

Amendment No. 979

Assembly Amendment to Assembly Bill No. 491 First Reprint (BDR 34-718)

Proposed by: Assembly Committee on Ways and Means**Amends:** Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes

Adoption of this amendment will MAINTAIN the unfunded mandate not requested by the affected local government to A.B. 491 R1 (§ 8).

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red-strikethrough~~ is deleted language in the original bill; (4) ~~purple double-strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

KRO/JWP



Date: 5/29/2017

A.B. No. 491—Revises provisions relating to the education of children in foster care. (BDR 34-718)



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)]~~ (S 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:

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

Section 7 of this bill requires that a child who enters foster care or changes placement while in foster care remain enrolled in the child's school of origin if the agency which provides child welfare services determines that it is in the best interests of the child. **Section 7** also ~~[(1)]~~ sets forth certain criteria that must be used by the agency in making such a determination. ~~[(2)] requires that a child remain in his or her school of origin throughout any dispute that arises as a result of an agency's decision concerning the best interests of the child; and (3) requires the agency which provides child welfare services and the local education agency to provide and pay for the costs of transportation of a child in foster care to the child's school of origin until the dispute is resolved.]~~

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

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

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

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

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

Existing law establishes the Program of School Choice for Children in Foster Care. (NRS 388E.100) This program allows the legal guardian or custodian of a child who is in foster care to apply to participate in the Program so that the child may be enrolled in a public school other than the public school which the child is zoned to attend. (NRS 388E.110) **Section 15** of this bill eliminates this Program. **Section 15** also eliminates a provision which provides that a child who is in the legal or physical custody of an agency which provides child welfare services and is awaiting foster care placement is deemed to be homeless for the purposes of the federal McKinney-Vento Homeless Assistance Act of 1987, 42 U.S.C. §§ 11301 et seq.

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

Section 1. NRS 388.040 is hereby amended to read as follows:

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

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

(a) Charter school;

(b) University school for profoundly gifted pupils;

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

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

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

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

5 Sec. 4. *"Foster care" has the meaning ascribed to it in 45 C.F.R. §*
6 *1355.20.*

7 Sec. 5. *"Local education agency" includes, without limitation, the board of*
8 *trustees of a school district and the sponsor of a charter school.*

9 Sec. 6. *"School of origin" means the public school in which a child was*
10 *enrolled at the time that the child was placed in foster care or the school in which*
11 *a child who is in foster care is enrolled at the time of the most recent change in*
12 *the placement of the child.*

13 Sec. 7. 1. *When a child enters foster care or changes placement while in*
14 *foster care, the agency which provides child welfare services to the child shall*
15 *determine whether it is in the best interests of the child for the child to remain in*
16 *his or her school of origin. In making this determination, there is a rebuttable*
17 *presumption that it is in the best interests of the child to remain in his or her*
18 *school of origin. ~~and matriculate in accordance with the feeder pattern of the~~*
19 *~~school of origin.~~*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~5. The costs of transportation of a child to the child's school of origin must be paid in the manner prescribed by subsection 2 of section 8 of this act. Any dispute that arises between the agency which provides child welfare services and the local education agency that is related to the transportation of a child in foster care to the child's school of origin must be resolved in the manner prescribed in subsection 3 of section 8 of this act.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 388E.010 As used in this chapter, unless the context otherwise requires, the
24 words and terms defined in ~~NRS 388E.020, 388E.030 and 388E.040~~ *sections 3 to*
25 *6, inclusive, of this act* have the 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 388.820 to
28 388.874, inclusive, ~~388E.1101~~ or 392.015, *or section 7 of this act*, or a pupil who
29 is ineligible for attendance pursuant to NRS 392.4675 and except as otherwise
30 provided in NRS 392.264 and 392.268:

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

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

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

41 2. With the approval of the Superintendent of Public Instruction, the board of
42 trustees of the school district in which the pupil or pupils reside and the board of
43 trustees of the school district in which the pupil or pupils attend school shall enter
44 into an agreement providing for the payment of such tuition as may be agreed upon,
45 but transportation costs must be paid by the board of trustees of the school district
46 in which the pupil or pupils reside:

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

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

51 3. In addition to the provisions for the payment of tuition and transportation
52 costs for pupils admitted to an adjoining school district as provided in subsection 2,
53 the agreement may contain provisions for the payment of reasonable amounts of

1 money to defray the cost of operation, maintenance and depreciation of capital
2 improvements which can be allocated to such pupils.

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

4 217.464 1. If the Attorney General approves an application, the Attorney
5 General shall:

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

7 (b) Forward mail that the Attorney General receives for a participant to the
8 participant.

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

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

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

18 3. If a pupil is attending or wishes to attend ~~in a public school that is located~~
19 ~~outside the zone of attendance as authorized by paragraph (c) of subsection 2 of~~
20 ~~NRS 388.040 or~~ a public school that is located in a school district other than the
21 school district in which the pupil resides as authorized by NRS 392.016, the
22 Attorney General shall, upon request of the public school that the pupil is attending
23 or wishes to attend, inform the public school of whether the pupil is a participant
24 and whether the parent or legal guardian with whom the pupil resides is a
25 participant. The Attorney General shall not provide any other information
26 concerning the pupil or the parent or legal guardian of the pupil to the public
27 school.

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

29 432B.580 1. Except as otherwise provided in this section and NRS
30 432B.513, if a child is placed pursuant to NRS 432B.550 other than with a parent,
31 the placement must be reviewed by the court at least semiannually, and within 90
32 days after a request by a party to any of the prior proceedings. Unless the parent,
33 guardian or the custodian objects to the referral, the court may enter an order
34 directing that the placement be reviewed by a panel appointed pursuant to NRS
35 432B.585.

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) *Whether the child has not completed or passed any course of instruction that the child should have completed or passed by the time the report is submitted, which has resulted in the child having a deficiency in credits;*

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

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

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

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

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

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

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

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

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

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

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

(b) Any persons planning to adopt the child;

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

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

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

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

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

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

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

4 9. The court or panel shall review:

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

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

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

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

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

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

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

20 Sec. 15. NRS 388E.020, 388E.030, 388E.040, 388E.100, 388E.110,
21 388E.120, 388E.130, 388E.140, 388E.150 and 432B.135 are hereby repealed.

22 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.