

ASSEMBLY BILL NO. 491—COMMITTEE ON EDUCATION

MARCH 29, 2017

Referred to Committee on Education

SUMMARY—Revises provisions relating to the education of children in foster care. (BDR 34-718)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

CONTAINS UNFUNDED MANDATE (§§ 7, 8)
(NOT REQUESTED BY AFFECTED LOCAL GOVERNMENT)

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to education; requiring, with limited exception, that a child in foster care remain enrolled in his or her school of origin; providing that the relevant agency which provides child welfare services and local education agency are jointly liable for the costs of transportation for the child in foster care to attend his or her school of origin; requiring the Department of Education and each agency which provides child welfare services and local education agency to develop certain policies and procedures relating to children in foster care; eliminating the Program of School Choice for Children in Foster Care; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 In 2015, Congress passed the Every Student Succeeds Act of 2015. (20 U.S.C.
2 §§ 6301 et seq.) This Act requires each state to adopt a plan that describes the steps
3 the state will take to ensure the educational stability of children in foster care,
4 including requiring, with limited exception, a child in foster care to remain enrolled
5 in the child's school of origin, which is the public school in which he or she was
6 enrolled before entering foster care. (20 U.S.C. § 6311)

7 **Section 7** of this bill requires that a child who enters foster care or changes
8 placement while in foster care remain enrolled in the child's school of origin if the
9 agency which provides child welfare services determines that it is in the best
10 interests of the child. **Section 7** also: (1) sets forth certain criteria that must be used
11 by the agency in making such a determination; (2) requires that a child remain in
12 his or her school of origin throughout any dispute that arises as a result of an



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13 agency's decision concerning the best interests of the child; and (3) requires the
14 agency which provides child welfare services and the local education agency to
15 provide and pay for the costs of transportation of a child in foster care to the child's
16 school of origin until the dispute is resolved.

17 **Section 7.5** of this bill requires the board of trustees of a school district or the
18 governing body of a charter school to allow a pupil who leaves foster care to
19 remain enrolled in his or her school of origin until the end of the school year unless
20 the parent or guardian of the pupil elects to enroll the pupil in a different school.

21 **Section 8** of this bill requires the agency which provides child welfare services
22 and the local education agency to provide and pay for the costs of transportation of
23 a child in foster care to the child's school of origin. **Section 8** also requires the
24 agency which provides the child welfare services and the local education agency to
25 provide and pay for the costs of transportation of a child in foster care to the child's
26 school of origin until any dispute concerning the cost of transportation is resolved.

27 **Section 9** of this bill requires that the Department of Education, each local
28 education agency and each agency which provides child welfare services to
29 designate a single point of contact who is responsible for developing certain
30 policies and procedures relating to children in foster care.

31 **Section 10** of this bill requires the State Board of Education to prepare an
32 annual report concerning the academic progress of children in foster care who
33 attend a public school in this State. **Section 10** also requires: (1) each education
34 agency to submit to the Department of Education a report relating to children in
35 foster care; and (2) an agency which provides child welfare services to a child
36 enrolled in public school in this State to provide any information requested by a
37 local education agency as soon as practicable.

38 If a court finds that a child is in need of protection and places the child other
39 than with a parent, an agency acting as the custodian of the child is required to
40 report to the court before any hearing for a review of the placement of the child.
41 (NRS 432B.580) **Section 13.5** of this bill requires the agency to include in the
42 report certain information about the education of the child.

43 Existing law establishes the Program of School Choice for Children in Foster
44 Care. (NRS 388E.100) This program allows the legal guardian or custodian of a
45 child who is in foster care to apply to participate in the Program so that the child
46 may be enrolled in a public school other than the public school which the child is
47 zoned to attend. (NRS 388E.110) **Section 15** of this bill eliminates this Program.

48 **Section 15** also eliminates a provision which provides that a child who is in the
49 legal or physical custody of an agency which provides child welfare services and is
50 awaiting foster care placement is deemed to be homeless for the purposes of the
51 federal McKinney-Vento Homeless Assistance Act of 1987, 42 U.S.C. §§ 11301 et
52 seq.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 388.040 is hereby amended to read as follows:
2 388.040 1. Except as otherwise provided in subsection 2, the
3 board of trustees of a school district that includes more than one
4 school which offers instruction in the same grade or grades may
5 zone the school district and determine which pupils must attend
6 each school.



1 2. The establishment of zones pursuant to subsection 1 does
2 not preclude a pupil from attending a:

3 (a) Charter school;

4 (b) University school for profoundly gifted pupils;

5 (c) Public school outside the zone of attendance that the
6 pupil is otherwise required to attend if the pupil is ~~enrolled in the~~
7 ~~Program of School Choice for Children in Foster Care established~~
8 ~~pursuant to NRS 388E.100;~~ *a child in foster care who is*
9 *remaining in his or her school of origin pursuant to section 7 of*
10 *this act;* or

11 (d) Public school outside the zone of attendance that the pupil is
12 otherwise required to attend if the pupil has been issued a fictitious
13 address pursuant to NRS 217.462 to 217.471, inclusive, or the
14 parent or legal guardian with whom the pupil resides has been
15 issued a fictitious address pursuant to NRS 217.462 to 217.471,
16 inclusive.

17 **Sec. 2.** Chapter 388E of NRS is hereby amended by adding
18 thereto the provisions set forth as sections 3 to 10, inclusive, of this
19 act.

20 **Sec. 3.** *“Agency which provides child welfare services” has*
21 *the meaning ascribed to it in NRS 432B.030.*

22 **Sec. 4.** *“Foster care” has the meaning ascribed to it in 45*
23 *C.F.R. § 1355.20.*

24 **Sec. 5.** *“Local education agency” includes, without*
25 *limitation, the board of trustees of a school district and the*
26 *sponsor of a charter school.*

27 **Sec. 6.** *“School of origin” means the public school in which*
28 *a child was enrolled at the time that the child was placed in foster*
29 *care or the school in which a child who is in foster care is enrolled*
30 *at the time of the most recent change in the placement of the child.*

31 **Sec. 7. 1.** *When a child enters foster care or changes*
32 *placement while in foster care, the agency which provides child*
33 *welfare services to the child shall determine whether it is in the*
34 *best interests of the child for the child to remain in his or her*
35 *school of origin. In making this determination, there is a*
36 *rebuttable presumption that it is in the best interests of the child to*
37 *remain in his or her school of origin and matriculate in*
38 *accordance with the feeder pattern of the school of origin.*

39 **2.** *In determining whether it is in the best interests of a child*
40 *in foster care to remain in his or her school of origin, the agency*
41 *which provides child welfare services, in consultation with the*
42 *local education agency, must consider, without limitation:*

43 (a) *The wishes of the child, if the child is of sufficient age and*
44 *capacity to form an intelligent preference as to which public*
45 *school he or she attends;*



1 (b) *The educational success, stability and achievement of the*
2 *child;*

3 (c) *Any individualized education program or academic plan*
4 *developed for the child;*

5 (d) *Whether the child has been identified as an English*
6 *learner;*

7 (e) *The health and safety of the child;*

8 (f) *The availability of necessary services for the child at the*
9 *school of origin; and*

10 (g) *Whether the child has a sibling enrolled in the school of*
11 *origin.*

12 ↪ *The costs of transporting the child to the school of origin must*
13 *not be considered when determining whether it is in the best*
14 *interests of the child to remain at his or her school of origin.*

15 3. *If the agency which provides child welfare services*
16 *determines that it is in the best interests of a child in foster care to*
17 *attend a public school other than the child's school of origin:*

18 (a) *The agency which provides child welfare services must:*

19 (1) *Provide written notice of its determination to every*
20 *interested party as soon as practicable; and*

21 (2) *In collaboration with the local education agency, ensure*
22 *that the child is immediately enrolled in that public school; and*

23 (b) *The public school may not refuse to the enroll the child on*
24 *the basis that the public school does not have:*

25 (1) *A certificate stating that the child has been immunized*
26 *and has received proper boosters for that immunization;*

27 (2) *A birth certificate or other document suitable as proof*
28 *of the child's identity;*

29 (3) *A copy of the child's records from the school the child*
30 *most recently attended; or*

31 (4) *Any other documentation required by a policy adopted*
32 *by the public school or the local education agency.*

33 4. *If a determination is made as described in subsection 3 that*
34 *a child is to attend a public school other than the child's school of*
35 *origin and a dispute arises as a result of such a decision:*

36 (a) *The child must remain in his or her school of origin; and*

37 (b) *The agency which provides child welfare services and the*
38 *local education agency must provide the child with transportation*
39 *to the school of origin until the dispute is resolved.*

40 5. *The costs of transportation of a child to the child's school*
41 *of origin must be paid in the manner prescribed by subsection 2 of*
42 *section 8 of this act. Any dispute that arises between the agency*
43 *which provides child welfare services and the local education*
44 *agency that is related to the transportation of a child in foster care*



1 *to the child's school of origin must be resolved in the manner*
2 *prescribed in subsection 3 of section 8 of this act.*

3 **Sec. 7.5.** *The board of trustees of a school district or the*
4 *governing body of a charter school must allow a pupil who leaves*
5 *foster care to remain enrolled in his or her school of origin until*
6 *the end of the school year during which the child leaves foster*
7 *care unless the parent or guardian of the pupil elects to enroll the*
8 *pupil in a different school.*

9 **Sec. 8.** *1. If the agency which provides child welfare*
10 *services to a child has determined pursuant to section 7 of this act*
11 *that it is in the best interests of the child to remain in his or her*
12 *school of origin, the agency which provides child welfare services*
13 *and the local education agency must provide the child with*
14 *transportation to the school of origin:*

15 *(a) For the entire time that the child is in foster care; and*

16 *(b) Until the end of the school year during which the child*
17 *leaves foster care.*

18 *2. The agency which provides child welfare services and the*
19 *local education agency are jointly responsible for the costs of*
20 *transportation of a child to the child's school of origin unless the*
21 *agency which provides child welfare services and the local*
22 *education agency mutually agree otherwise.*

23 *3. If a dispute arises between the agency which provides child*
24 *welfare services and the local education agency that is related to*
25 *the transportation of a child in foster care to the child's school of*
26 *origin, including, without limitation, a dispute related to the costs*
27 *of transportation, and the dispute is not resolved within 5 business*
28 *days, the juvenile or family court with jurisdiction over the child*
29 *must resolve the dispute by court order within 5 business days.*

30 *4. If a dispute arises between the agency which provides child*
31 *welfare services and the local education agency that is related to*
32 *the transportation of a child in foster care, the agency which*
33 *provides child welfare services and the local education agency*
34 *must provide the child with transportation to the school of origin*
35 *until the dispute is resolved.*

36 **Sec. 9.** *1. The Department, each local education agency*
37 *and each agency which provides child welfare services shall*
38 *designate a single point of contact who is responsible for:*

39 *(a) Developing policies and procedures necessary for the*
40 *Department, local education agency or agency which provides*
41 *child welfare services, as applicable, to comply with the*
42 *requirements of the Every Student Succeeds Act, 20 U.S.C. §§*
43 *6301 et seq., including, without limitation, policies and procedures*
44 *relating to the:*



1 (1) *Communication of information relating to children in*
2 *foster care among the Department, local education agencies and*
3 *agencies which provide child welfare services; and*

4 (2) *Transportation of children in foster care to their schools*
5 *of origin.*

6 (b) *Communicating and coordinating with other single points*
7 *of contact designated pursuant to this section.*

8 2. *Policies and procedures relating to transportation of a*
9 *child in foster care to his or her school of origin must include,*
10 *without limitation, a plan for paying the costs of such*
11 *transportation.*

12 3. *As used in this section, "single point of contact" means a*
13 *natural person or a team of personnel, each of whom has the*
14 *ability and authority to perform the responsibilities described in*
15 *this section.*

16 **Sec. 10.** 1. *The State Board shall prepare an annual report*
17 *concerning the academic progress of children in foster care who*
18 *attend a public school in this State that includes, without*
19 *limitation, the information prescribed by 20 U.S.C. §*
20 *6311(h)(1)(c)(i)-(iii).*

21 2. *Each local education agency shall, on or before the date*
22 *established by the Department, and in the form prescribed*
23 *by the Department, prepare and submit to the Department*
24 *a report on children in foster care who attend a public school*
25 *within the jurisdiction of the local education agency. This report*
26 *must include the information prescribed by 20 U.S.C. §*
27 *6311(h)(1)(c)(i)-(iii).*

28 3. *An agency which provides child welfare services to a child*
29 *enrolled in public school in this State shall provide any*
30 *information requested by the local education agency to the local*
31 *education agency as soon as practicable.*

32 **Sec. 11.** NRS 388E.010 is hereby amended to read as follows:

33 388E.010 As used in this chapter, unless the context otherwise
34 requires, the words and terms defined in ~~NRS 388E.020, 388E.030~~
35 ~~and 388E.040~~ *sections 3 to 6, inclusive, of this act* have the
36 meanings ascribed to them in those sections.

37 **Sec. 12.** NRS 392.010 is hereby amended to read as follows:

38 392.010 Except as to the attendance of a pupil pursuant to NRS
39 388.820 to 388.874, inclusive, ~~388E.110~~ or 392.015, *or section 7*
40 *of this act*, or a pupil who is ineligible for attendance pursuant to
41 NRS 392.4675 and except as otherwise provided in NRS 392.264
42 and 392.268:

43 1. The board of trustees of any school district may, with the
44 approval of the Superintendent of Public Instruction:



1 (a) Admit to the school or schools of the school district any
2 pupil or pupils living in an adjoining school district within this State
3 or in an adjoining state when the school district of residence in the
4 adjoining state adjoins the receiving Nevada school district; or

5 (b) Pay tuition for pupils residing in the school district but who
6 attend school in an adjoining school district within this State or in an
7 adjoining state when the receiving district in the adjoining state
8 adjoins the school district of Nevada residence.

9 2. With the approval of the Superintendent of Public
10 Instruction, the board of trustees of the school district in which the
11 pupil or pupils reside and the board of trustees of the school district
12 in which the pupil or pupils attend school shall enter into an
13 agreement providing for the payment of such tuition as may be
14 agreed upon, but transportation costs must be paid by the board of
15 trustees of the school district in which the pupil or pupils reside:

16 (a) If any are incurred in transporting a pupil or pupils to an
17 adjoining school district within the State; and

18 (b) If any are incurred in transporting a pupil or pupils to an
19 adjoining state, as provided by the agreement.

20 3. In addition to the provisions for the payment of tuition and
21 transportation costs for pupils admitted to an adjoining school
22 district as provided in subsection 2, the agreement may contain
23 provisions for the payment of reasonable amounts of money to
24 defray the cost of operation, maintenance and depreciation of capital
25 improvements which can be allocated to such pupils.

26 **Sec. 13.** NRS 217.464 is hereby amended to read as follows:

27 217.464 1. If the Attorney General approves an application,
28 the Attorney General shall:

29 (a) Designate a fictitious address for the participant; and

30 (b) Forward mail that the Attorney General receives for a
31 participant to the participant.

32 2. The Attorney General shall not make any records containing
33 the name, confidential address or fictitious address of a participant
34 available for inspection or copying, unless:

35 (a) The address is requested by a law enforcement agency, in
36 which case the Attorney General shall make the address available to
37 the law enforcement agency; or

38 (b) The Attorney General is directed to do so by lawful order of
39 a court of competent jurisdiction, in which case the Attorney
40 General shall make the address available to the person identified in
41 the order.

42 3. If a pupil is attending or wishes to attend ~~fa public school~~
43 ~~that is located outside the zone of attendance as authorized by~~
44 ~~paragraph (c) of subsection 2 of NRS 388.040 or~~ a public school
45 that is located in a school district other than the school district in



1 which the pupil resides as authorized by NRS 392.016, the Attorney
2 General shall, upon request of the public school that the pupil is
3 attending or wishes to attend, inform the public school of whether
4 the pupil is a participant and whether the parent or legal guardian
5 with whom the pupil resides is a participant. The Attorney General
6 shall not provide any other information concerning the pupil or the
7 parent or legal guardian of the pupil to the public school.

8 **Sec. 13.5.** NRS 432B.580 is hereby amended to read as
9 follows:

10 432B.580 1. Except as otherwise provided in this section and
11 NRS 432B.513, if a child is placed pursuant to NRS 432B.550 other
12 than with a parent, the placement must be reviewed by the court at
13 least semiannually, and within 90 days after a request by a party to
14 any of the prior proceedings. Unless the parent, guardian or the
15 custodian objects to the referral, the court may enter an order
16 directing that the placement be reviewed by a panel appointed
17 pursuant to NRS 432B.585.

18 2. An agency acting as the custodian of the child shall, before
19 any hearing for review of the placement of a child, submit a report
20 to the court, or to the panel if it has been designated to review the
21 matter, which includes:

22 (a) An evaluation of the progress of the child and the family of
23 the child and any recommendations for further supervision,
24 treatment or rehabilitation.

25 (b) Information concerning the placement of the child in relation
26 to the child's siblings, including, without limitation:

27 (1) Whether the child was placed together with the siblings;

28 (2) Any efforts made by the agency to have the child placed
29 together with the siblings;

30 (3) Any actions taken by the agency to ensure that the child
31 has contact with the siblings; and

32 (4) If the child is not placed together with the siblings:

33 (I) The reasons why the child is not placed together with
34 the siblings; and

35 (II) A plan for the child to visit the siblings, which must
36 be approved by the court.

37 (c) *Information concerning the child's education, including:*

38 (1) A copy of an academic plan developed for the child
39 pursuant to NRS 388.155, 388.165 or 388.205 **H**;

40 (2) *The grade and school in which the child is enrolled;*

41 (3) *The name of the each school the child attended before*
42 *enrolling in the school in which he or she is currently enrolled*
43 *and the corresponding dates of attendance;*

44 (4) *Whether the child has not completed or passed any*
45 *course of instruction that the child should have completed or*



1 *passed by the time the report is submitted, which has resulted in*
2 *the child having a deficiency in credits;*

3 *(5) A copy of any individualized education program*
4 *developed for the child;*

5 *(6) A copy of any plan developed in accordance with*
6 *section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794;*

7 *(7) A summary of any special education services received*
8 *by the child;*

9 *(8) Whether a request that the child receive special*
10 *education services has been made and, if so, the outcome of such a*
11 *request; and*

12 *(9) Whether, in the opinion of the agency, it is necessary to*
13 *appoint a surrogate parent to represent the child in all matters*
14 *relating to the provision of a free and appropriate public education*
15 *to the child.*

16 (d) A copy of any explanations regarding medication that has
17 been prescribed for the child that have been submitted by a foster
18 home pursuant to NRS 424.0383.

19 3. Except as otherwise provided in this subsection, a copy of
20 the report submitted pursuant to subsection 2 must be given to the
21 parents, the guardian ad litem and the attorney, if any, representing
22 the parent or the child. If the child was delivered to a provider of
23 emergency services pursuant to NRS 432B.630 and the parent has
24 not appeared in the action, the report need not be sent to that parent.

25 4. After a plan for visitation between a child and the siblings of
26 the child submitted pursuant to subparagraph (4) of paragraph (b) of
27 subsection 2 has been approved by the court, the agency which
28 provides child welfare services must request the court to issue an
29 order requiring the visitation set forth in the plan for visitation. If a
30 person refuses to comply with or disobeys an order issued pursuant
31 to this subsection, the person may be punished as for a contempt of
32 court.

33 5. The court or the panel shall hold a hearing to review the
34 placement, unless the parent, guardian or custodian files a motion
35 with the court to dispense with the hearing. If the motion is granted,
36 the court or panel may make its determination from any report,
37 statement or other information submitted to it.

38 6. Except as otherwise provided in this subsection and
39 subsection 5 of NRS 432B.520, notice of the hearing must be given
40 by registered or certified mail to:

41 (a) All the parties to any of the prior proceedings;

42 (b) Any persons planning to adopt the child;

43 (c) A sibling of the child, if known, who has been granted a
44 right to visitation of the child pursuant to NRS 127.171 and his or
45 her attorney, if any; and



1 (d) Any other relatives of the child or providers of foster care
2 who are currently providing care to the child.

3 7. The notice of the hearing required to be given pursuant to
4 subsection 6:

5 (a) Must include a statement indicating that if the child is placed
6 for adoption the right to visitation of the child is subject to the
7 provisions of NRS 127.171;

8 (b) Must not include any confidential information described in
9 NRS 127.140; and

10 (c) Need not be given to a parent whose rights have been
11 terminated pursuant to chapter 128 of NRS or who has voluntarily
12 relinquished the child for adoption pursuant to NRS 127.040.

13 8. The court or panel may require the presence of the child at
14 the hearing and shall provide to each person to whom notice was
15 given pursuant to subsection 6 a right to be heard at the hearing.

16 9. The court or panel shall review:

17 (a) The continuing necessity for and appropriateness of the
18 placement;

19 (b) The extent of compliance with the plan submitted pursuant
20 to subsection 2 of NRS 432B.540;

21 (c) Any progress which has been made in alleviating the
22 problem which resulted in the placement of the child; and

23 (d) The date the child may be returned to, and safely maintained
24 in, the home or placed for adoption or under a legal guardianship.

25 10. The provision of notice and a right to be heard pursuant to
26 this section does not cause any person planning to adopt the child,
27 any sibling of the child or any other relative, any adoptive parent of
28 a sibling of the child or a provider of foster care to become a party
29 to the hearing.

30 *11. As used in this section, "individualized education*
31 *program" has the meaning ascribed to it in 20 U.S.C. §*
32 *1414(d)(1)(A).*

33 **Sec. 14.** The provisions of NRS 354.599 do not apply to any
34 additional expenses of a local government that are related to the
35 provisions of this act.

36 **Sec. 15.** NRS 388E.020, 388E.030, 388E.040, 388E.100,
37 388E.110, 388E.120, 388E.130, 388E.140, 388E.150 and 432B.135
38 are hereby repealed.

39 **Sec. 16.** This act becomes effective on July 1, 2017.



LEADLINES OF REPEALED SECTIONS

388E.020 “Custodian” defined.

388E.030 “Foster home” defined.

388E.040 “Program” defined.

388E.100 Administration of Program; regulations; provision of information concerning Program.

388E.110 Eligibility for participation; exemption; contents of application; notice of approval or denial; consideration of best interests of child; no duty to provide transportation.

388E.120 Eligibility for continued participation in Program; request for transfer or withdrawal from Program.

388E.130 Enrollment on basis of lottery system required under certain circumstances.

388E.140 Count of pupils for State Distributive School Account.

388E.150 Contract for evaluation of Program authorized.

432B.135 Child in custody of agency which provides child welfare services deemed homeless in certain circumstances.

