



General Assembly

February Session, 2010

Governor's Bill No. 31

LCO No. 410

*00410 _____ *

Referred to Committee on Human Services

Introduced by:

SEN. MCKINNEY, 28th Dist.

REP. CAFERO, 142nd Dist.

**AN ACT IMPLEMENTING THE BUDGET RECOMMENDATIONS OF
THE GOVERNOR CONCERNING THE EDUCATIONAL PLACEMENT
OF 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 ages 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 ages 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 pursuant

13 to an order of temporary custody or an order of commitment, in
14 accordance with section 46b-129 of the general statutes.

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

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

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

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

29 (6) "Commissioner" means the Commissioner of Children and
30 Families.

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

43 (2) Every decision by the department to place a child into out-of-
44 home care under the provisions of subsection (e) of section 17a-101g
45 and section 46b-29 of the general statutes, and any subsequent change
46 in out-of-home care, shall take into account the appropriateness of the
47 school setting and the proximity to the school of origin.

48 (3) (A) Whenever a child is placed in out-of-home care by the
49 department pursuant to an emergency order under subsection (e) of
50 section 17a-101g of the general statutes, or an order of temporary
51 custody or an order of commitment under section 46b-29 of the general
52 statutes, and at any subsequent change in out-of-home care, the
53 department shall immediately determine whether it is in the best
54 interests of the child to remain in the school of origin. There shall be a
55 presumption that it is in the child's best interests to remain in the
56 school of origin. The department shall provide written notice of its
57 decision to the parties not later than three business days. Such notice
58 shall identify the factors that form the basis of the department's
59 decision. Any party may object to the department's decision not later
60 than three business days after receipt of such notice. The child shall
61 remain in the school of origin until the time for objection has passed
62 and until any disagreement is resolved, except as provided in
63 subparagraph (C) of this subdivision. The child shall be transported to
64 the school of origin pursuant to subsection (c) of this section during
65 any such disagreement except as provided in subparagraph (C) of this
66 subdivision. Such disagreements shall be expeditiously resolved. The
67 department shall bear the burden of proof that the school placement
68 decision is in the child's best interests.

69 (B) The school placement decision may be revisited at any time
70 during the child's out-of-home care, if circumstances change, in order
71 to ensure that the school placement decision remains in the best
72 interests of the child. Notice of any subsequent decision to change the
73 child's school placement decision shall be provided in accordance with
74 subparagraph (A) of this subdivision. Any disagreement with a school
75 placement decision made pursuant to this section may be challenged

76 through the dispute resolution process for treatment plans. The child
77 shall remain in the school of origin until any such disagreement is
78 resolved, except as provided in subparagraph (C) of this subdivision
79 and shall be provided with transportation in accordance with
80 subsection (c) of this section.

81 (C) If at any time the department determines that continued
82 placement in the school of origin will jeopardize the child's immediate
83 physical safety, the department may immediately remove the child
84 from the school and shall notify the child's attorney, parents, guardian
85 ad litem and surrogate parent, if any, by phone or by facsimile on the
86 same business day. Any party may object to the decision to change the
87 child's school placement not later than three business days after receipt
88 of such notice. If any party objects to the change in school placement,
89 the department shall hold an administrative hearing not later than
90 three business days after the objection.

91 (c) (1) If it is determined that it is in a child's best interests to remain
92 in his or her school of origin, the department and the board of
93 education for such school of origin shall collaborate on a
94 transportation plan for such child from the town in which the child is
95 placed to such school of origin. The department shall be responsible
96 for any additional or extraordinary cost of such transportation beyond
97 that to which the child would otherwise have access. The department
98 shall maximize federal reimbursements under Title IV-E of the Social
99 Security Act, as amended, for costs of transporting Title IV-E eligible
100 children. The department and the board of education for the school of
101 origin shall consider cost-effective, reliable and safe transportation
102 options.

103 (2) If it is not in the best interests of the child to attend the school of
104 origin, the department shall work with the board of education for such
105 school of origin and the receiving school to ensure immediate and
106 appropriate enrollment and attendance of the child in the receiving
107 school in accordance with the provisions of subsection (e) of section 10-

108 76d of the general statutes. The educational records of the child shall
109 be provided by the school of origin to the receiving school, in
110 accordance with the federal Fostering Connections to Success and
111 Increasing Adoptions Act of 2008, Public Law 110-351. Upon
112 notification by the department of a decision to change a child's school
113 placement and notwithstanding section 10-220h of the general statutes,
114 the school of origin shall transmit to the receiving school, not later than
115 one business day after receipt of such notification, all essential
116 educational records for the child, including, but not limited to, the
117 child's individualized education plan and behavioral intervention
118 plan, if any, and all documents necessary for the receiving school to
119 determine appropriate class placement and to provide educational
120 services. The school of origin shall transfer nonessential records to the
121 receiving school in accordance with section 10-220h of the general
122 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 implement the Governor's budget recommendations.

[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.]