

Date of Hearing: June 22, 2016

ASSEMBLY COMMITTEE ON EDUCATION

Patrick O'Donnell, Chair

SB 1014 (Liu) – As Amended June 1, 2016

**SENATE VOTE:** 38-0

**SUBJECT:** Pupil rights: pregnant and parenting pupils

**SUMMARY:** Authorizes the governing board of a school district to grant parental leave to students who are parents or are soon to be parents and specifies that the leave shall not be deemed absences in computing average daily attendance (ADA). Specifically, **this bill:**

- 1) Requires a school district to notify pregnant and parenting pupils of their rights and options available from federal law through the annual school year welcome packets, independent study packets, on the school district's Internet Web site, in lactation rooms, and in locker rooms.
- 2) Provides a parenting pupil who gives or expects to give birth up to six weeks of parental leave and a parenting pupil not giving birth up to three weeks of parental leave after the birth. Provides pupils with the authority to determine the length of the leave as long as the length of time does not exceed the limits specified by the bill.
- 3) Provides that absences allowed shall not be deemed absences in computing ADA if the governing board of the school district of attendance files with the California Department of Education (CDE) an expectant and parenting pupil policy that includes procedures for ensuring pupils are provided with schoolwork while on parental leave.
- 4) Specifies that for purposes of calculating ADA for a pupil on parental leave, one day of attendance shall be credited for each day on which at least one hour is spent on activities related to the instruction of that pupil. A pupil on parental leave shall not be credited with more than one day of attendance per calendar day.
- 5) Specifies that an expectant and parenting pupil policy shall require a pupil to submit a parental leave request form, similar or the same as request forms used to request temporary disability time off, to the pupil's school before the end of the pregnant pupil's second trimester. A school shall process a request within five business days and provide makeup work plan development process guidelines to a pupil in conjunction with the positive determination of parental leave.
- 6) Allows, as an excused absence, up to four absences per school year for a pupil who is a custodial parent to care for a sick child without requiring a note from a doctor.
- 7) Modifies the existing definition of "temporary disability" in the code sections dealing with attendance to include pregnancy, childbirth, false pregnancy, termination of pregnancy, and recovery therefrom.

- 8) Requires a school district to provide a pupil with a temporary disability as a result of pregnancy with guidelines for makeup work plan development if the option for individualized instruction is not available at the pupil's school or school district.
- 9) Makes findings and declarations regarding the difficulties faced by pregnant and parenting teens to complete school and pursue postsecondary education.

**EXISTING LAW:**

- 1) Requires a pupil between the ages of 6 through 18 to attend school in the school district where either parent or legal guardian resides except as specified. (Education Code (EC) Section 48200)
- 2) Specifies that excused absences are deemed to be absences in computing ADA and shall not general state apportionment payments. (EC Section 48205)
- 3) Defines a "truant" as any pupil subject to compulsory full-time education or to compulsory continuation education a student who is absent from school without a valid excuse on any day or is tardy for more than 30 minutes, or any combination thereof, for three days in a school year. (EC Section 48260)
- 4) Provides that a valid excuse includes, but is not limited, the reasons specified in the "excused absences" sections of law and may include other reasons that are within the discretion of school administrators and based on the facts of the pupil's circumstances. (EC Section 48260)
- 5) Defines "temporary disability" as a physical, mental, or emotional disability and after which the student can reasonably be expected to return to the student's classes or education program without special intervention. (EC Section 48206.3)
- 6) Provides for home and hospital instruction for a student with a temporary disability who is in a hospital or other residential health facility or the student's home. (EC Section 48208)
- 7) Federal law, known as Title IX, prohibits discrimination on the basis of sex, including pregnancy and parental status, in educational programs and activities. Title IX requires schools to allow pregnant or parenting students to continue participating in classes and extracurricular activities, allow students to choose whether to attend special programs or classes for pregnant students, excuse absences due to pregnancy or childbirth for as long as the student's doctor says is necessary, allow students to return to the same academic and extracurricular status as before giving birth, and give students the opportunity to make up any missed assignments. (United States Code, Title 20, § 1681, et seq.)

**FISCAL EFFECT:** According to the Senate Appropriations Committee:

- 1) ADA funding: To the extent school districts file an expectant and parenting student policy, students choose to take leave, and are absent up to the length provided in this bill, state costs would be in the mid tens of millions related to including these absences in their ADA calculation. Actual costs would likely be less by an unknown amount as school districts would only generate ADA funding for the days that schools devote at least one hour related

to the instruction each student on parental leave. (Proposition 98)

- 2) Mandate costs: The bill's requirements to expand the existing annual parent notification mandate and disseminate information as specified, could drive state costs of about one million. To the extent the Commission on State Mandates determines these activities to be reimbursable, it could create pressure to increase the K-12 mandate block grant. (Proposition 98)
- 3) Administrative costs: The CDE indicates unknown costs attributed to providing guidance to local educational agencies related to attendance accounting for students that go on parental leave and other programmatic and legal guidance. (General Fund)

**COMMENTS: *Need for the bill.*** According to the author, in 2012, nearly 35,000 children in California were born to individuals between the ages of 15 to 19. Pregnant and parenting students face obstacles in receiving equal educational opportunities. Nationwide, only 38% of women who have a child before the age of 18 graduate from high school, 19% get a GED, and only 2% go to college before age 30. Impediments include inconsistent access to excused "family leave" absences, with male parents often having no access to bonding time, involuntary transfers due to high absence rates due to pregnancy and parenting responsibilities, rigid requirements for verifying excused absences to care for a sick child, inconsistent definitions across districts of 'reasonable amount of time' to make up work, and encouragement to pursue independent study or enroll in continuation school.

**This bill** provides pregnant pupils and pupils who give birth up to six weeks and parents not giving birth up to three weeks of parental leave after the birth of a child. The bill allows the school district to continue receiving ADA for the pupils provided that the district first files an expectant and parenting pupil policy with the CDE. The policy must include procedures pupils will be provided with schoolwork while on parental leave. The policy must also include a requirement that the pupil submit a parental leave form and requires a school to process the request within five business days with guidelines for the development of a makeup work plan. Amendments adopted by the Senate Appropriations Committee requires at least one hour to be spent on activities related to instruction per day for each day of ADA attendance credit.

***Why parental leave?*** Under current law, students may enroll in independent study. Independent study is an alternative instructional program that allows students to work independently, according to a written agreement and under the general supervision of a credentialed teacher or teachers. According to the author's office, independent study may not provide students who are parents with access to A-G courses required for four-year colleges and universities. Independent study also may not provide sufficient flexibility that new parents and newborns need. A district can claim a full day's attendance for completed independent study student work if a credentialed teacher determines the time value of that work is equal to at least a "minimum day." Establishing a leave program provides flexibility, allows a student to maintain enrollment in a comprehensive high school, and get bonding time with their babies while completing schoolwork. As an example, according to the author's office, during the parental leave, the student will have flexibility to come to school for short periods of time – perhaps when the student has childcare.

**ADA.** The bill allows a school district to receive ADA for the pupil on parental leave. As a condition for one day of ADA, the school must provide at least one hour of activities related to

the instruction of the pupil each day. This language is similar, but is not identical to EC Section 48206.3, which provides ADA for students with temporary disabilities. EC Section 48206.3 specifies that for purposes of computing ADA, "each clock hour of teaching time devoted to individual instruction shall count as one day of attendance." The language in this bill provides some flexibility on "teaching" by authorizing "activities related to instruction," but does not provide flexibility on when the instructional-related activities take place in order to receive ADA. **Staff recommends** an amendment to delink the one hour to "each day" and allow one hour of instructional-related activities to count as one day of attendance regardless of when the instructional activities takes place, as long as the total number of hours does not exceed the equivalent of the time limits specified in this bill. This will be important during the time the pupil is in labor and giving birth. **Staff also recommends** clarifying that the activities related to instruction must include contact with students.

***Excused absences.*** Under current law, a student who is absent from school without a valid excuse on any day or is tardy for more than 30 minutes, or any combination thereof, for three days in a school year is considered a truant. Excused absences do not generate ADA, but do not count towards truancy. They include any of the following reasons:

- 1) Due to illness or quarantine under the direction of a county or city health officer.
- 2) For medical, dental, optometric, or chiropractic appointments.
- 3) For the purpose of attending the funeral services of an immediate family member (1 day if within the state and three days out of state).
- 4) For the purpose of attending jury duty.
- 5) Due to the illness or medical appointment of a child of whom the student is the custodial parent.
- 6) For justifiable personal reasons, including an appearance in court, observation of a religious holiday or ceremony, or attendance at an employment or educational conference on legislative or judicial process.
- 7) For the purpose of serving as a member of a precinct board for an election.
- 8) For the purpose of spending time with an immediate family member who is an active duty member of the military, as specified.
- 9) Other valid excuses for purposes of determining truancy as determined by the school district.

This bill expands excused absences to include a maximum of four absences per school year to care for a sick child. One of the challenges cited in a 2015 report by the American Civil Liberties Union (ACLU) on educational barriers of pregnant and parenting students is that new parents will be missing school due to doctor's visits, either for themselves or for their baby. If a baby has a cold and may not be taken to child care, a parent will not be able to attend school but will not be excused without a doctor's note. This bill allows the absences without requiring a doctor's note.

***Child care needed.*** Childcare is critical in enabling parents to stay in school. The establishment of the Local Control Funding Formula eliminated almost all categorical programs. One of the programs eliminated was the California School Age Families Education (Cal-SAFE) program. The Cal-SAFE Program was a comprehensive, integrated, community-linked, school based program that serves expectant and parenting students and their children. Cal-SAFE received \$46.4 million in the FY 2012-13 budget. According to the CDE, from 2000 to 2010, the program had enrolled 98,000 expectant and parenting students and 62,000 young children. Cal-SAFE provides academic and support services to both female and male student under 18 who have not graduated from high school and are expectant, custodial or non-custodial parents. The program provides enrollees with effective parenting skills and their children with child care, health screenings, and early childhood development programs. As long as teen parents are enrolled in the program, their children are eligible for services until age five or entry into kindergarten. The ACLU report indicated that 73% of participants completed high school with the support provided by Cal-SAFE. It is unclear how many school districts have continued the program using local control funding formula funds.

The American Association of University Women (AAUW) supports the bill and states, "While pregnant students are protected under federal law with Title IX, many school policies are counterintuitive and deter these students from completing their education. For instance, when schools are required to use average daily attendance (ADA) to receive state funding, there is no incentive to make accommodations or even allow absences for students that are pregnant or parenting. This type of policy places an unfair burden on students that wish to complete school but also have to adjust their in-class attendance for pregnancy, childbirth, and bonding time. SB 1014 takes an important step in addressing the dropout rate for pregnant and parenting teens by making reasonable accommodations for student leave."

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

American Association of University Women  
 Black Women for Wellness  
 California Immigrant Policy Center  
 California Latinas for Reproductive Justice  
 California State PTA  
 Forward Together  
 Monterey County Probation Department  
 National Association of Social Workers  
 National Compadres Network  
 National Council of Jewish Women California  
 Planned Parenthood Action Fund of the Pacific Southwest  
 Planned Parenthood Advocacy Project of Los Angeles County  
 Planned Parenthood Affiliates of California  
 Planned Parenthood Mar Monte  
 Planned Parenthood Northern California Action Fund  
 Poetic Knights Inc.  
 An individual

**Opposition**

None on file

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