend while
28 the child is in out-of-home care and does not include the provision of a
29 free, appropriate public education to children eligible for special
30 education.

31 (5) "Department" means the Department of Children and Families.

32 (6) "Commissioner" means the Commissioner of Children and
33 Families.

34 (b) (1) Whenever a child is placed in out-of-home care by the
35 department pursuant to an order of temporary custody, an emergency
36 removal of the child from the child's home in accordance with
37 subsection (e) of section 17a-101g of the general statutes, or an order of
38 commitment in accordance with section 46b-129 of the general statutes,
39 and at any subsequent change in out-of-home care, any such child
40 may, if it is in the best interests of the child, as determined pursuant to
41 subdivision (3) of this subsection, continue to attend his or her school
42 of origin. Such child shall continue to be a resident of the school
43 district in which such school is located during such attendance for
44 purposes of chapters 168 to 170, inclusive, 172 and 173 of the general
45 statutes. The board of education for the school of origin shall continue

46 to provide free school privileges to the child.

47 (2) Every decision by the department to place a child into out-of-
48 home care under the provisions of subsection (e) of section 17a-101g
49 and section 46b-129 of the general statutes, and any subsequent change
50 in out-of-home care, shall take into account the appropriateness of the
51 school setting and the proximity of the child's placement to the school
52 of origin.

53 (3) (A) Whenever a child is placed in out-of-home care by the
54 department pursuant to an order of temporary custody, an emergency
55 removal of the child from the child's home in accordance with
56 subsection (e) of section 17a-101g of the general statutes, or an order of
57 commitment in accordance with section 46b-129 of the general statutes,
58 and at any subsequent change in out-of-home care, the department
59 shall immediately determine whether it is in the best interests of the
60 child to remain in the school of origin. There shall be a presumption
61 that it is in the child's best interests to remain in the school of origin.
62 The department shall provide written notice of its decision to the
63 parties not later than three business days after the child's placement in
64 out-of-home care. Such notice shall identify the factors that form the
65 basis of the department's decision. Any party may object to the
66 department's decision not later than three business days after receipt of
67 such notice. The child shall remain in the school of origin until the time
68 for objection has passed and until any disagreement is resolved, except
69 as provided in subparagraph (C) of this subdivision. The child shall be
70 transported to the school of origin pursuant to subsection (c) of this
71 section during any such disagreement except as provided in
72 subparagraph (C) of this subdivision. Such disagreements shall be
73 expeditiously resolved. The department shall bear the burden of proof
74 that the placement of the child in the school of origin is not in the
75 child's best interests.

76 (B) The department's school placement decision may be revisited at
77 any time during the child's out-of-home care, if circumstances change,

78 in order to ensure that the school placement decision remains in the
79 best interests of the child. Notice of any subsequent decision to change
80 the child's school placement decision shall be provided in accordance
81 with subparagraph (A) of this subdivision. Any disagreement with a
82 school placement decision made pursuant to this section may be
83 challenged through the dispute resolution process for treatment plans.
84 The child shall remain in the school of origin until any such
85 disagreement is resolved, except as provided in subparagraph (C) of
86 this subdivision and shall be provided with transportation in
87 accordance with subsection (c) of this section.

88 (C) If at any time the department determines that continued
89 placement in the school of origin will jeopardize the child's immediate
90 physical safety, the department may immediately remove the child
91 from the school and shall notify the child's attorney, parents, guardian
92 ad litem and surrogate parent, if any, by phone or by facsimile on the
93 same business day. Any party may object to the decision to change the
94 child's school placement not later than three business days after receipt
95 of such notice. If any party objects to the change in school placement,
96 the department shall hold an administrative hearing not later than
97 three business days after the objection. The department shall bear the
98 burden of proof that removal of the child from the school of origin is in
99 the child's best interest.

100 (c) (1) If it is determined that it is in a child's best interests to remain
101 in his or her school of origin, the department and the board of
102 education for such school of origin shall collaborate on a
103 transportation plan for such child from the town in which the child is
104 placed to such school of origin. The department shall be responsible
105 for any additional or extraordinary cost incurred in continuing to
106 transport the child to the school of origin. The department shall
107 maximize federal reimbursements under Title IV-E of the Social
108 Security Act, as amended, for costs of transporting Title IV-E eligible
109 children. The department and the board of education for the school of
110 origin shall consider cost-effective, reliable and safe transportation

111 options, including, but not limited to, reimbursing a school district for
112 the use of available transportation and reimbursing a foster parent or
113 relative caregiver for transportation costs.

114 (2) If it is determined that it is not in the best interests of the child to
115 attend the school of origin, the department shall collaborate with the
116 board of education for such school of origin and the receiving school to
117 ensure immediate and appropriate enrollment and attendance of the
118 child in the receiving school in accordance with the provisions of
119 section 10-253 of the general statutes and subsection (e) of section 10-
120 76d of the general statutes. The educational records of the child shall
121 be provided by the school of origin to the receiving school, in
122 accordance with the federal Fostering Connections to Success and
123 Increasing Adoptions Act of 2008, Public Law 110-351. Upon
124 notification by the department of a decision to change a child's school
125 placement and notwithstanding section 10-220h of the general statutes,
126 the school of origin shall immediately transmit to the receiving school,
127 by facsimile or electronic means, all essential educational records for
128 the child, including, but not limited to, the child's individualized
129 education plan and behavioral intervention plan, if any, and all
130 documents necessary for the receiving school to determine appropriate
131 class placement and to provide educational services. The school of
132 origin shall transfer nonessential records to the receiving school in
133 accordance with section 10-220h of the general statutes.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2010</i>	New section

Statement of Purpose:

To provide educational stability for children in the custody of the Department of Children and Families.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]