

AMENDED IN ASSEMBLY MARCH 17, 2025

CALIFORNIA LEGISLATURE—2025–26 REGULAR SESSION

ASSEMBLY BILL

No. 1025

Introduced by Assembly Member Pellerin

February 20, 2025

An act ~~relating to immigration~~, to amend Section 48204 of the Education Code, and to add Section 2105.2 to the Probate Code, relating to guardianship.

LEGISLATIVE COUNSEL’S DIGEST

AB 1025, as amended, Pellerin. ~~Immigration~~. Standby guardianship of minors.

Under existing law, the guardian or conservator of a minor has specified powers over the care, custody, and control of the minor. Existing law authorizes a caregiver, who properly completes and signs a caregiver’s authorization affidavit, to provide specified care to a minor, including, among other care, enrolling the minor in school and consenting to school-related medical care on behalf of the minor.

This bill, the Standby Guardianship Act, would authorize, if specified conditions are met, a custodial parent or legal guardian of a minor child to designate a person to serve as a standby guardian of the person, the estate, or both of the minor child by completing a Standby Guardian’s Authorization Affidavit. The bill would authorize a custodial parent or legal guardian to also specify a person to serve as alternate standby guardian in case the originally designated standby guardian is or becomes unwilling or unable to act as standby guardian. The bill would require the designation of a standby guardian to take effect upon the occurrence of an adverse immigration action, as defined, to the custodial parent or legal guardian. The bill would prescribe the

requirements for the designation of a standby guardian, including a statutory form for the Standby Guardian's Authorization Affidavit that would be signed and witnessed under penalty of perjury, and prescribe the actions to be taken in the event of an adverse immigration action. By expanding the definition of the crime of perjury, the bill would impose a state-mandated local program.

Existing law provides that a pupil complies with the residency requirements for school attendance in a school district when, among other things, the pupil resides with a caregiving adult who is located within the boundaries of that school district. Under existing law, it is a sufficient basis for a determination of residency if the caregiving adult has submitted an affidavit, as specified, under penalty of perjury, unless the school district determines from actual facts that the pupil is not living in the home of the caregiving adult.

This bill would also make execution of the Standby Guardian's Authorization Affidavit a sufficient basis for a determination of residency of a minor child under these provisions, as specified.

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 no reimbursement is required by this act for a specified reason.

~~Existing law requires the State Department of Social Services, subject to an appropriation, to provide grants to qualified nonprofit organizations through contracts, in order to provide persons with certain immigration-related legal services. Under existing law, a component of those grants is aimed at legal services to unaccompanied undocumented minors who are transferred to the care and custody of the federal Office of Refugee Resettlement and who are present in the state. Under existing law, another component of those grants is aimed at services relating to immigration remedies and naturalization, among other processes, to assist persons residing in, or formerly residing in, the state.~~

~~This bill would state the intent of the Legislature to enact legislation related to immigration and mixed status families.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

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

1 **SECTION 1.** *Section 48204 of the Education Code is amended*
2 *to read:*

3 48204. (a) Notwithstanding Section 48200, a pupil complies
4 with the residency requirements for school attendance in a school
5 district if ~~he or she is~~ *they are* any of the following:

6 (1) (A) A pupil placed within the boundaries of that school
7 district in a regularly established licensed children's institution or
8 a licensed foster home as defined in Section 56155.5, or a family
9 home pursuant to a commitment or placement under Chapter 2
10 (commencing with Section 200) of Part 1 of Division 2 of the
11 Welfare and Institutions Code.

12 (B) An agency placing a pupil in a home or institution described
13 in subparagraph (A) shall provide evidence to the school that the
14 placement or commitment is pursuant to law.

15 (2) A pupil who is a foster child who remains in ~~his or her~~ *their*
16 school of origin pursuant to subdivisions (f) and (g) of Section
17 48853.5.

18 (3) A pupil for whom interdistrict attendance has been approved
19 pursuant to Chapter 5 (commencing with Section 46600) of Part
20 26.

21 (4) A pupil whose residence is located within the boundaries of
22 that school district and whose parent or legal guardian is relieved
23 of responsibility, control, and authority through emancipation.

24 (5) A pupil who lives in the home of a caregiving adult that is
25 located within the boundaries of that school district. Execution of
26 an affidavit under penalty of perjury pursuant to Part 1.5
27 (commencing with Section 6550) of Division 11 of the Family
28 Code by the caregiving ~~adult~~ *adult, or pursuant to Section 2105.2*
29 *of the Probate Code by a standby guardian*, is a sufficient basis
30 for a determination that the pupil lives in the home of the ~~caregiver,~~
31 *caregiving adult* unless the school district determines from actual
32 facts that the pupil is not living in the home of the ~~caregiver.~~
33 *caregiving adult.*

34 (6) A pupil residing in a state hospital located within the
35 boundaries of that school district.

36 (7) A pupil whose parent or legal guardian resides outside of
37 the boundaries of that school district but is employed and lives
38 with the pupil at the place of ~~his or her~~ *their* employment within

1 the boundaries of the school district for a minimum of three days
2 during the school week.

3 (b) (1) A school district may deem a pupil to have complied
4 with the residency requirements for school attendance in the school
5 district if at least one parent or the legal guardian of the pupil is
6 physically employed within the boundaries of that school district
7 for a minimum of 10 hours during the school week.

8 (2) This subdivision does not require the school district within
9 which at least one parent or the legal guardian of a pupil is
10 employed to admit the pupil to its schools. A school district shall
11 not, however, refuse to admit a pupil under this subdivision on the
12 basis, except as expressly provided in this subdivision, of race,
13 ethnicity, sex, parental income, scholastic achievement, or any
14 other arbitrary consideration.

15 (3) The school district in which the residency of either the
16 parents or the legal guardian of the pupil is established, or the
17 school district to which the pupil is to be transferred under this
18 subdivision, may prohibit the transfer of the pupil under this
19 subdivision if the governing board of the school district determines
20 that the transfer would negatively impact the court-ordered or
21 voluntary desegregation plan of the school district.

22 (4) The school district to which the pupil is to be transferred
23 under this subdivision may prohibit the transfer of the pupil if the
24 school district determines that the additional cost of educating the
25 pupil would exceed the amount of additional state aid received as
26 a result of the transfer.

27 (5) The governing board of a school district that prohibits the
28 transfer of a pupil pursuant to paragraph (2), (3), or (4) is
29 encouraged to identify, and communicate in writing to the parents
30 or the legal guardian of the pupil, the specific reasons for that
31 determination and is encouraged to ensure that the determination,
32 and the specific reasons for the determination, are accurately
33 recorded in the minutes of the board meeting in which the
34 determination was made.

35 (6) The average daily attendance for pupils admitted pursuant
36 to this subdivision is calculated pursuant to Section 46607.

37 (7) Unless approved by the sending school district, this
38 subdivision does not authorize a net transfer of pupils out of a
39 school district, calculated as the difference between the number
40 of pupils exiting the school district and the number of pupils

1 entering the school district, in a fiscal year in excess of the
2 following amounts:

3 (A) For a school district with an average daily attendance for
4 that fiscal year of less than 501 pupils, 5 percent of the average
5 daily attendance of the school district.

6 (B) For a school district with an average daily attendance for
7 that fiscal year of 501 pupils or more, but less than 2,501 pupils,
8 3 percent of the average daily attendance of the school district or
9 25 pupils, whichever amount is greater.

10 (C) For a school district with an average daily attendance of
11 2,501 pupils or more, 1 percent of the average daily attendance of
12 the school district or 75 pupils, whichever amount is greater.

13 (8) Once a pupil is deemed to have complied with the residency
14 requirements for school attendance pursuant to this subdivision
15 and is enrolled in a school in a school district the boundaries of
16 which include the location where at least one parent or the legal
17 guardian of a pupil is physically employed, the pupil does not have
18 to reapply in the next school year to attend a school within that
19 school district and the governing board of the school district shall
20 allow the pupil to attend school through grade 12 in that school
21 district if the parent or legal guardian so chooses and if at least
22 one parent or the legal guardian of the pupil continues to be
23 physically employed by an employer situated within the attendance
24 boundaries of the school district, subject to paragraphs (2) to (7),
25 inclusive.

26 *SEC. 2. Section 2105.2 is added to the Probate Code, to read:*
27 *2105.2. (a) This section shall be known, and may be cited, as*
28 *the Standby Guardianship Act.*

29 *(b) For purposes of this section, the following terms have the*
30 *following meanings:*

31 *(1) "Adverse immigration action" means any of the following:*

32 *(A) Arrest or apprehension by a law enforcement officer for an*
33 *alleged violation of federal immigration law.*

34 *(B) Detention or custody by the United States Department of*
35 *Homeland Security or a federal, state, or local agency authorized*
36 *or acting on behalf of the United States Department of Homeland*
37 *Security.*

38 *(C) Departure from the United States under an order of removal,*
39 *deportation, exclusion, voluntary departure, or expedited removal,*
40 *or a stipulation of voluntary departure.*

1 (D) *The denial, revocation, or delay of the issuance of a visa*
2 *or transportation letter by the United States Department of State.*

3 (E) *The denial, revocation, or delay of the issuance of a parole*
4 *document or reentry permit by the United States Department of*
5 *Homeland Security.*

6 (F) *The denial of admission or entry into the United States by*
7 *the Department of Homeland Security.*

8 (G) *Any other immigration proceeding or enforcement action*
9 *that separates a custodial parent or legal guardian from a minor*
10 *child.*

11 (2) *“Standby guardian” means a person specified by a Standby*
12 *Guardian’s Authorization Affidavit to have the care, custody, and*
13 *control of, and to have charge of the education of, the minor child*
14 *named in the affidavit.*

15 (3) *“Designated standby guardian” means a standby guardian*
16 *whose designation has taken effect upon the occurrence of an*
17 *adverse immigration action to the custodial parent or legal*
18 *guardian who executed the Standby Guardian’s Authorization*
19 *Affidavit.*

20 (4) *“Appointed standby guardian” means a designated standby*
21 *guardian appointed by the court to have the care, custody, and*
22 *control of, and to have charge of the education of, the minor child*
23 *identified in the designating Standby Guardian’s Authorization*
24 *Affidavit.*

25 (c) *The provisions of this division shall apply to a standby*
26 *guardian except as otherwise provided in this section.*

27 (d) *A custodial parent or legal guardian of a minor child may,*
28 *by a Standby Guardian’s Authorization Affidavit, specify a person*
29 *to serve as standby guardian of the person, the estate, or both the*
30 *person and the estate of the minor child. A custodial parent or*
31 *legal guardian of a minor child may, in the same writing, specify*
32 *a person to serve as alternate standby guardian in case the*
33 *originally designated standby guardian is or becomes unwilling*
34 *or unable to act as standby guardian. The designation shall take*
35 *effect upon the occurrence of an adverse immigration action to*
36 *the custodial parent or legal guardian who executed the affidavit.*
37 *A designated standby guardian, once appointed by the court, shall*
38 *have the duties and powers of a guardian under Section 2351, for*
39 *the duration of the adverse immigration action and attendant*
40 *circumstances that require the standby guardian to act.*

1 (e) *The Standby Guardian's Authorization Affidavit is valid if*
2 *the following requirements are satisfied:*

3 (1) *The signatures of the custodial parent or legal guardian*
4 *and the standby guardian are acknowledged before a witness who*
5 *is neither the custodial parent or legal guardian, the standby*
6 *guardian, nor the alternate standby guardian, and who is 18 years*
7 *of age or older.*

8 (2) *The standby guardian is 18 years of age or older.*

9 (3) *The affidavit is substantially in the following form:*

10
11 *Standby Guardian's Authorization Affidavit*

12 *Use of this affidavit is authorized by Section 2105.2 of the California Probate*
13 *Code.*

14 *Instructions:* *Custodial parent/legal guardian shall complete this form to*
15 *designate a standby guardian and, if applicable, an alternate standby guardian,*
16 *to assume the care, custody, and control of, and to have charge of the education*
17 *of, a minor child when the custodial parent or legal guardian is subject to an*
18 *adverse immigration action, as defined by paragraph (1) of subdivision (b) of*
19 *Section 2105.2 of the Probate Code. Print clearly.*

20
21 1. *Name of the minor:*

22 2. *Minor's date of birth:*

23 3. *Name of the designating custodial parent or guardian:*

24 4. *Home address of the designating custodial parent or guardian:*

25 5. *Name of the designated standby guardian:*

26 6. *Address of the designated standby guardian:*

27 7. *Date of birth of the designated standby guardian:*

28 8. *Name of the alternate standby guardian:*

29 9. *Address of the alternate standby guardian:*

30 10. *Date of birth of the alternate standby guardian:*

31
32 *If only one parent or guardian completes the Standby Guardian's Authorization*
33 *Affidavit, check one or more of the following, as applicable:*

34 ☐ *No other person has or shares legal custody of the minor child.*

35 ☐ *I have advised the parent or other person having legal custody of*
36 *the minor of my intent to designate a standby guardian and have received*
37 *no objection.*

38 ☐ *I am unable to contact the parent or other person having legal custody*
39 *of the minor at this time to notify them of my intended designation.*
40

1 *I declare under penalty of perjury under the laws of the State of California*
2 *that I am / we are the custodial parent(s) or legal guardian(s) and that the*
3 *foregoing is true and correct to the best of my/our knowledge.*

4 *Date:* _____ *Signature:* _____

5 *Print Name:*

6 *Address:*

8 *Date:* _____ *Signature:* _____

9 *Print Name:*

10 *Address:*

13 *I declare under penalty of perjury under the laws of the State of California*
14 *that I voluntarily assume the role of standby guardian upon an adverse*
15 *immigration action affecting the custodial parent(s) or legal guardian(s).*

16 *Date:* _____ *Standby Guardian*

17 *Signature:* _____

18 *Print Name:*

19 *Address:*

21 *I declare under penalty of perjury under the laws of the State of California*
22 *that I voluntarily assume the role of alternate standby guardian upon an adverse*
23 *immigration action affecting the custodial parent(s) or legal guardian(s) and*
24 *in the event that the standby guardian above is unable or unwilling to act as*
25 *standby guardian.*

27 *Date:* _____ *Alternate Standby Guardian*

28 *Signature:* _____

29 *Print Name:*

30 *Address:*

32 *I declare under penalty of perjury under the laws of the State of California*
33 *that I witnessed the signing of this Standby Guardian's Authorization Affidavit*
34 *by the custodial parent(s) or legal guardian(s), that I am not the person*
35 *designated as the standby guardian or the alternate standby guardian, that I*
36 *am not the custodial parent(s) or legal guardian(s) of the minor, and that I*
37 *am 18 years of age or older:*

39 *Date:* _____ *Witness Signature:* _____

40 *Print Name:*

Contact Information:

NOTICES:

1. *This declaration does not affect the rights of the minor's parents or legal guardian regarding the care, custody, or control of the minor.*
2. *This affidavit, if endorsed by the court, confirms that legal custody of the minor has been temporarily transferred to the standby guardian during the adverse immigration action and attendant circumstances affecting the custodial parent or legal guardian.*
3. *A person who relies in good faith on the affidavit has no obligation to make any further inquiry or investigation beyond verifying the identity of the standby guardian through any of the following means:*
 - (a) *A government-issued identification card, including the card number and issuing jurisdiction.*
 - (b) *A valid California driver's license, or a driver's license issued by another state or by a foreign public agency authorized to issue driver's licenses.*
 - (c) *A valid consular identification document issued by a consulate of the standby guardian's country of citizenship, or a valid passport issued by the standby guardian's country of citizenship.*
4. *If the circumstance requiring the standby guardian to act ceases or if the standby guardian ceases to act, the custodial parent or legal guardian shall notify any person, school, daycare, health care provider, health care service plan, or other entity that relies on this affidavit.*

TO SCHOOL OFFICIALS:

1. *Section 48204 of the Education Code provides that this affidavit constitutes a sufficient basis for a determination of residency of the minor, without the requirement of a guardianship or other custody order, unless the school district determines from facts that the minor is not living with the standby guardian.*
2. *The school district may require additional reasonable evidence that the standby guardian lives at the address provided.*

TO HEALTH CARE AND OTHER SERVICE PROVIDERS AND HEALTH CARE SERVICE PLANS:

1 A person who acts in good faith reliance upon a Standby Guardian's
2 Authorization Affidavit to provide medical or dental care, or other services,
3 without knowledge of facts contrary to those stated on the affidavit, is not
4 subject to civil or criminal liability and is not subject to professional
5 disciplinary action for that reliance.
6

7 (f) Upon the occurrence of an adverse immigration action to
8 the custodial parent or legal guardian, the designated standby
9 guardian shall file with the court the Standby Guardian's
10 Authorization Affidavit provided by paragraph (3) of subdivision
11 (e) and a Confidential Guardian Screening Form. If named as an
12 alternate, the designated standby guardian shall also file a
13 statement that the person originally designated as standby guardian
14 is unwilling or unable to act as standby guardian, and the basis
15 for that statement. The court shall set a hearing as soon as
16 practicable, and no later than 15 days from the filing of the Standby
17 Guardian's Authorization Affidavit and the Confidential Guardian
18 Screening Form, to verify the occurrence of the adverse
19 immigration action to the custodial parent or legal guardian and
20 to provisionally appoint the designated standby guardian. Notice
21 of the hearing shall be personally delivered to the minor child if
22 the child is 12 years of age or older and to any person having a
23 valid visitation order with the minor child unless the court orders
24 otherwise for good cause.

25 (g) The court shall set a hearing, unless waived for good cause,
26 within 30 days of provisionally appointing the designated standby
27 guardian to consider whether to formally appoint the designated
28 standby guardian. Before that hearing, the provisionally appointed
29 standby guardian shall file a petition for guardianship under
30 Section 1510, give notice as required under Section 1511, and
31 comply with any court investigation that the court may order under
32 Section 1513, unless any of these requirements is waived for good
33 cause. The court may order a formally appointed standby guardian
34 to return to court as needed to assess the need for and the capacity
35 of the standby guardian to continue serving.

36 (h) The designation of a standby guardian shall not:

37 (1) Be made over the objection of a noncustodial parent seeking
38 custody without a court finding that the noncustodial parent's
39 custody would be detrimental to the minor child, as provided in
40 Section 3041 of the Family Code.

1 (2) *Be made by one parent or legal guardian alone, unless no*
2 *other person has or shares custody of the child, the parent or legal*
3 *guardian has notified the other parent and any other person having*
4 *legal custody of the child of the standby guardian's designation,*
5 *and no other parent or person having legal custody objects to the*
6 *designation, or the parent or legal guardian is unable to contact*
7 *the other parent and any other person having legal custody of the*
8 *child to notify them of the standby guardian's designation.*

9 (3) *Supersede the parental rights of the custodial parent. An*
10 *appointed standby guardian shall exercise authority jointly with*
11 *the designating custodial parent or legal guardian, to the extent*
12 *that the custodial parent or legal guardian is able to participate*
13 *in the care, custody, and control of the minor child. The rights of*
14 *the appointed standby guardian are inferior to the rights of the*
15 *designating custodial parent or legal guardian, and shall be*
16 *exercised only during the adverse immigration action and attendant*
17 *circumstances affecting the custodial parent or legal guardian.*
18 *The custodial parent or legal guardian who designated the standby*
19 *guardian may terminate the standby guardianship at any time by*
20 *filing a petition to terminate under Section 1601. The standard for*
21 *termination set forth in Section 1601 shall not apply, and the court*
22 *shall grant the petition absent good cause.*

23 (4) *Be construed as diminishing, altering, or limiting existing*
24 *laws intended to protect children, including the duties and authority*
25 *of law enforcement, juvenile courts, child protective services,*
26 *mandatory reporters, or similarly situated individuals or agencies,*
27 *or the existing caregiver's authorization affidavit, as provided in*
28 *Part 1.5 (commencing with Section 6550) of Division 11 of the*
29 *Family Code.*

30 (5) *Alone confer jurisdiction to the juvenile court under Section*
31 *300 of the Welfare and Institutions Code or be a sufficient and*
32 *independent basis for adjudging that a minor child is a dependent*
33 *child of the court.*

34 SEC. 3. *No reimbursement is required by this act pursuant to*
35 *Section 6 of Article XIII B of the California Constitution because*
36 *the only costs that may be incurred by a local agency or school*
37 *district will be incurred because this act creates a new crime or*
38 *infraction, eliminates a crime or infraction, or changes the penalty*
39 *for a crime or infraction, within the meaning of Section 17556 of*
40 *the Government Code, or changes the definition of a crime within*

1 *the meaning of Section 6 of Article XIII B of the California*
2 *Constitution.*

3 ~~SECTION 1. It is the intent of the Legislature to enact~~
4 ~~legislation related to immigration and mixed status families.~~