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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 973 Session of  
2013

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INTRODUCED BY R. BROWN, BARRAR, V. BROWN, CARROLL, SCHLEGEL  
CULVER, DAVIS, DAY, EVANKOVICH, FLECK, GILLEN, GINGRICH,  
GROVE, HALUSKA, HESS, KORTZ, MILLER, MILNE, MOLCHANY, MOUL,  
MUNDY, MURT, PICKETT, SCHLOSSBERG, STEPHENS AND TRUITT,  
MARCH 12, 2013

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REFERRED TO COMMITTEE ON CHILDREN AND YOUTH, MARCH 12, 2013

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AN ACT

1 Amending the act of June 13, 1967 (P.L.31, No.21), entitled "An  
2 act to consolidate, editorially revise, and codify the public  
3 welfare laws of the Commonwealth," providing for educational  
4 stability of children in out-of-home placement; and making an  
5 inconsistent repeal.

6 The General Assembly of the Commonwealth of Pennsylvania  
7 hereby enacts as follows:

8 Section 1. The act of June 13, 1967 (P.L.31, No.21), known  
9 as the Public Welfare Code, is amended by adding an article to  
10 read:

11 ARTICLE XIII-B

12 EDUCATIONAL STABILITY

13 Section 1301-B. Scope.

14 This article relates to the educational stability of children  
15 in out-of-home placement.

16 Section 1302-B. Definitions.

17 The following words and phrases when used in this article  
18 shall have the meanings given to them in this section unless the

1 context clearly indicates otherwise:

2 "Change in placement." A situation in which the placement of  
3 a child is changed consistent with Department of Public Welfare  
4 regulations to achieve the goals of the family service plan or  
5 due to discharge from care as the result of age. The term  
6 includes, but is not limited to:

7 (1) Foster care.

8 (2) Kinship care.

9 (3) Permanent legal guardianship.

10 (4) Reunification.

11 (5) Congregate care.

12 "County agency." The county children and youth social  
13 service agency exercising the power and duties provided for in  
14 section 405 of the act of June 24, 1937 (P.L.2017, No.396),  
15 known as the County Institution District Law, or its successor,  
16 and supervised by the Department of Public Welfare under Article  
17 IX.

18 "Foster care maintenance payments." As defined under section  
19 475(4) of the Social Security Act (49 Stat. 620, 42 U.S.C. §  
20 675(4)).

21 "Foster parent." An individual approved by a public or  
22 private foster family care agency to provide foster family care  
23 services to a child who is temporarily separated from the  
24 child's legal family and placed in the legal custody of an  
25 agency.

26 "Kinship care." The full-time nurturing and protection of a  
27 child who is separated from the child's parents and placed in  
28 the home of a caregiver who has an existing relationship with  
29 the child or the child's family.

30 "Local educational agency." As defined in section 9101(26)

1 of the Elementary and Secondary Education Act of 1965 (Public  
2 Law 89-10, 20 U.S.C. § 7801(26)).

3 "Relative." An individual who is at least 21 years of age  
4 and meets at least one of the following:

5 (1) Is related within the fifth degree consanguinity or  
6 affinity to the parent or stepparent of a child.

7 (2) Is a godparent of the child as recognized by an  
8 organized church or is a member of the child's tribe or clan.

9 (3) Has a significant positive relationship with the  
10 child or child's family.

11 Section 1303-B. Case plan to ensure educational stability.

12 If a child has been removed from the child's home under a  
13 voluntary placement agreement or is in the legal custody of the  
14 county agency, the county agency shall develop a case plan for  
15 ensuring the educational stability of the child. The case plan  
16 shall be based on the best interests of the child as determined  
17 by a court. Until a court has made a best-interest determination  
18 for the child, the child shall remain in the current school  
19 unless the county agency determines that remaining in the same  
20 school is impractical or poses a safety concern for the child.  
21 The case plan shall be part of the family service plan and the  
22 individual service plan of the child. The case plan shall  
23 include:

24 (1) Assurances that the placement of the child takes  
25 into account the appropriateness of the current educational  
26 setting and the change in proximity to the school where the  
27 child is enrolled at the time of placement or a change in  
28 placement.

29 (2) Either:

30 (i) an assurance that the county agency has

1 coordinated with the appropriate local educational agency  
2 to ensure that the child remains in the school where the  
3 child is enrolled at the time of placement or a change in  
4 placement; or

5 (ii) if remaining in the school is not in the best  
6 interest of the child, assurances by the county agency  
7 and the local educational agency to provide immediate and  
8 appropriate enrollment in a new school. Enrollment in a  
9 new school shall occur no less than five business days  
10 after submission of required enrollment documents. All of  
11 the educational records of the child should be provided  
12 by the local educational agency to the new school  
13 immediately, but in no case shall it take more than ten  
14 business days after receipt by the local educational  
15 agency of a request for educational records to provide  
16 educational records to the new school.

17 Section 1304-B. Refusal of students prohibited.

18 A local educational agency may not refuse to retain a child  
19 in the current school or to enroll a child in a new school when  
20 a change in placement occurs, if one of the following applies:

21 (1) The child has been placed outside the attendance  
22 area, but a court has determined that it is in the best  
23 interest of the child to remain enrolled in the school where  
24 the child is enrolled at the time of placement or a change in  
25 placement.

26 (2) The child has been placed within a new school  
27 district or attendance area, and a court has determined that  
28 it is in the best interest of the child to be immediately  
29 enrolled in a district school.

30 (3) Pending a determination by a court, the child, in

1 accordance with a determination by a county agency, seeks to  
2 remain in the same school or enroll in a new school because  
3 remaining in the same school is impractical or unsafe.  
4 Nothing in this paragraph shall be construed to limit a  
5 court's determination of the educational best interest of the  
6 child.

7 Section 1305-B. Transportation.

8 If a court has determined that it is in the best interest of  
9 the child to remain in a school under this article, the child  
10 shall be entitled to free and appropriate transportation to  
11 attend the school. The following shall apply:

12 (1) If the child needs transportation to the school and  
13 is awaiting foster care placement under the Stewart B.  
14 McKinney Homeless Assistance Act (Public Law 100-77, 101  
15 Stat. 482), the cost of transportation shall be paid by a  
16 local educational agency in accordance with that act.

17 (2) If the child needs transportation to the school and  
18 does not qualify as a child awaiting foster care placement  
19 under the Stewart B. McKinney Homeless Assistance Act,  
20 reasonable costs for transportation shall be paid by the  
21 county agency unless transportation can be provided by the  
22 school district where the child is enrolled at no additional  
23 cost to the school district. The county agency shall provide  
24 for the cost of transportation for the child by:

25 (i) making a foster care maintenance payment in the  
26 amount of the reasonable cost of transporting the child  
27 to the school to a foster parent or relative eligible to  
28 receive payment under Article XIII; or

29 (ii) making a payment in the amount of the  
30 reasonable cost of transporting the child to the school

1           to the local educational agency that is transporting the  
2           child to school.

3 Section 1306-B. School district subsidy.

4       If, under this article, a child is allowed to remain in a  
5 school district other than the child's school district of  
6 residence, the child shall be included in the average daily  
7 membership of the school district where the child is enrolled  
8 for the purpose of calculating school district subsidies under  
9 the act of March 10, 1949 (P.L.30, No.14), known as the Public  
10 School Code of 1949.

11 Section 1307-B. Regulations.

12       The department shall promulgate regulations necessary to  
13 carry out the provisions of this article no later than 270 days  
14 of the effective date of this section.

15       Section 2. Section 1305 of the act of March 10, 1949  
16 (P.L.30, No.14), known as the Public School Code of 1949, is  
17 repealed insofar as it is inconsistent with Article XIII-B of  
18 the act.

19       Section 3. This act shall take effect in 60 days.