



House of Representatives

General Assembly

File No. 443

January Session, 2009

Substitute House Bill No. 5842

House of Representatives, April 2, 2009

The Committee on Human Services reported through REP. WALKER of the 93rd Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING FOSTER PLACEMENT AND EDUCATION.

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

1 Section 1. (NEW) (*Effective July 1, 2009*) (a) Notwithstanding any
2 provision of the general statutes, whenever the Department of
3 Children and Families places a child in foster care, if it is in the best
4 interest of such child, such child may continue to attend the school
5 such child attended prior to placement, or change in placement,
6 through the highest grade level of such school, provided such school is
7 within twenty-five miles of the town in which such child is placed.
8 Subject to the provisions of subsection (c) of this section, such child
9 shall be considered a resident of the school district in which such
10 school is located during such attendance for purposes of chapters 168
11 to 170, inclusive, 172 and 173 of the general statutes.

12 (b) There shall be a presumption that it is in the best interest of the
13 child to attend the school that the child attended prior to placement, or
14 change in placement, by the Department of Children and Families. If
15 there is any dispute as to whether continuation in such school is in the

16 child's best interest, the court shall make the final determination.

17 (c) The Department of Children and Families shall be responsible
18 for transportation, and the cost of such transportation, for such child
19 from the district in which the child is placed to the school the child
20 attended prior to placement.

21 Sec. 2. Subdivision (2) of subsection (e) of section 10-76d of the
22 general statutes is repealed and the following is substituted in lieu
23 thereof (*Effective July 1, 2009*):

24 (2) (A) For purposes of this subdivision, "public agency" includes
25 the offices of a government of a federally recognized Native American
26 tribe. [Notwithstanding any other provisions of the general statutes,
27 for] For the fiscal year ending June 30, 1987, and each fiscal year
28 thereafter, whenever a public agency, other than a local or regional
29 board of education, the State Board of Education or the Superior Court
30 acting pursuant to section 10-76h, places a child in a foster home,
31 group home, hospital, state institution, receiving home, custodial
32 institution or any other residential or day treatment facility, and such
33 child requires special education, the local or regional board of
34 education under whose jurisdiction the child would otherwise be
35 attending school or, if no such board can be identified, the local or
36 regional board of education of the town where the child is placed, shall
37 provide the requisite special education and related services to such
38 child in accordance with the provisions of this section. Within one
39 business day of such a placement by the Department of Children and
40 Families or offices of a government of a federally recognized Native
41 American tribe, said department or offices shall orally notify the local
42 or regional board of education responsible for providing special
43 education and related services to such child of such placement. The
44 department or offices shall provide written notification to such board
45 of such placement within two business days of the placement. Such
46 local or regional board of education shall convene a planning and
47 placement team meeting for such child within thirty days of the
48 placement and shall invite a representative of the Department of

49 Children and Families or offices of a government of a federally
50 recognized Native American tribe to participate in such meeting. [(A)
51 The] (i) Subject to the provisions of subparagraph (B) of this
52 subdivision, the local or regional board of education under whose
53 jurisdiction such child would otherwise be attending school shall be
54 financially responsible for the reasonable costs of such special
55 education and related services in an amount equal to the lesser of one
56 hundred per cent of the costs of such education or the average per
57 pupil educational costs of such board of education for the prior fiscal
58 year, determined in accordance with the provisions of subsection (a) of
59 section 10-76f. The State Board of Education shall pay on a current
60 basis, except as provided in subdivision (3) of this subsection, any
61 costs in excess of such local or regional board's basic contributions paid
62 by such board of education in accordance with the provisions of this
63 subdivision. [(B) Whenever] (ii) Subject to the provisions of
64 subparagraph (B) of this subdivision, whenever a child is placed
65 pursuant to this [subdivision] subparagraph, on or after July 1, 1995,
66 by the Department of Children and Families and the local or regional
67 board of education under whose jurisdiction such child would
68 otherwise be attending school cannot be identified, the local or
69 regional board of education under whose jurisdiction the child
70 attended school or in whose district the child resided at the time of
71 removal from the home by said department shall be responsible for the
72 reasonable costs of special education and related services provided to
73 such child, for one calendar year or until the child is committed to the
74 state pursuant to section 46b-129 or 46b-140 or is returned to the child's
75 parent or guardian, whichever is earlier. If the child remains in such
76 placement beyond one calendar year the Department of Children and
77 Families shall be responsible for such costs. During the period the local
78 or regional board of education is responsible for the reasonable cost of
79 special education and related services pursuant to this subparagraph,
80 the board shall be responsible for such costs in an amount equal to the
81 lesser of one hundred per cent of the costs of such education and
82 related services or the average per pupil educational costs of such
83 board of education for the prior fiscal year, determined in accordance

84 with the provisions of subsection (a) of section 10-76f. The State Board
85 of Education shall pay on a current basis, except as provided in
86 subdivision (3) of this subsection, any costs in excess of such local or
87 regional board's basic contributions paid by such board of education in
88 accordance with the provisions of this subdivision. The costs for
89 services other than educational shall be paid by the state agency which
90 placed the child. The provisions of this subdivision shall not apply to
91 the school districts established within the Department of Children and
92 Families, pursuant to section 17a-37, the Department of Correction,
93 pursuant to section 18-99a, or the Department of Developmental
94 Services, pursuant to section 17a-240, provided in any case in which
95 special education is being provided at a private residential institution,
96 including the residential components of regional educational service
97 centers, to a child for whom no local or regional board of education
98 can be found responsible under subsection (b) of this section, Unified
99 School District #2 shall provide the special education and related
100 services and be financially responsible for the reasonable costs of such
101 special education instruction for such children. Notwithstanding the
102 provisions of this subdivision, for the fiscal years ending June 30, 2004,
103 to June 30, 2007, inclusive, the amount of the grants payable to local or
104 regional boards of education in accordance with this subdivision shall
105 be reduced proportionately if the total of such grants in such year
106 exceeds the amount appropriated for the purposes of this subdivision
107 for such year.

108 (B) Notwithstanding any other provision of the general statutes, on
109 and after July 1, 2009, if the Department of Children and Families
110 places a child in foster care who requires special education and related
111 services and such child continues to attend the school such child
112 attended prior to placement, in accordance with the provisions of
113 section 1 of this act, the local or regional board of education for the
114 school district in which such child attends such school shall provide or
115 continue to provide, as appropriate, the requisite special education and
116 related services to such child and shall be financially responsible for
117 the cost of such special education and related services, in accordance
118 with the provisions of sections 10-76a to 10-76g, inclusive.

119 Sec. 3. Subdivision (2) of subsection (e) of section 10-253 of the
120 general statutes is repealed and the following is substituted in lieu
121 thereof (*Effective July 1, 2009*):

122 (2) Children in temporary shelters shall be entitled to free school
123 privileges from either the school district in which the shelter is located
124 or the school district in which the child would otherwise reside, if not
125 for the need for temporary shelter. Upon notification from the school
126 district in which the temporary shelter is located, the school district in
127 which the child would otherwise reside, if identified, shall either pay
128 tuition to the school district in which the temporary shelter is located
129 for the child to attend school in that district or shall continue to
130 provide educational services, including transportation, to such child. If
131 the school district where the child would otherwise reside cannot be
132 identified, the school district in which the temporary shelter is located
133 shall be financially responsible for the educational costs for such child,
134 except that in the case of a child who requires special education and
135 related services and is placed by the Department of Children and
136 Families in a temporary shelter on or after July 1, 1995, the school
137 district in which the child resided immediately prior to such placement
138 or the Department of Children and Families shall be responsible for the
139 cost of such special education and related services, to the extent such
140 board or department is responsible for such costs under subparagraph
141 [(B)] (A)(ii) of subdivision (2) of subsection (e) of section 10-76d, as
142 amended by this act. If the school district where the child would
143 otherwise reside declines to provide free school privileges, the school
144 district where the temporary shelter is located shall provide free school
145 privileges and may recover tuition from the school district where the
146 child would otherwise reside. In the case of children requiring special
147 education who have been placed in out-of-district programs by either a
148 board of education or state agency, the school district in which the
149 child would otherwise reside shall continue to be responsible for the
150 child's education until such time as a new residence is established,
151 notwithstanding the fact that the child or child's family resides in a
152 temporary shelter.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2009</i>	New section
Sec. 2	<i>July 1, 2009</i>	10-76d(e)(2)
Sec. 3	<i>July 1, 2009</i>	10-253(e)(2)

Statement of Legislative Commissioners:

In section 2(B), the phrase on financial responsibility was added for clarity and for consistency with the provisions of sections 10-76a to 10-76g, inclusive.

HS *Joint Favorable Subst.-LCO*

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	Significant	Significant

Note: GF=General Fund

Municipal Impact: None

Explanation

The Department of Children and Families (DCF) will incur significant costs to transport certain children to their home schools. 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, when the distance is not greater than twenty-five miles.

If the bill is interpreted to require DCF to provide transportation after a child’s initial removal from home, annual costs of approximately \$4.8 million would result, based upon an estimated 482 children at an average transport cost of approximately \$10,000 annually. If instead the bill is interpreted to require transport to the child’s home school following multiple foster placements, an annual cost of approximately \$11.2 million would be incurred, based upon an estimated 1,123 children.

The Fostering Connections to Success and Increasing Adoptions Act of 2008 requires Connecticut to establish a transportation protocol to allow foster children to attend their home schools when it is in their best interests. The state must adopt this policy no later than July 1, 2010. The state will be able to claim federal reimbursement of an estimated 25% - 30% of the transportation costs under the Title IV-E program. This would equate to \$1.2 - \$1.4 million annually (\$2.8 - \$3.4 under the latter interpretation) if the protocol adopted by Connecticut

is consistent with the provisions of this bill.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

Sources: H.R. 6893, The Fostering Connections to Success and Increasing Adoptions Act of 2008; Department of Legislative Services (Maryland General Assembly) Fiscal and Policy Note on HB 1002 of the 2007 Session; Oregon Department of Human Services; "The Chauffeur Shuffle – Strapped School Districts Face a New Cost from the State," Willamette 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; 2/10/09 Public Hearing Testimony.

OLR Bill Analysis

sHB 5842

AN ACT CONCERNING FOSTER PLACEMENT AND EDUCATION.

SUMMARY:

This bill creates a presumption that it is in the best interest of children placed in foster care to continue to attend, through the highest grade, the school they attended before the placement, provided the school is located within 25 miles of the current foster home. It supersedes any other state law to the contrary. A court must make a determination when the presumption is disputed.

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. Districts may apply for existing state grants for special education costs for such students after July 1, 2009.

The bill makes the Department of Children and Families (DCF) responsible for transporting the child from the district where he or she is placed to the child's former school and for any associated transportation costs.

The bill also makes technical changes.

EFFECTIVE DATE: July 1, 2009

BACKGROUND***Federal Law***

P.L. 110-351, the 2008 Fostering Connections to Success and Increasing Adoptions Act, requires a foster child's case plan to:

1. assure that a child's 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 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

HB 6497, reported favorably by the Education Committee, establishes the same presumption as this bill. But HB 6497 (1) applies the requirements to all children placed in DCF custody under a temporary custody or commitment order, (2) requires the State Board of Education to pay 100% of any excess special education costs for the child, (3) makes its attendance presumption effective July 1, 2010, and (4) requires DCF to report statistics on the number of children affected.

COMMITTEE ACTION

Human Services Committee

Joint Favorable

Yea 16 Nay 3 (03/17/2009)