

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 (§ 8)
(NOT REQUESTED BY AFFECTED LOCAL GOVERNMENT)

~

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 in foster care remain enrolled in the
8 child’s school of origin if the agency which provides child welfare services
9 determines that it is in the best interests of the child. **Section 7** also sets forth
10 certain criteria that must be used by the agency in making such a determination.
11 **Section 8** of this bill requires the agency which provides child welfare services and



* A B 4 9 1 *

12 the local education agency to provide and pay for the costs of transportation of a
13 child in foster care to the child's school of origin.

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

18 **Section 10** of this bill requires each education agency to submit to the
19 Department of Education a report relating to children in foster care.

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

25 **Section 15** also eliminates a provision which provides that a child who is in the
26 legal or physical custody of an agency which provides child welfare services and is
27 awaiting foster care placement is deemed to be homeless for the purposes of the
28 federal McKinney-Vento Homeless Assistance Act of 1987, 42 U.S.C. §§ 11301 et
29 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
2 follows:

3 388.040 1. Except as otherwise provided in subsection 2, the
4 board of trustees of a school district that includes more than one
5 school which offers instruction in the same grade or grades may
6 zone the school district and determine which pupils must attend
7 each school.

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

10 (a) Charter school;

11 (b) University school for profoundly gifted pupils;

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

18 (d) Public school outside the zone of attendance that the pupil is
19 otherwise required to attend if the pupil has been issued a fictitious
20 address pursuant to NRS 217.462 to 217.471, inclusive, or the
21 parent or legal guardian with whom the pupil resides has been
22 issued a fictitious address pursuant to NRS 217.462 to 217.471,
23 inclusive.



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

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

6 **Sec. 4.** *“Foster care” means any out-of-home placement for*
7 *a child.*

8 **Sec. 5.** *“Local education agency” includes, without*
9 *limitation, the board of trustees of a school district and the*
10 *sponsor of a charter school.*

11 **Sec. 6.** *“School of origin” means the public school in which*
12 *a child was enrolled at the time that the child was placed in foster*
13 *care.*

14 **Sec. 7. 1.** *When a child enters foster care, the agency*
15 *which provides child welfare services to the child shall determine*
16 *whether it is in the best interests of the child for the child to*
17 *remain in his or her school of origin.*

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

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

25 **(b)** *The educational success, stability and achievement of the*
26 *child;*

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

29 **(d)** *Whether the child has been identified as an English*
30 *learner;*

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

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

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

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

39 **3.** *The determination as to whether it is in the best interests of*
40 *a child in foster care to stay in his or her school of origin must be*
41 *made in writing by the agency which provides child welfare*
42 *services and provided by the agency to every interested party.*

43 **4.** *If the agency which provides child welfare services*
44 *determines that it is in the best interests of a child in foster care to*
45 *attend a public school other than the child’s school of origin:*



1 (a) *The agency which provides child welfare services and local*
2 *education agency must ensure that the child is immediately*
3 *enrolled in that public school; and*

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

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

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

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

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

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

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

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

23 2. *The agency which provides child welfare services and the*
24 *local education agency are jointly responsible for the costs of*
25 *transportation of a child to the child's school of origin unless the*
26 *agency which provides child welfare services and the local*
27 *education agency mutually agree otherwise.*

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

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

38 (a) *Developing policies and procedures necessary for the*
39 *Department, local education agency or agency which provides*
40 *child welfare services, as applicable, to comply with the*
41 *requirements of the Every Student Succeeds Act, 20 U.S.C. §§*
42 *6301 et seq., including, without limitation, policies and procedures*
43 *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.** *Each local education agency shall, on or before the*
17 *date established by the Department, and in the form prescribed by*
18 *the Department, prepare and submit to the Department a report on*
19 *children in foster care who attend a public school within the*
20 *jurisdiction of the local education agency.*

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

22 388E.010 As used in this chapter, unless the context otherwise
23 requires, the words and terms defined in ~~NRS 388E.020, 388E.030~~
24 ~~and 388E.040~~ *sections 3 to 6, inclusive, of this act* have the
25 meanings ascribed to them in those sections.

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

27 392.010 Except as to the attendance of a pupil pursuant to NRS
28 388.820 to 388.874, inclusive, ~~388E.110~~ *or section 7*
29 *of this act*, or a pupil who is ineligible for attendance pursuant to
30 NRS 392.4675 and except as otherwise provided in NRS 392.264
31 and 392.268:

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

34 (a) Admit to the school or schools of the school district any
35 pupil or pupils living in an adjoining school district within this State
36 or in an adjoining state when the school district of residence in the
37 adjoining state adjoins the receiving Nevada school district; or

38 (b) Pay tuition for pupils residing in the school district but who
39 attend school in an adjoining school district within this State or in an
40 adjoining state when the receiving district in the adjoining state
41 adjoins the school district of Nevada residence.

42 2. With the approval of the Superintendent of Public
43 Instruction, the board of trustees of the school district in which the
44 pupil or pupils reside and the board of trustees of the school district
45 in which the pupil or pupils attend school shall enter into an



1 agreement providing for the payment of such tuition as may be
2 agreed upon, but transportation costs must be paid by the board of
3 trustees of the school district in which the pupil or pupils reside:

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

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

8 3. In addition to the provisions for the payment of tuition and
9 transportation costs for pupils admitted to an adjoining school
10 district as provided in subsection 2, the agreement may contain
11 provisions for the payment of reasonable amounts of money to
12 defray the cost of operation, maintenance and depreciation of capital
13 improvements which can be allocated to such pupils.

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

15 217.464 1. If the Attorney General approves an application,
16 the Attorney General shall:

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

18 (b) Forward mail that the Attorney General receives for a
19 participant to the participant.

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

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

26 (b) The Attorney General is directed to do so by lawful order of
27 a court of competent jurisdiction, in which case the Attorney
28 General shall make the address available to the person identified in
29 the order.

30 3. If a pupil is attending or wishes to attend ~~fa public school~~
31 ~~that is located outside the zone of attendance as authorized by~~
32 ~~paragraph (c) of subsection 2 of NRS 388.040 or~~ a public school
33 that is located in a school district other than the school district in
34 which the pupil resides as authorized by NRS 392.016, the Attorney
35 General shall, upon request of the public school that the pupil is
36 attending or wishes to attend, inform the public school of whether
37 the pupil is a participant and whether the parent or legal guardian
38 with whom the pupil resides is a participant. The Attorney General
39 shall not provide any other information concerning the pupil or the
40 parent or legal guardian of the pupil to the public school.

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



- 1 **Sec. 15.** NRS 388E.020, 388E.030, 388E.040, 388E.100,
2 388E.110, 388E.120, 388E.130, 388E.140, 388E.150 and 432B.135
3 are hereby repealed.
4 **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.

