
THIRD READING

Bill No: AB 740
Author: McCarty (D), et al.
Amended: 8/25/22 in Senate
Vote: 21

SENATE EDUCATION COMMITTEE: 6-0, 6/1/22
AYES: Leyva, Ochoa Bogh, Cortese, Dahle, Glazer, Pan
NO VOTE RECORDED: McGuire

SENATE JUDICIARY COMMITTEE: 11-0, 6/14/22
AYES: Umberg, Borgeas, Caballero, Durazo, Gonzalez, Hertzberg, Jones, Laird,
Stern, Wieckowski, Wiener

ASSEMBLY FLOOR: 65-0, 1/24/22 - See last page for vote

SUBJECT: Foster youth: suspension and expulsion

SOURCE: Black Minds Matter Coalition
Children's Advocacy Institute
Children's Law Center
Legal Advocates for Children and Youth

DIGEST: This bill requires a Local Education Agency (LEA) to send a notification to the foster child's attorney, county social worker, and educational rights, or tribal social worker, if that child is an Indian child as specified in Welfare and Institutions Code when an involuntary transfer to a continuation school, suspension, or expulsion proceeding occurs.

Senate Floor Amendments of 8/25/22 make technical changes.

ANALYSIS:

Existing law:

Education of Pupils in Foster Care and Pupils Who Are Homeless

- 1) Requires each local educational agency to designate a staff person as the educational liaison for foster children (Education Code § 48853.5 (c))
- 2) Requires an educational liaison shall notify a foster child's attorney and appropriate representative of the county child welfare agency of pending expulsion proceedings if the decision to recommend expulsion is a discretionary act; pending proceedings to extend a suspension until an expulsion decision is rendered if the decision to recommend expulsion is a discretionary act; and if the foster child is an individual with exceptional needs, pending manifestation determinations if the local educational agency has proposed a change in placement due to an act for which the decision to recommend expulsion is at the discretion of the principal or the district superintendent of schools. (EC § 48853.5 (d))
- 3) Requires an LEA to, prior to making a recommendation to move a foster child from their school of origin, to provide the foster child and the person holding the right to make educational decisions for the foster child with a written explanation stating the basis for the recommendation and how it serves the foster child's best interests. (EC § 48843.5)

Suspension or Expulsion

- 4) Requires a school employee to notify the pupil's parent or guardian when a pupil is assigned to a supervised suspension classroom, and if the assignment is for longer than one class period, the employee must notify the parent or guardian in writing. (EC § 48911.1)
- 5) Specifies a pupil shall not be suspended from school or recommended for expulsion unless the superintendent of the school district or the principal of the school in which the pupil is enrolled determines that the pupil has committed specified acts in subdivision (a) – (r). (EC § 48900)
- 6) Requires the principal or superintendent of schools to recommend the expulsion of a pupil for any of the following acts committed at school or at a school activity off school grounds unless it is determined that the expulsion

should not be recommended under the circumstances or that an alternative means enumerated in subdivision (a) – (r). (EC § 48915)

- 7) Authorizes the principal of a school or the district superintendent to suspend a pupil from a school for any of the reasons identified above for no more than five consecutive days, and requires that suspension be preceded by an informal conference where the pupil must be informed of the reasons for the disciplinary action, including other means of correction that were attempted before the suspension, and the evidence against them, and must be given the opportunity to present their own version and evidence in their defense. Also requires a school employee to make a reasonable effort to contact the pupil's parent or guardian in person or by telephone, and if the pupil is suspended from school, requires that the parent or guardian be notified in writing. (EC § 48911)
- 8) Requires that a suspension only be imposed when other means of correction fail to bring about proper conduct. Specifies that other means of correction enumerated in subdivision (a) – (h). may include, but are not limited to, the following: (EC § 48900.5)

This bill requires an LEA to send a notification to the foster child's attorney, county social worker, and educational rights, or tribal social worker, if that child is an Indian child as specified in Welfare and Institutions Code when an involuntary transfer to a continuation school, suspension, or expulsion proceeding occurs. Specifically, this bill:

- 1) Requires a school district to provide written notice to a foster child's attorney, county social worker, and educational rights, or tribal social worker, if that child is an Indian child as specified in Welfare and Institutions Code of a decision to transfer the foster child to a continuation school, stating the facts and reasons for the decision, informing them of the opportunity to request a meeting with the district prior to a student being transferred, and indicating whether the decision is subject to periodic review and the periodic review procedure.
- 2) Requires that the foster child's attorney, county social worker, and educational rights holder, or tribal social worker, if that child is an Indian child as specified in Welfare and Institutions Code be informed of the specific facts and reasons for the proposed transfer, and have the opportunity to inspect all documents

relied upon, question any evidence and witnesses presented, and present evidence on the pupil's behalf.

- 3) Requires that an involuntary transfer to a continuation school not extend beyond the end of the semester following the acts leading to the involuntary transfer occurred unless the school district adopts a procedure for yearly review of the involuntary transfer at the request of the foster child's attorney or county social worker.
- 4) Repeals existing law regarding notices requirements of the State Department of Education and LEAs regarding notices and staff designations and specifies that a foster child's educational rights holder, attorney, and county social worker and a Indian child's tribal social worker and, if applicable, county social worker shall have the same rights a parent or guardian of a child has to receive a suspension notice, expulsion notice, manifestation determination notice, involuntary transfer notice, and other documents and related information.
- 5) Requires that a foster child's attorney, county social worker, and educational rights holder, or tribal social worker, if that child is an Indian child as specified in Welfare and Institutions Code be notified of the pupil's right to a conference if a foster child is suspended without the opportunity for an informal conference, as specified.
- 6) Requires that a school employee make a reasonable effort to contact a foster child's attorney, county social worker, and educational rights, or tribal social worker, if that child is an Indian child as specified in Welfare and Institutions Code in person, by email, or by telephone at the time of the suspension of the foster child, and if the foster child is suspended from school, requires the school to notify the foster child's attorney and county social worker in writing.
- 7) Requires the foster child's attorney, county social worker, and educational rights, or tribal social worker, if that child is an Indian child as specified in Welfare and Institutions Code to respond without delay to a request from school officials to attend a conference regarding the foster child's behavior.
- 8) Prohibits penalties on the pupil if the foster child's attorney, county social worker, and educational rights, or tribal social worker, if that child is an Indian child as specified in Welfare and Institutions Code fail to attend a conference with school officials, and specifies that reinstatement of the suspended pupil

not be contingent upon attendance of the attorney or social worker at the conference.

- 9) Requires that a foster child's attorney, county social worker, and educational rights, or tribal social worker, if that child is an Indian child as specified in Welfare and Institutions Code be notified by a school employee in person, by email, or by telephone if a foster child is assigned to a supervised suspension classroom and that if the suspension is for longer than one class period, the notification must be in writing.
- 10) Requires an LEA to invite the foster child's attorney, county social worker, and educational rights, or tribal social worker, if that child is an Indian child as specified in Welfare and Institutions Code participate in the individualized education program team meeting that makes a manifestation determination, as specified if an LEA is proposing a change of placement for a foster child with exceptional needs.
- 11) Requires, rather than authorizes, a school district to provide notice of an expulsion hearing to a foster child's attorney and a representative of the county child welfare agency at least 10 days before an expulsion hearing, and instead requires such notification to the attorney and county social worker at least 10 days before the hearing.
- 12) Makes other various technical changes

Comments

- 1) *Need for the bill.* According to the author "Students in foster care receive lower grades, are less likely to graduate high school or attend college, have higher rates of chronic absenteeism, and are suspended more often than their non-foster peers. In California, students in foster care are suspended at four times the statewide average rate. In Sacramento County, one in every five students in foster care was suspended at least once in the 2018-19 academic year. When broken down by student demographic, this disparity is even starker: the suspension for Black foster students is more than six times the statewide average. Research shows a strong connection between high suspension rates, poor academic achievement, and high school dropout rates. The disproportionate suspension of students in foster care fuels a cycle of negative outcomes for these vulnerable students. Foster youth faced additional challenges during the COVID-19 pandemic including lack of access to technology and support needed for distance learning. Studies predict that the

pandemic will widen the significant achievement gap between foster kids and their peers even further. AB 740 protects the educational rights of students in foster care by requiring their state-appointed attorney to be notified of disciplinary proceedings in order to ensure the student has a qualified person advocating on their behalf.”

- 2) *California Department of Education*. In recent years, there have been other statutory provisions designed to limit the use of suspensions and promote alternatives to suspension. These provisions aim to address the root causes of the student’s behavior and to improve academic outcomes:
 - a) *Minimize Suspension for Attendance Issues*: It is the intent of the Legislature that alternatives to suspension or expulsion be imposed against a pupil who is truant, tardy, or otherwise absent from school activities.
 - b) *Instead of Suspension, Support*: A superintendent of the school district or principal is encouraged to provide alternatives to suspension or expulsion, using a research-based framework with strategies that improve behavioral and academic outcomes, that are age-appropriate and designed to address and correct the pupil’s misbehavior.

The state has also established a Multi-Tiered System of Supports, which includes restorative justice practices, trauma-informed practices, social and emotional learning, and schoolwide positive behavior interventions and support, that may be used to help students gain critical social and emotional skills, receive support to help transform trauma-related responses, understand the impact of their actions, and develop meaningful methods for repairing harm to the school community.

- c) *Suspension as a Last Resort*: Suspension shall be imposed only when other means of correction fail to bring about proper conduct and then continues to provide an extensive list of suggested positive, non-exclusionary alternative practices. Other means of correction may include additional academic supports, to ensure, for example, that instruction is academically appropriate, culturally relevant, and engaging for students at different academic levels and with diverse backgrounds.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

According to the Senate Appropriations Committee, this bill could potentially result in reimbursable state mandated costs in the tens of thousands of dollars each

year for LEAs to track the involuntary transfers, suspensions, and expulsions, provide the notifications, and comply with the bill's other requirements. To the extent this requirement takes each LEA one to two hours to complete these activities each year at a rate of \$50 per hour, statewide costs would be \$50,000 to \$100,000. This amount could be higher or lower depending on the exact number of these occurrences and length of time to complete the bill's requirements. To the extent the Commission on State Mandates determines this to be a reimbursable state mandate, this could create a pressure to increase the K-12 mandates block grant to account for this mandate. (Proposition 98 General Fund)

SUPPORT: (Verified 8/24/22)

Alliance For Children's Rights
American Academy of Pediatrics
Black Minds Matter Coalition
California Advocacy Institute
California Alliance of Child and Family Services
California Association of Private Special Education Schools
California Federation of Teachers, AFL-CIO
California State NAACP
California State PTA
California Tribal Families Coalition
Center for Public Interest Law/Children's Advocacy Institute/University of San Diego
Children's Law Center of California
Foster Care Counts
Greater Sacramento Urban League
Improve your Tomorrow, Inc.
Law Foundation of Silicon Valley
Los Angeles County Office of Educations
National Association of Social Workers, California Chapter
The Center At Sierra Health Foundation

OPPOSITION: (Verified 8/24/22)

None received

ARGUMENTS IN SUPPORT: According to the California Alliance of Child and Family Services, "The California Alliance is an association of approximately 160 nonprofit foster care and children's mental health providers and our membership is committed to supporting the academic achievement of foster youth.

AB 740 protects the educational rights of students in foster care by requiring their state-appointed attorney to be notified of disciplinary proceedings in order to ensure the student has a qualified person advocating on their behalf. The California Alliance supports this measure to establish adequate protections for our youth in foster care.”

ASSEMBLY FLOOR: 65-0, 1/24/22

AYES: Aguiar-Curry, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Bryan, Burke, Calderon, Cervantes, Choi, Cooley, Cunningham, Daly, Davies, Flora, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Gipson, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Ward, Akilah Weber, Wicks, Wood, Rendon

NO VOTE RECORDED: Arambula, Mia Bonta, Carrillo, Chen, Cooper, Megan Dahle, Eduardo Garcia, Mayes, McCarty, Ramos, Waldron

Prepared by: Kordell Hampton / ED. / (916) 651-4105
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