



General Assembly

Substitute Bill No. 31

February Session, 2010

* _____SB00031APP__041310_____*

**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-129 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-129 of the
52 general statutes, and at any subsequent change in out-of-home care,
53 the 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 after the date
58 on which the decision is made. Such notice shall identify the factors
59 that form the basis of the department's decision. Any party may object
60 to the department's decision not later than three business days after
61 receipt of such notice. The child shall remain in the school of origin
62 until the time for objection has passed and until any disagreement is
63 resolved, except as provided in subparagraph (C) of this subdivision.
64 The child shall be transported to the school of origin pursuant to
65 subsection (c) of this section during any such disagreement except as
66 provided in subparagraph (C) of this subdivision. Such disagreements
67 shall be expeditiously resolved. The department shall bear the burden
68 of proof that the school placement decision is in the child's best
69 interests.

70 (B) The school placement decision may be revisited at any time
71 during the child's out-of-home care, if circumstances change, in order
72 to ensure that the school placement decision remains in the best
73 interests of the child. Notice of any subsequent decision to change the
74 child's school placement decision shall be provided in accordance with
75 subparagraph (A) of this subdivision. Any disagreement with a school
76 placement decision made pursuant to this section may be challenged
77 through the dispute resolution process for treatment plans. The child
78 shall remain in the school of origin until any such disagreement is
79 resolved, except as provided in subparagraph (C) of this subdivision
80 and shall be provided with transportation in accordance with
81 subsection (c) of this section.

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

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

104 (2) If it is not in the best interests of the child to attend the school of
105 origin, the department shall work with the board of education for such
106 school of origin and the receiving school to ensure immediate and
107 appropriate enrollment and attendance of the child in the receiving
108 school in accordance with the provisions of section 10-253 of the
109 general statutes and subsection (e) of section 10-76d of the general
110 statutes. The educational records of the child shall be provided by the
111 school of origin to the receiving school, in accordance with the federal
112 Fostering Connections to Success and Increasing Adoptions Act of
113 2008, Public Law 110-351. Upon notification by the department of a
114 decision to change a child's school placement and notwithstanding
115 section 10-220h of the general statutes, the school of origin shall

116 transmit to the receiving school, not later than one business day after
117 receipt of such notification, all essential educational records for the
118 child, including, but not limited to, the child's individualized
119 education plan and behavioral intervention plan, if any, and all
120 documents necessary for the receiving school to determine appropriate
121 class placement and to provide educational services. The school of
122 origin shall transfer nonessential records to the receiving school in
123 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

HS *Joint Favorable Subst.*

APP *Joint Favorable*