

REFERENCE TITLE: foster children; education; best interest

State of Arizona
Senate
Fifty-sixth Legislature
First Regular Session
2023

SB 1205

Introduced by
Senator Kaiser

AN ACT

AMENDING TITLE 8, CHAPTER 4, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 8-530.04; AMENDING SECTION 15-816.01, ARIZONA REVISED STATUTES; REPEALING SECTION 41-1279.03, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2021, CHAPTER 405, SECTION 25; AMENDING SECTION 41-1279.03, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2019, CHAPTER 3, SECTION 11; RELATING TO FOSTER CHILDREN.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 8, chapter 4, article 4, Arizona Revised Statutes,
3 is amended by adding section 8-530.04, to read:

4 8-530.04. Educational placement; best interest of child;
5 transportation; report

6 A. WITHIN FIVE DAYS AFTER A CHILD ENTERS FOSTER CARE OR IF A
7 CHILD'S PLACEMENT CHANGES, THE CHILD'S CASEWORKER, PRIMARY CAREGIVER,
8 REPRESENTATIVES FROM THE CHILD'S SCHOOL OF ORIGIN AND REPRESENTATIVES FROM
9 THE CHILD'S POTENTIAL NEW EDUCATIONAL INSTITUTION SHALL DETERMINE WHICH
10 EDUCATIONAL PLACEMENT IS IN THE BEST INTEREST OF THE CHILD. THE DECISION
11 REGARDING BEST INTEREST EDUCATIONAL PLACEMENT SHALL PRIORITIZE THE CHILD'S
12 UNIQUE NEEDS. THE CHILD'S SCHOOL OF ORIGIN SHALL ENSURE TRANSPORTATION
13 FOR THE CHILD DURING THE BEST INTEREST EDUCATIONAL PLACEMENT DETERMINATION
14 PROCESS.

15 B. WITHIN TWO DAYS AFTER IT IS DETERMINED THAT A CHANGE OF
16 EDUCATIONAL PLACEMENT IS IN THE BEST INTEREST OF THE CHILD, THE NEW
17 EDUCATIONAL INSTITUTION SHALL ENROLL THE CHILD AND THE CHILD'S SCHOOL OF
18 ORIGIN SHALL TRANSFER THE CHILD'S EDUCATION RECORDS TO THE CHILD'S NEW
19 EDUCATIONAL INSTITUTION WITHIN TWO DAYS AFTER NOTICE OF THE CHILD'S CHANGE
20 IN EDUCATIONAL PLACEMENT. A CHILD SHALL BE IMMEDIATELY ENROLLED IN THE
21 NEW EDUCATIONAL INSTITUTION EVEN IF THE CHILD DOES NOT POSSESS THE RECORDS
22 NORMALLY REQUIRED FOR ENROLLMENT IN THE CHILD'S NEW EDUCATIONAL
23 INSTITUTION OR OWES ANY OUTSTANDING FINES OR FEES TO THE SCHOOL OF ORIGIN.

24 C. THE DEPARTMENT SHALL ENSURE THAT A CHILD RECEIVES TRANSPORTATION
25 TO THE EDUCATIONAL INSTITUTION DETERMINED TO BE IN THE CHILD'S BEST
26 INTEREST, INCLUDING A CHARTER SCHOOL OR EDUCATIONAL INSTITUTION LOCATED
27 OUTSIDE OF THE CHILD'S CURRENT SCHOOL DISTRICT. A SCHOOL DISTRICT MAY
28 CROSS SCHOOL DISTRICT BOUNDARIES WHEN TRANSPORTING A STUDENT PURSUANT TO
29 THIS SECTION. THE DEPARTMENT SHALL PROVIDE FINANCIAL ASSISTANCE TO THE
30 CHILD'S PRIMARY CAREGIVER FOR TRANSPORTATION IF THE DEPARTMENT AND THE
31 CHILD'S NEW EDUCATIONAL INSTITUTION ARE UNABLE TO TRANSPORT THE CHILD.

32 D. THE AUDITOR GENERAL SHALL TRACK, REPORT AND MAKE PUBLICLY
33 AVAILABLE THE FOLLOWING:

34 1. THE NUMBER OF BEST INTEREST EDUCATIONAL PLACEMENT DETERMINATIONS
35 CONDUCTED.

36 2. THE NUMBER OF CHILDREN WHO ENTERED FOSTER CARE AND WHO DID NOT
37 RECEIVE A BEST INTEREST EDUCATIONAL PLACEMENT DETERMINATION.

38 3. THE FINAL OUTCOME OF EACH BEST INTEREST EDUCATIONAL PLACEMENT
39 DETERMINATION.

40 4. DATA REGARDING THE TRANSPORTATION OF FOSTER CARE CHILDREN
41 PURSUANT TO THIS SECTION, INCLUDING TRANSPORTATION COSTS AND WHICH AGENCY
42 WAS RESPONSIBLE FOR THE COSTS.

1 Sec. 2. Section 15-816.01, Arizona Revised Statutes, is amended to
2 read:

3 15-816.01. Open enrollment policies; preference; selection
4 process; transportation; reporting requirements;
5 public awareness effort

6 A. School district governing boards shall establish policies and
7 shall implement an open enrollment policy without charging tuition.
8 Tuition may be charged to nonresident pupils only if the tuition is
9 authorized under section 15-764, subsection C, section 15-797, subsection
10 C, section 15-823, subsection A, section 15-824, subsection A or section
11 15-825 or if two school districts have entered into a voluntary agreement
12 for the payment of tuition for certain pupils. These policies shall
13 include the information required by subsection I of this section, basic
14 information that is needed to request enrollment and that is consistent
15 with guidance and state and federal law regarding pupil privacy and civil
16 rights, and information regarding the provision of transportation or
17 resources for transportation. The policies must be easily accessible from
18 the home page on each school's website and be available in English and in
19 Spanish or in any other language used by a majority of the populations
20 served by the school or school district. A school district shall update
21 on each school's website the school's capacity and whether the school is
22 currently accepting open enrollment students, by grade level, at least
23 once every twelve weeks unless there are no changes to report for the
24 individual school. If a school has any other separate capacity by
25 specialized program, the information required pursuant to this subsection
26 shall also be posted by specialized program. Schools shall accept pupils
27 throughout the school year as capacity allows. Pupils who are denied
28 access due to capacity shall be informed that they are on a wait list and
29 of the details regarding the process prescribed in subsection E of this
30 section. Pupils shall be selected as seats become available.

31 B. A school district shall enroll at any time any resident pupil
32 who applies for enrollment to the school district pursuant to this
33 section. A school district shall give enrollment preference to and
34 reserve capacity for all of the following:

- 35 1. Resident pupils.
- 36 2. Pupils returning to the school from the prior year.
- 37 3. Siblings of pupils already enrolled.
- 38 4. CHILDREN WHO ARE IN FOSTER CARE PURSUANT TO THE REQUIREMENTS OF
- 39 SECTION 8-530.04. ON LEAVING FOSTER CARE, CHILDREN WHO ARE ENROLLED
- 40 PURSUANT TO THIS PARAGRAPH SHALL REMAIN IN THEIR CURRENT EDUCATIONAL
- 41 INSTITUTION THROUGH THE END OF THE SCHOOL YEAR.

42 C. A school district may give enrollment preference to children
43 who:

- 44 ~~1. Are in foster care.~~

1 ~~2.~~ 1. Meet the definition of unaccompanied youth prescribed in the
2 McKinney-Vento homeless assistance act (P.L. 100-77; 101 Stat. 482;
3 42 United States Code section 11434a).

4 ~~3.~~ 2. Attend a school that is closing.

5 D. A school district may give enrollment preference to and reserve
6 capacity for all of the following:

7 1. Pupils who are children of persons who are employed by or at a
8 school in the school district.

9 2. Resident transfer pupils and their siblings.

10 3. Pupils who meet additional criteria established and published by
11 the school district governing board pursuant to subsection A of this
12 section.

13 E. If remaining capacity at a school, as determined by the school
14 district governing board, is insufficient to enroll all pupils who submit
15 a timely request, the school or school district shall select pupils
16 through an equitable selection process such as a lottery, except that
17 preference shall be given to the siblings of a pupil selected through an
18 equitable selection process such as a lottery.

19 F. Except as provided in subsections A through E of this section, a
20 school that is operated by a school district may not limit admission based
21 on any of the following:

22 1. Ethnicity or race.

23 2. National origin.

24 3. Sex.

25 4. Income level.

26 5. Disability.

27 6. Proficiency in the English language.

28 7. Athletic ability.

29 G. The governing board of the district educating the pupil may
30 provide transportation limited to not more than thirty miles each way to
31 and from the school of attendance or to and from a pickup point on a
32 regular transportation route or for the total miles traveled each day to
33 an adjacent district for eligible nonresident pupils who meet the economic
34 eligibility requirements established under the national school lunch and
35 child nutrition acts (42 United States Code sections 1751 through 1793)
36 for free or reduced-price lunches.

37 H. The governing board of the district educating the pupil shall
38 provide transportation limited to not more than thirty miles each way to
39 and from the school of attendance or to and from a pickup point on a
40 regular transportation route or for the total miles traveled each day to
41 an adjacent district for nonresident pupils with disabilities whose
42 individualized education program specifies that transportation is
43 necessary to fulfill the program.

44 I. The state board of education shall adopt a model format that
45 school districts may use for describing open enrollment options to ensure

1 clarity and consistency for parents in understanding their enrollment
 2 options as described in this section and enrollment capacity at each
 3 school, including the ability to choose any school within the school
 4 district of residence or any other school district in this state. The
 5 state board of education shall adopt rules, policies and guidance
 6 consistent with state and federal law for school districts to use while
 7 enrolling students pursuant to this article. Pursuant to the supervisory
 8 duties of the superintendent of public instruction, the department of
 9 education shall investigate and enforce any complaints that the department
 10 receives or substantiated claims of unlawful or inappropriate enrollment
 11 practices by school districts pursuant to state and federal law and shall
 12 refer any complaints received regarding charter schools to the state board
 13 for charter schools to investigate and enforce. The department of
 14 education shall regularly update the state board of education on its
 15 investigations pursuant to this subsection.

16 J. The department of education shall provide an annual report that
 17 informs the public and policymakers of the open enrollment participation
 18 rate by school district, school and county, including the number of
 19 pupils, by student subgroup designation, in each school and school
 20 district that are open enrolled as resident pupils, resident transfer
 21 pupils or nonresident pupils for each school district and the school
 22 districts and zip codes from which students are enrolling. By fiscal year
 23 2022-2023, this participation report shall also include the number of
 24 pupils enrolled in charter schools and the school districts from which
 25 those pupils are enrolling.

26 K. Subject to the availability of appropriated monies, each January
 27 the state board of education shall design a public awareness effort to
 28 distribute materials that do all of the following:

29 1. Communicate to the public the ability to choose any public
 30 school in this state.

31 2. Direct the public to resources to learn about school choice
 32 options in this state.

33 3. Instruct the public how to request enrollment for pupils.

34 L. The state board of education may include other options in its
 35 informational materials and messaging developed under subsection K of this
 36 section.

37 M. In designing the public awareness effort and distributing
 38 materials under subsection K of this section, the state board of education
 39 may collaborate with both:

40 1. Public and private partners to assist the state board in
 41 achieving the objectives prescribed in subsection K of this section.

42 2. The department of education in providing parents and the public
 43 with informational resources.

1 Sec. 3. Repeal
2 Section 41-1279.03, Arizona Revised Statutes, as amended by Laws
3 2021, chapter 405, section 25, is repealed.

4 Sec. 4. Section 41-1279.03, Arizona Revised Statutes, as amended by
5 Laws 2019, chapter 3, section 11, is amended to read:

6 41-1279.03. Powers and duties

7 A. The auditor general shall:

8 1. Prepare an audit plan for approval by the committee and report
9 to the committee the results of each audit and investigation and other
10 reviews conducted by the auditor general.

11 2. Conduct or cause to be conducted at least biennial financial and
12 compliance audits of financial transactions and accounts kept by or for
13 all state agencies subject to the single audit act of 1984 (P.L. 98-502).
14 The audits shall be conducted in accordance with generally accepted
15 governmental auditing standards and accordingly shall include tests of the
16 accounting records and other auditing procedures as may be considered
17 necessary in the circumstances. The audits shall include the issuance of
18 suitable reports as required by the single audit act of 1984 (P.L. 98-502)
19 so that the legislature, the federal government and others will be
20 informed as to the adequacy of financial statements of ~~the~~ THIS state in
21 compliance with generally accepted governmental accounting principles and
22 to determine whether this state has complied with laws and regulations
23 that may have a material effect on the financial statements and on major
24 federal assistance programs.

25 3. Perform procedural reviews for all state agencies at times
26 determined by the auditor general. These reviews may include evaluation
27 of administrative and accounting internal controls and reports on these
28 reviews.

29 4. Perform special research requests, special audits and related
30 assignments as designated by the committee and conduct performance audits,
31 special audits, special research requests and investigations of any state
32 agency, whether created by the constitution or otherwise, as may be
33 requested by the committee.

34 5. Annually on or before the fourth Monday of December, prepare a
35 written report to the governor and to the committee that contains a
36 summary of activities for the previous fiscal year.

37 6. In the tenth year and in each fifth year thereafter in which a
38 transportation excise tax is in effect in a county as provided in section
39 42-6106 or 42-6107, conduct a performance audit that:

40 (a) Reviews past expenditures and future planned expenditures of
41 the transportation excise revenues and determines the impact of the
42 expenditures in solving transportation problems within the county and, for
43 a transportation excise tax in effect in a county as provided in section
44 42-6107, determines whether the expenditures of the transportation excise
45 revenues comply with section 28-6392, subsection B.

1 (b) Reviews projects completed to date and projects to be completed
 2 during the remaining years in which a transportation excise tax is in
 3 effect. Within six months after each review period, the auditor general
 4 shall present a report to the speaker of the house of representatives and
 5 the president of the senate detailing findings and making recommendations.

6 (c) Reviews, determines, reports and makes recommendations to the
 7 speaker of the house of representatives and the president of the senate
 8 whether the distribution of ARIZONA highway user revenues complies with
 9 title 28, chapter 18, article 2.

10 7. If requested by the committee, conduct performance audits of
 11 counties and incorporated cities and towns receiving ARIZONA highway user
 12 revenue fund monies pursuant to title 28, chapter 18, article 2 to
 13 determine whether the monies are being spent as provided in section
 14 28-6533, subsection B.

15 8. Perform special audits designated pursuant to law if the auditor
 16 general determines that there are adequate monies appropriated for the
 17 auditor general to complete the audit. If the auditor general determines
 18 the appropriated monies are inadequate, the auditor general shall notify
 19 the committee.

20 9. Establish a schoolwide audit team in the office of the auditor
 21 general to conduct performance audits and monitor school districts to
 22 determine the percentage of every dollar spent in the classroom by the
 23 school district. Each school district shall prominently post on its
 24 website home page a copy of its profile pages that displays the percentage
 25 of every dollar spent in the classroom by that school district from the
 26 most recent status report issued by the auditor general pursuant to this
 27 paragraph. The performance audits shall determine whether school
 28 districts that receive monies from the Arizona English language learner
 29 fund established by section 15-756.04 and the statewide compensatory
 30 instruction fund established by section 15-756.11 comply with title 15,
 31 chapter 7, article 3.1. The auditor general shall determine, through
 32 random selection, the school districts to be audited each year, subject to
 33 review by the joint legislative audit committee. A school district that
 34 is subject to an audit pursuant to this paragraph shall notify the auditor
 35 general in writing whether the school district agrees or disagrees with
 36 the findings and recommendations of the audit and whether the school
 37 district will implement the findings and recommendations, implement
 38 modifications to the findings and recommendations or refuse to implement
 39 the findings and recommendations. The school district shall submit to the
 40 auditor general a written status report on the implementation of the audit
 41 findings and recommendations every six months for two years after an audit
 42 conducted pursuant to this paragraph. The auditor general shall review
 43 the school district's progress toward implementing the findings and
 44 recommendations of the audit every six months after receipt of the
 45 district's status report for two years. The auditor general may review a

1 school district's progress beyond this two-year period for recommendations
2 that have not yet been implemented by the school district. The auditor
3 general shall provide a status report of these reviews to the joint
4 legislative audit committee. The school district shall participate in any
5 hearing scheduled during this review period by the joint legislative audit
6 committee or by any other legislative committee designated by the joint
7 legislative audit committee.

8 10. NOTWITHSTANDING ANY OTHER LAW, REVIEW THE PROCESSES AND
9 STATUTORY REQUIREMENTS FOR MAINTAINING THE STATEWIDE VOTER REGISTRATION
10 DATABASE, COUNTY EARLY VOTING LISTS AND THE COUNTY VOTER REGISTRATION
11 DATABASES FOR COUNTIES WITH A POPULATION OF MORE THAN ONE MILLION PERSONS.
12 THE SECRETARY OF STATE AND THE COUNTY RECORDERS SHALL NOTIFY THE AUDITOR
13 GENERAL IN WRITING OF THE TOTAL EXPENDITURES MADE FOR VOTER REGISTRATION
14 PROGRAMS AND EVENTS AND SHALL PROVIDE A DESCRIPTION OF THOSE PROGRAMS AND
15 EVENTS, INCLUDING ANY POLITICAL PARTY AFFILIATION. THE SECRETARY OF STATE
16 AND THE COUNTY RECORDERS ALSO SHALL SPECIFY THEIR ATTENDANCE AT THESE
17 PROGRAMS, EVENTS AND OUTREACH ACTIVITIES AND WHETHER THEY USED ANY
18 THIRD-PARTY DATA IN CONDUCTING THESE PROGRAMS, EVENTS AND ACTIVITIES. ON
19 OR BEFORE JUNE 30 EACH EVEN-NUMBERED YEAR, THE AUDITOR GENERAL SHALL
20 SUBMIT A REPORT ON ITS FINDINGS TO THE PRESIDENT OF THE SENATE AND THE
21 SPEAKER OF THE HOUSE OF REPRESENTATIVES AND SHALL SUBMIT A COPY OF THE
22 REPORT TO THE SECRETARY OF STATE.

23 ~~10.~~ 11. Annually review per diem compensation and reimbursement of
24 expenses for employees of this state and members of a state board,
25 commission, council or advisory committee by judgmentally selecting
26 samples and evaluating the propriety of per diem compensation and expense
27 reimbursements.

28 12. PURSUANT TO SECTION 8-530.04, ANNUALLY TRACK, REPORT AND MAKE
29 PUBLICLY AVAILABLE THE FOLLOWING:

30 1. THE NUMBER OF BEST INTEREST EDUCATIONAL PLACEMENT DETERMINATIONS
31 CONDUCTED.

32 2. THE NUMBER OF CHILDREN WHO ENTERED FOSTER CARE AND WHO DID NOT
33 RECEIVE A BEST INTEREST EDUCATIONAL PLACEMENT DETERMINATION.

34 3. THE FINAL OUTCOME OF EACH BEST INTEREST EDUCATIONAL PLACEMENT
35 DETERMINATION.

36 4. DATA REGARDING THE TRANSPORTATION OF FOSTER CARE CHILDREN
37 PURSUANT TO SECTION 8-530.04, INCLUDING TRANSPORTATION COSTS AND WHICH
38 AGENCY WAS RESPONSIBLE FOR THE COSTS.

39 B. The auditor general may:

40 1. Subject to approval by the committee, adopt rules necessary to
41 administer the duties of the office.

42 2. Hire consultants to conduct the studies required by subsection
43 A, paragraphs 6 and 7 of this section.

44 C. If approved by the committee, the auditor general may charge a
45 reasonable fee for the cost of performing audits or providing accounting

1 services for auditing federal funds, special audits or special services
2 requested by political subdivisions of this state. Monies collected
3 pursuant to this subsection shall be deposited in the audit services
4 revolving fund.

5 D. The department of transportation, the board of supervisors of a
6 county that has approved a county transportation excise tax as provided in
7 section 42-6106 or 42-6107 and the governing bodies of counties, cities
8 and towns receiving ARIZONA highway user revenue fund monies shall
9 cooperate with and provide necessary information to the auditor general or
10 the auditor general's consultant.

11 E. The department of transportation shall reimburse the auditor
12 general as follows, and the auditor general shall deposit the reimbursed
13 monies in the audit services revolving fund:

14 1. For the cost of conducting the studies or hiring a consultant to
15 conduct the studies required by subsection A, paragraph 6, subdivisions
16 (a) and (b) of this section, from monies collected pursuant to a county
17 transportation excise tax levied pursuant to section 42-6106 or 42-6107.

18 2. For the cost of conducting the studies or hiring a consultant
19 pursuant to subsection A, paragraph 6, subdivision (c) and paragraph 7 of
20 this section, from the Arizona highway user revenue fund.