

A Review of the Effects of SB 277 on All California Children

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Introduction

Senate Bill 277, Pan, seeks to eliminate Personal Beliefs exemptions for all California children from the Health and Safety Code by amending Section 120325, and to repealing and adding to Section 120365.

Existing law prohibits the governing authority of a school or other institution from unconditionally admitting any person as a pupil of any public or private elementary or secondary school, child care center, day nursery, nursery school, family day care home, or development center, unless prior to his or her admission to that institution he or she has been fully immunized against various diseases, including measles, mumps, and "*Any other disease deemed appropriate by the department*", subject to any specific age criteria.

Existing law authorizes an exemption from those provisions for medical reasons or due to personal beliefs (which includes Religious), if specified forms are submitted to the governing authority pursuant to Section 120365 (as a result of AB 2109, Pan, from the 2013-2014 legislative session).

Key Bill Language of SB 277

Section 120325 of the Health and Safety Code is amended to read:

"(c) Exemptions from immunization for medical reasons ~~or because of personal beliefs.~~"

Section 120365 is repealed and the following is added to the Health and Safety Code, to read:

"(a) Immunization of a person shall not be required for admission to a school or other institution listed in Section 120335 if the parent or guardian or adult who has assumed responsibility for his or her care and custody in the case of a minor, or the person seeking admission if an emancipated minor, files with the governing authority a letter or affidavit that documents which immunizations required by Section 120355 have been given and which immunizations have not been given pursuant to an exemption from immunization for medical reasons."

California's Compulsory Education Law

California's compulsory education law requires children between six and eighteen years of age to attend school.¹ The allowable options in California to meet compulsory education requirements are to attend a California public school or a private school.² Homeschooling is not specifically mentioned as an option in California law or education code; therefore, people in this state typically homeschool by either enrolling in a public charter, or by establishing a

¹ Cal. Ed. Code § 48200 .

² Cal. Ed. Code § 48222 .

private school in their own home or enrolling in a private school satellite program.³

Under California law, a pupil who, without a valid excuse, is absent from school for three full days in one school year, or is tardy or absent for more than 30 minutes during the school day on three occasions in one school year, is considered truant.⁴ Once a student is designated a truant, state law requires schools, districts, counties, and courts to intervene to ensure that parents and pupils receive certain services to “assist” them in complying with attendance laws. When these various interventions fail—meaning parents or guardians still do not send a child to school or a student misses an unlawful amount of school—the matter is referred to the courts.⁵ Courts can then use penalties or other measures to seek compliance including taking the child into custody and the parents being placed in County Jail.⁶

It is important to note that in the late 1990s, the Superintendent of Public Instruction (SPI) questioned the legality of homeschooling—stating that it was not authorized in California law. She asserted that children in these settings could be determined to be truant, thereby placing homeschooling families at greater risk of being referred for truancy prosecution. The ambiguity in current law in this area is exemplified by the recent change in policy by the SPI. Under the current SPI, California Department of Education does not currently state that homeschooling is illegal but relies on local education agencies (LEAs) to decide whether a child who attends a home-based private school is truant. This could change at any time depending on the SPI.

Conclusion

Should a child not provide proof of full immunization to public school, private school (which includes, as stated above, homeschoolers), child care center, day nursery, nursery school, family day care home, or development center the child shall be excluded from further attendance if they do not obtain the required immunizations within no more than 10 school days following receipt of notice.⁷ This is herewith leaving all California parents with health concerns regarding immunization, and their children, at the mercy of the punishments and penalties of the Courts resulting from SB 277 combined with California’s compulsory education laws.

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³ The HomeSchool Association of California, <http://www.hsc.org/california-compulsory-education.html>

⁴ Cal. Ed. Code § 48260.

⁵ Cal. Ed. Code § 48263.

⁶ Cal. Ed. Code §§ 48264 and 48293; Cal. Penal Code §272.

⁷ Title 17, CCR § 6055.