

Assembly Bill No. 2109

Passed the Assembly August 27, 2012

Chief Clerk of the Assembly

Passed the Senate August 22, 2012

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2012, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 120365 of the Health and Safety Code, relating to communicable disease.

LEGISLATIVE COUNSEL'S DIGEST

AB 2109, Pan. Communicable disease: immunization exemption.

Existing law prohibits the governing authority of a school or other institution from unconditionally admitting any person as a pupil of any private or public elementary or secondary school, child care center, day nursery, nursery school, family day care home, or development center, unless prior to his or her first admission to that institution he or she has been fully immunized against various diseases, as specified.

Existing law exempts a person from the above-described immunization requirement if the parent or guardian or other specified persons file with the governing authority a letter or affidavit stating that the immunization is contrary to his or her beliefs.

This bill would instead require this letter or affidavit to document which required immunizations have been given and which have not been given on the basis that they are contrary to the parent or guardian's or other specified person's beliefs. The bill would require, on and after January 1, 2014, the letter or affidavit to be accompanied by a form prescribed by the State Department of Public Health that includes a signed attestation from a health care practitioner, as defined, that indicates that the health care practitioner provided the parent or guardian of the person, the adult who has assumed responsibility for the care and custody of the person, or the person, if an emancipated minor, who is subject to the immunization requirements with information regarding the benefits and risks of the immunization and the health risks of specified communicable diseases. The bill would require the form to include a written statement by the parent, guardian, other specified persons, or person, if an emancipated minor, that indicates that he or she received the information from the health care practitioner.

By imposing new duties upon local officials, this bill would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

The people of the State of California do enact as follows:

SECTION 1. Section 120365 of the Health and Safety Code is amended to read:

120365. (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 on the basis that they are contrary to his or her beliefs.

(b) On and after January 1, 2014, a form prescribed by the State Department of Public Health shall accompany the letter or affidavit filed pursuant to subdivision (a). The form shall include both of the following:

(1) A signed attestation from the health care practitioner that indicates that the health care practitioner provided the parent or guardian of the person who is subject to the immunization requirements of this chapter, the adult who has assumed responsibility for the care and custody of the person, or the person if an emancipated minor, with information regarding the benefits and risks of the immunization and the health risks of the communicable diseases listed in Section 120335 to the person and to the community. This attestation shall be signed not more than six months prior to the date when the person first becomes subject to the immunization requirement for which exemption is being sought.

(2) A written statement signed by the parent or guardian of the person who is subject to the immunization requirements of this chapter, the adult who has assumed responsibility for the care and custody of the person, or the person if an emancipated minor, that indicates that the signer has received the information provided by the health care practitioner pursuant to paragraph (1). This statement shall be signed not more than six months prior to the date when the person first becomes subject to the immunization requirements as a condition of admittance to a school or institution pursuant to Section 120335.

(c) The following shall be accepted in lieu of the original form:

(1) A photocopy of the signed form.

(2) A letter signed by a health care practitioner that includes all information and attestations included on the form.

(d) Issuance and revision of the form shall be exempt from the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(e) When there is good cause to believe that the person has been exposed to one of the communicable diseases listed in subdivision (a) of Section 120325, that person may be temporarily excluded from the school or institution until the local health officer is satisfied that the person is no longer at risk of developing the disease.

(f) For purposes of this section, “health care practitioner” means any of the following:

(1) A physician and surgeon, licensed pursuant to Section 2050 of the Business and Professions Code.

(2) A nurse practitioner who is authorized to furnish drugs pursuant to Section 2836.1 of the Business and Professions Code.

(3) A physician assistant who is authorized to administer or provide medication pursuant to Section 3502.1 of the Business and Professions Code.

(4) An osteopathic physician and surgeon, as defined in the Osteopathic Initiative Act.

(5) A naturopathic doctor who is authorized to furnish or order drugs under a physician and surgeon’s supervision pursuant to Section 3640.5 of the Business and Professions Code.

(6) A credentialed school nurse, as described in Section 49426 of the Education Code.

SEC. 2. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

Approved _____, 2012

Governor