

112<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 5876

To amend the Elementary and Secondary Education Act of 1965 to provide educational stability for children in foster care, and for other purposes.

---

## IN THE HOUSE OF REPRESENTATIVES

MAY 31, 2012

Mr. DAVIS of Illinois (for himself and Ms. BASS of California) introduced the following bill; which was referred to the Committee on Education and the Workforce, and in addition to the Committees on Financial Services and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

---

## A BILL

To amend the Elementary and Secondary Education Act of 1965 to provide educational stability for children in foster care, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Increasing Educational  
5 Stability for Children in Foster Care Act”.

1 **SEC. 2. STATE AND LOCAL EDUCATIONAL AGENCY PLAN**  
2 **AND REPORT REQUIREMENTS.**

3 (a) STATE PLAN.—Section 1111(b)(8) of the Ele-  
4 mentary and Secondary Education Act of 1965 (20 U.S.C.  
5 6311(b)(8)) is amended—

6 (1) by striking “and” at the end of subpara-  
7 graph (D);

8 (2) by redesignating subparagraph (E) as sub-  
9 paragraph (F); and

10 (3) by inserting after subparagraph (D), the  
11 following:

12 “(E) how the State educational agency will  
13 comply with the requirements of part J and the  
14 State’s plan to ensure such compliance; and”.

15 (b) STATE REPORT CARD.—Section 1111(h)(1)(C) of  
16 the Elementary and Secondary Education Act of 1965 (20  
17 U.S.C. 6311(h)(1)(C)) is amended—

18 (1) in clause (i), by striking “and status as eco-  
19 nomically disadvantaged,” and inserting “status as  
20 economically disadvantaged, and status as a child in  
21 foster care (defined in section 1602(1)),”; and

22 (2) in clause (vi), by inserting before the semi-  
23 colon the following: “(disaggregated by status as a  
24 child in foster care (defined in section 1602(1)), ex-  
25 cept that such disaggregation shall not be required  
26 in a case in which the number of students in such

1 category is insufficient to yield statistically reliable  
2 information or the results would reveal personally  
3 identifiable information about an individual stu-  
4 dent)”).

5 (c) STATE REPORT TO SECRETARY.—Section  
6 1111(h)(4) of the Elementary and Secondary Education  
7 Act of 1965 (20 U.S.C. 6311(h)(4)) is amended—

8 (1) by striking “and” at the end of subpara-  
9 graph (F);

10 (2) in subparagraph (G), by striking the period  
11 and inserting “; and”; and

12 (3) by adding at the end the following:

13 “(H) beginning not later than school year  
14 2012–2013, information on the achievement of  
15 students and the graduation rates described in  
16 clauses (i) and (vi) of paragraph (1)(C), respec-  
17 tively, including the disaggregated results for  
18 the category of students with status as a child  
19 in foster care (defined in section 1602(1)).”.

20 (d) LOCAL EDUCATIONAL AGENCY PLAN.—Section  
21 1112(b)(1) of the Elementary and Secondary Education  
22 Act of 1965 is amended—

23 (1) by striking “and” at the end of subpara-  
24 graph (P);

1           (2) in subparagraph (Q), by striking the period  
2           and inserting “; and”; and

3           (3) by adding at the end the following:

4                   “(R) how the local educational agency will  
5                   comply with the requirements of part J that re-  
6                   late to the local educational agency and describe  
7                   the local educational agency’s plan to ensure  
8                   such compliance.”.

9           (e) RESERVATION FOR HOMELESS CHILDREN AND  
10          YOUTH AND OTHER AT-RISK CHILDREN.—Section  
11          1113(c)(3) of the Elementary and Secondary Education  
12          Act of 1965 is amended—

13                  (1) by striking “and” at the end of subpara-  
14                  graph (B);

15                  (2) in subparagraph (C), by striking the period  
16                  and inserting “; and”; and

17                  (3) by adding at the end the following:

18                          “(D) children in foster care (defined in  
19                          section 1602(1)), including by designating an  
20                          individual employed by the agency to serve as  
21                          a point of contact, as described in 1601(d)(1),  
22                          for the child welfare agencies responsible for  
23                          such children enrolled in the local educational  
24                          agency.”.

1 **SEC. 3. EDUCATIONAL STABILITY OF CHILDREN IN FOSTER**  
2 **CARE.**

3 (a) IN GENERAL.—Title I of the Elementary and  
4 Secondary Education Act of 1965 (20 U.S.C. 6301 et  
5 seq.), as amended by this Act, is further amended by add-  
6 ing at the end the following:

7 **“PART J—EDUCATIONAL STABILITY OF**  
8 **CHILDREN IN FOSTER CARE**

9 **“SEC. 1601. EDUCATIONAL STABILITY OF CHILDREN IN FOS-**  
10 **TER CARE.**

11 **“(a) OBLIGATIONS TO COLLABORATE WITH CHILD**  
12 **WELFARE AGENCIES.—**

13 **“(1) IN GENERAL.—**Each State educational  
14 agency receiving assistance under part A shall col-  
15 laborate with the State child welfare agency to de-  
16 velop and implement a plan to ensure that the fol-  
17 lowing occurs, for each child in the State, when the  
18 child moves to a new school attendance area as a re-  
19 sult of being placed in foster care (as described in  
20 section 1602(1)), changing foster care placements,  
21 or leaving foster care:

22 **“(A) ATTENDANCE AT A SCHOOL OF ORI-**  
23 **GIN.—**

24 **“(i) IN GENERAL.—**The child enrolls  
25 or remains in the child’s school of origin,  
26 unless a determination is made that it is in

1           the child’s best interest to attend a dif-  
2           ferent school.

3           “(ii) LIMITATION.—A child who leaves  
4           foster care shall only be entitled to remain  
5           in the child’s school of origin for the re-  
6           mainder of the school year.

7           “(B) IMMEDIATE ENROLLMENT.—When a  
8           determination is made regarding the school that  
9           it is in the best interest of a child in foster care  
10          to attend, the child shall be immediately en-  
11          rolled in such school, even if the child is unable  
12          to produce records normally required for enroll-  
13          ment, such as previous academic records, im-  
14          munization and medical records, a birth certifi-  
15          cate, guardianship records, proof of residency,  
16          or other documentation.

17          “(C) RECORDS TRANSFER.—Any records  
18          ordinarily kept by a school, including records of  
19          immunizations, health screenings, and other re-  
20          quired health records, academic records, birth  
21          certificates, evaluations for special services or  
22          programs, and any individualized education pro-  
23          grams (as defined in section 602 of the Individ-  
24          uals with Disabilities Education Act (20 U.S.C.

1           1401)), regarding a child in foster care shall  
2           be—

3                   “(i) maintained so that the records in-  
4                   volved are available, in a timely fashion,  
5                   when a child in foster care enters a new  
6                   school; and

7                   “(ii) immediately transferred to the  
8                   enrolling school, even if the child owes fees  
9                   or fines or was not withdrawn from pre-  
10                  vious schools in conformance with local  
11                  withdrawal procedures.

12                  “(2) IMPLEMENTATION.—Each State edu-  
13                  cational agency receiving assistance under part A  
14                  shall ensure that the plan described in paragraph  
15                  (1) is implemented by the local educational agencies  
16                  in the State.

17                  “(b) CREDIT TRANSFER AND DIPLOMAS.—Each  
18                  State that receives assistance under part A shall have poli-  
19                  cies for ensuring that—

20                   “(1) a child in foster care who is changing  
21                   schools can transfer school credits and receive par-  
22                   tial credits for coursework satisfactorily completed  
23                   while attending a prior school or educational pro-  
24                   gram;

1           “(2) a child in foster care is afforded opportuni-  
2           ties to recover school credits lost due to placement  
3           instability while in foster care; and

4           “(3) a child in foster care who has changed sec-  
5           ondary schools can receive a secondary school di-  
6           ploma either from one of the schools in which the  
7           child was enrolled or through a State-issued sec-  
8           ondary school diploma system, consistent with State  
9           graduation requirements.

10          “(c) TRANSPORTATION.—Not later than 1 year after  
11 the date of enactment of the Increasing Educational Sta-  
12 bility for Children in Foster Care Act, the State edu-  
13 cational agency shall enter into an agreement with the  
14 State agency responsible for administering the State plans  
15 under parts B and E of title IV of the Social Security  
16 Act to ensure that children in foster care, and children  
17 leaving foster care, who are attending their schools of ori-  
18 gin receive transportation to and from those schools, in  
19 accordance with subsection (a)(1) and with section  
20 475(1)(G) of the Social Security Act (42 U.S.C.  
21 675(1)(G)). The agreement shall include a description of  
22 the following:

23           “(1) How foster care maintenance payments  
24           will be used to help fund the transportation of chil-  
25           dren in foster care to their schools of origin.



1           “(2) How children who leave foster care will re-  
2           ceive transportation to maintain their enrollment in  
3           their schools of origin for the remainder of the aca-  
4           demic year, if remaining in their schools of origin is  
5           in their best interests.

6           “(d) POINTS OF CONTACT.—

7           “(1) LOCAL EDUCATIONAL AGENCIES.—A State  
8           that receives assistance under part A shall ensure  
9           that each local educational agency in the State des-  
10          ignates an individual employed by the agency to  
11          serve as a point of contact for the child welfare  
12          agencies responsible for children in foster care en-  
13          rolled in the local educational agency and to oversee  
14          the implementation of the local educational agency  
15          requirements under this section. A local educational  
16          agency’s point of contact shall not be the individual  
17          designated as its local educational agency liaison  
18          under section 722(g)(1)(J)(ii) of the McKinney-  
19          Vento Homeless Assistance Act, unless such indi-  
20          vidual has the capacity, resources, and time to per-  
21          form both roles.

22          “(2) STATE EDUCATIONAL AGENCIES.—Each  
23          State educational agency receiving assistance under  
24          part A shall designate an individual to serve as a  
25          point of contact for child welfare agencies and to

1 oversee the implementation of the State educational  
2 agency requirements under this section. A State  
3 educational agency's point of contact shall not be the  
4 individual designated as the State's Coordinator for  
5 Education of Homeless Children and Youths under  
6 section 722(d)(3) of the McKinney-Vento Homeless  
7 Assistance Act, unless such individual has the capac-  
8 ity, resources, and time to perform both roles.

9 **“SEC. 1602. DEFINITIONS.**

10 “In this part:

11 “(1) CHILD IN FOSTER CARE.—The term ‘child  
12 in foster care’ means a child whose care and place-  
13 ment is the responsibility of the agency that admin-  
14 isters a State plan under part B or E of title IV of  
15 the Social Security Act (42 U.S.C. 621 et seq., 670  
16 et seq.), without regard to whether foster care main-  
17 tenance payments are made under section 472 of the  
18 Social Security Act (42 U.S.C. 672) on behalf of the  
19 child.

20 “(2) SCHOOL ATTENDANCE AREA.—The term  
21 ‘school attendance area’ has the meaning given the  
22 term in section 1113(a)(2).

23 “(3) SCHOOL OF ORIGIN.—The term ‘school of  
24 origin’ means, with respect to a child in foster care,  
25 any of the following:

1           “(A) The public school in which the child  
2 was enrolled prior to entry into foster care.

3           “(B) The public school in which the child  
4 is enrolled when a change in foster care place-  
5 ment occurs.

6           “(C) The public school the child attended  
7 when last permanently housed, as such term is  
8 used in section 722(g)(3)(G) of the McKinney-  
9 Vento Homeless Assistance Act (42 U.S.C.  
10 11432(g)(3)(G)), if such child was eligible for  
11 assistance under such Act before the child be-  
12 came a child in foster care.”.

13       (b) GUIDANCE.—Not later than 90 days after the  
14 date of enactment of this Act, the Secretary, in collabora-  
15 tion with the Secretary of Health and Human Services,  
16 is directed to issue guidance on the implementation of part  
17 J of title I of the Elementary and Secondary Education  
18 Act of 1965, including how State and local agencies will  
19 work together to ensure that transportation for children  
20 in foster care is provided to the school of origin.

21 **SEC. 4. AMENDMENT TO MCKINNEY-VENTO HOMELESS AS-**  
22 **SISTANCE ACT.**

23       Section 725(2)(B)(i) of the of the McKinney-Vento  
24 Homeless Assistance Act (42 U.S.C. 11434a(2)(B)(i)) is  
25 amended by striking “are abandoned in hospitals; or are

- 1 awaiting foster care placement” and inserting “or are
- 2 abandoned in hospitals;”.

○