

Date of Hearing: May 13, 2015

ASSEMBLY COMMITTEE ON EDUCATION

Patrick O'Donnell, Chair

AB 1101 (Bonilla) – As Amended May 5, 2015

SUBJECT: Pupil school enrollment: residency requirements: investigation

SUMMARY: Requires a school district that elects to undertake an investigation to determine whether a pupil meets residency requirements to adopt a policy regarding the investigation of the pupil before investigating any pupils. Specifically, **this bill:**

- 1) Requires the policy to identify the circumstances upon which the school district may initiate an investigation, which shall, at a minimum, require the school district employee to be able to identify specific, articulable facts supporting the belief that the parent or legal guardian of the pupil has provided false or unreliable evidence of residency.
- 2) Requires the policy to provide for written notification of a pupil's parent or legal guardian when a pupil is identified as being subject to investigation under this bill. Specifies that the policy shall provide that notification of a pupil's parent or legal guardian shall occur at least five business days before the start of the investigation, and shall describe the investigatory methods that may be used by the school district in the conduct of the investigation.
- 3) Requires the written notice to include school district's contact information, which a pupil's parent or legal guardian may use to request information from or provide information to the school district regarding the investigation.
- 4) Requires the policy to prohibit the surreptitious photographing of pupils who are being investigated.
- 5) Specifies that the policy shall require that employees and contractors of the school district engaged in the investigation must identify themselves truthfully as such to individuals contacted or interviewed during the course of the investigation.
- 6) Requires the policy to provide a process whereby the determination of a school district as to whether a pupil meets the residency requirements for school attendance in the school district may be appealed, and specify the basis for that determination. Specifies that if an appeal is made, the burden shall be on the appealing party to show why the decision of the school district should be overruled.
- 7) Requires the policy required pursuant to this bill to be adopted at a public meeting of the governing board of the school district.

EXISTING LAW:

- 1) Specifies that each person between the ages of 6 and 18 years, unless otherwise exempted, is subject to compulsory full-time education. Requires each person subject to compulsory full-time education and each person subject to compulsory continuation education to attend the public full-time day school or continuation school or classes and for the full time designated

as the length of the schoolday by the governing board of the school district in which the residency of either the parent or legal guardian is located, and requires each parent, guardian, or other person having control or charge of the pupil to send the pupil to the public full-time day school or continuation school or classes and for the full time designated as the length of the schoolday by the governing board of the school district in which the residence of either the parent or legal guardian is located. (Education Code (EC) Section 48200)

- 2) Provides that a student complies with the residency requirements for school attendance in a school district if the student:
 - a) Is placed within the boundaries of the school district in a licensed children's institution, licensed foster home, or a foster family home.
 - b) Is a foster child who remains in his or her school of origin.
 - c) Has been approved for interdistrict attendance.
 - d) Resides within the boundaries of the school districts and whose parent or legal guardian is relieved of responsibility, control, and authority through emancipation.
 - e) Lives in the home of a caregiving adult that is located within the boundaries of that school district.
 - f) Resides in a state hospital located within the boundaries of the school district. (EC Section 48204)
- 3) Authorizes, until July 1, 2017, school districts to deem a student to have complied with the residency requirements for school attendance in a school district if at least one parent or the legal guardian is physically employed within the boundaries of that district for a minimum of 10 hours during the school week. (EC Section 48204)
- 4) Requires a school district to accept from the parent or legal guardian reasonable evidence that the student meets the residency requirements for school attendance in the district. Requires reasonable evidence of residency to be established by documentation showing the name and address of the parent or legal guardian within the school district, including but not limited to, the following:
 - a) Property tax payment receipts.
 - b) Rental property contract, lease, or payment receipts.
 - c) Utility service contract, statement, or payment receipts.
 - d) Pay stubs.
 - e) Voter registration.
 - f) Correspondence from a government agency.
 - g) Declaration of residency executed by the parent or legal guardian. (EC Section 48204.1)
- 5) Authorizes a school district to make reasonable efforts to determine that the student actually meets the residency requirements if an employee of the district reasonably believes that the parent or legal guardian has provided false or unreliable evidence of residency. (EC Section 48204.1)

FISCAL EFFECT: None. This bill is keyed non-fiscal by the Legislative Counsel.

COMMENTS: Under current law, compulsory education begins at age 6 until age 18. Any person subject to compulsory education found away from home without a valid excuse for not attending school can be arrested by school officials or peace or probation officers. A pupil is required to attend school in the district in which the residency of either the parent or legal guardian is located. Documentation of residency includes property tax payment receipts; rental property contract, lease, or payment receipts; utility service contract, statement, or payment receipts; pay stubs; voter registration; correspondence from a government agency; or declaration of residency executed by the parent or legal guardian. If an employee of a school district reasonably believes that the parent or legal guardian of a pupil has provided false or unreliable evidence of residency, the school district is authorized to make reasonable efforts to determine whether the pupil meets residency requirements.

What does this bill do? This bill requires a school district that elects to investigate a pupil's residency to adopt a policy regarding such investigations. The bill requires the policy to be adopted at a governing board meeting and to contain the following:

- a) Identify the circumstances upon which the school district may initiate an investigation, which shall, at a minimum, require the school district employee to be able to identify specific, articulable facts supporting the belief that the parent or legal guardian of the pupil has provided false or unreliable evidence of residency. The policy must also describe the investigatory method to be used by the school district to conduct the investigation.
- b) Provide a written notification at least five days before the start of an investigation to the pupil's parent or legal guardian. The notification must also provide school district contact information that the parent or legal guardian may use to request or to provide information regarding the investigation.
- c) Prohibit photographing of a pupil involved in the investigation.
- d) Require that employees and contractors of the school district must identify themselves truthfully when contacting or interviewing individuals during the investigation.
- e) Provide an appeals process. If a parent or legal guardian appeals the decision of a school district, the burden for showing why the decision should be overruled falls on the appealing party.

Purpose of the bill. The author states, "Schools should have tools available to investigate residency issues, but we need to ensure safeguards are in place to protect those students being investigated especially elementary school-aged children." The author cites, as an example, a *Contra Costa Times* report of the investigatory tactics undertaken by investigators hired by the Orinda Union School District to investigate a seven-year-old girl the school district disenrolled last fall. According to the article, the investigator told the mother of the child named Vivian and neighbors at the family's old neighborhood that he was a car insurance investigator. The school district later reversed the decision to remove the child from the school district when it learned that the mother was a live-in nanny for a couple residing in the Orinda Union School District that was her primary residence. The little girl was in the other neighborhood spending time with her great-grandmother, who was ill. The article reports that hiring investigators to investigate residency issues is not uncommon, especially for smaller school districts that are unable to

dedicate staff for this purpose. Investigators interviewed acknowledge that they do hide their identity in hopes that people will "rat the kids out" unwittingly.

Current law simply says that a school district may make "reasonable efforts" to determine a pupil's residency. The law does not specify how that is to be done.

It is unclear how many districts hire private investigators to conduct residency checks. School districts are funded through the Local Control Funding Formula (LCFF) based on an average daily attendance basis. Increasing enrollment increases funding for schools, except for those deemed basic aid districts. Basic aid districts do not receive LCFF because their local property taxes provide higher levels of funding than they would receive through LCFF. These districts would not benefit from increased enrollment. A basic aid status can fluctuate from year to year. In 2014-15, there were 144 basic aid districts in the state.

Issues to consider:

- 1) Should districts be required to notify parents or legal guardians?** This bill requires a school district to provide written notification to a parent or a legal guardian five business days prior to starting an investigation and provide the basis for the reasonable belief supporting the need for the investigation. The notice must also include school district contact information. The author states that in the Orinda Union School District case, the parent was never informed of the reason the pupil was being investigated. The California School Boards Association (CSBA) opposes the bill and expresses concerns that this provision of the bill undermines the investigatory process. If parents or legal guardians are aware of a pending investigation, they may change their behavior and take actions that will prevent a school district from getting an accurate portrayal of the situation. **Staff recommends** striking this provision of the bill.

Alternatively, the Committee may wish to consider requiring a school district to make an attempt to reconcile any questions or problems (e.g., two documents containing two different addresses), prior to hiring an investigator. A parent or legal guardian may be able to clear up any discrepancy, or the parent or legal guardian may tell the truth, which could avoid the employment of a private investigator.

- 2) Should photographing of pupils be prohibited?** Photographing of pupils raises privacy concerns. The American Civil Liberties Union (ACLU) supports the bill and states, "The ACLU is deeply concerned about the surveillance of young children and the potentiality that investigations of student residency may be inappropriately motivated and inadequately conducted." School districts will argue that photographs are an effective way of documenting where pupils may reside. The CSBA states that "photography provides a great level of detail without requiring investigators to come into direct contact with children. Absent this tool, district investigators may need to approach and speak with students instead."

Arguments in support. The author states, "AB 1101 protects student safety and privacy by requiring school boards to adopt a policy when a private investigator is hired to conduct an investigation to determine whether a student resides within the school district boundaries. AB 1101 protects children, like Vivian, from questionable investigatory techniques such as lying to family members and neighbors and taking surreptitious photos of young students. This bill

creates more transparency and disclosure in student residency investigations and provides for due process in challenging a student's home residency."

Arguments in opposition. The California School Boards Association states that the bill "enables those looking to evade a school district's efforts to implement statutory residency criteria by requiring governing boards to adopt board policies containing details about the procedures and parameters of these investigations. The requirement that districts 'identify specific, articulable facts' supporting their findings could force districts to compromise the confidentiality of those who provide information in connection to investigations. The latter would have a detrimental effect on the willingness of school district employees and community members to provide true and accurate information to investigators."

Related legislation. SB 200 (Lara), pending in the Assembly, provides that a student meets residency requirements for school attendance if the student's parent or legal guardian is employed and lives with the student at the place of employment within the boundaries of the school district for at least three days during the school week.

SB 445 (Liu), pending in the Senate, extends to homeless youth the right to remain in the school of origin, as is currently provided to foster youth.

Prior related legislation. AB 207 (Ammiano), Chapter 435, Statutes of 2011, requires school districts to accept reasonable evidence that a pupil meets residency requirements for school attendance within the district; and, specifies certain types of documents that shall be considered reasonable evidence for a pupil living with his or her parent or legal guardian.

REGISTERED SUPPORT / OPPOSITION:

Support

American Civil Liberties Union
California Immigrant Policy Center
California Teachers Association
Common Sense Kids Action
Pleasanton Unified School District
Social Justice Learning Institute

Opposition

California School Boards Association

Analysis Prepared by: Sophia Kwong Kim / ED. / (916) 319-2087