

**Substitute Senate Bill No. 31**

**Public Act No. 10-160**

**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:

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

(1) "Child" means (A) any school-aged child, (B) any child ages three to five, inclusive, who has been identified as eligible for special education pursuant to sections 10-76a to 10-76d, inclusive, of the general statutes or under the Individuals with Disabilities Education Act, 20 USC 1400 et seq. , as amended from time to time, or (C) any child twenty-seven months to five years of age, inclusive, who has been referred to a planning and placement team to determine eligibility for special education and related services pursuant to sections 10-76a to 10-76d, inclusive, of the general statutes or under said Individuals with Disabilities Education Act, who is placed in out-of-home care by the commissioner pursuant to an order of temporary custody or an order of commitment, in accordance with section 46b-129 of the general statutes.

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

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

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

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

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

(b) (1) Whenever a child is placed in out-of-home care by the department pursuant to an emergency order under subsection (e) of section 17a-101g of the

general statutes, or an order of temporary custody or an order of commitment under section 46b-129 of the general statutes, and at any subsequent change in out-of-home care, any such child may, if it is in the best interests of the child, as determined pursuant to subdivision (3) of this subsection, continue to attend his or her school of origin. Such child shall continue to be a resident of the school district in which such school is located during such attendance for purposes of chapters 168 to 170, inclusive, 172 and 173 of the general statutes. The board of education for the school of origin shall continue to provide free school privileges to the child. If the child continues to attend his or her school of origin following placement in out-of-home care by the department, the local or regional board of education of the school of origin shall not be eligible to receive an excess cost grant pursuant to subdivision (2) of subsection (e) of section 10-76d of the general statutes for the cost of such education, including, but not limited to, tuition and transportation costs.

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

(3) (A) Whenever a child is placed in out-of-home care by the department pursuant to an emergency order under subsection (e) of section 17a-101g of the general statutes, or an order of temporary custody or an order of commitment under section 46b-129 of the general statutes, and at any subsequent change in out-of-home care, the department shall immediately determine whether it is in the best interests of the child to remain in the school of origin. There shall be a presumption that it is in the child's best interests to remain in the school of origin. The department shall provide written notice of its decision to the parties not later than three business days after the date on which the decision is made. Such notice shall identify the factors that form the basis of the department's decision. Any party may object to the department's decision not later than three business days after receipt of such notice. The child shall remain in the school of origin until the time for objection has passed and until any disagreement is resolved, except as provided in subparagraph (C) of this subdivision. The child shall be transported to the school of origin pursuant to subsection (c) of this section during any such disagreement except as provided in subparagraph (C) of this subdivision. Such disagreements shall be expeditiously resolved. The department shall bear the burden of proof that the school placement decision is in the child's best interests.

(B) The school placement decision may be revisited at any time during the child's out-of-home care, if circumstances change, in order to ensure that the school placement decision remains in the best interests of the child. Notice of any

subsequent decision to change the child's school placement decision shall be provided in accordance with subparagraph (A) of this subdivision. Any school placement decision made pursuant to this section may be challenged through the dispute resolution process for treatment plans. The child shall remain in the school of origin until any such disagreement is resolved, except as provided in subparagraph (C) of this subdivision and shall be provided with transportation in accordance with subsection (c) of this section.

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

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

(2) If it is not in the best interests of the child to attend the school of origin, the department shall work with the board of education for such school of origin and the receiving school to ensure immediate and appropriate enrollment and attendance of the child in the receiving school in accordance with the provisions of section 10-253 of the general statutes and subsection (e) of section 10-76d of the general statutes. The educational records of the child shall be provided by the school of origin to the receiving school, in accordance with the federal Fostering Connections to Success and Increasing Adoptions Act of 2008, Public Law 110-351. Upon notification by the department of a decision to change a child's school placement and notwithstanding section 10-220h of the general statutes, the school of origin shall transmit to the receiving school, not later than one business day after receipt of such notification, all essential educational records for the child, including, but not limited to, the child's individualized education plan and behavioral intervention plan, if any, and all documents necessary for the receiving school to determine appropriate class placement and to provide

educational services. The school of origin shall transfer nonessential records to the receiving school in accordance with section 10-220h of the general statutes.

Approved June 8, 2010