



October 25, 2017

Hon. Xavier Becerra
Attorney General
1300 I Street, 17th Floor
Sacramento, California 95814

Attention: Ms. Ashley Johansson
Initiative Coordinator

Dear Attorney General Becerra:

Pursuant to Elections Code Section 9005, we have reviewed the initiative that proposes a constitutional amendment related to parental rights (A.G. File No. 17-0030).

Background

Parental Rights Are Broad but Not Absolute. A basic legal principle in California and other states holds that parents have certain rights for raising their children. This principle exists in various state and federal laws as well as in court decisions interpreting these laws. For example, the U.S. Supreme Court has found that parents have the constitutional right to make decisions concerning the “care, custody, and control” of their children. These parental rights, however, are not absolute. The courts have determined that states can impose some restrictions on parents in order to protect children’s welfare. Various government agencies enforce these laws, including school districts, county health and welfare agencies, state and local law enforcement agencies, and the California Department of Social Services. A few examples of such laws in California are:

- ***Child Welfare Laws.*** State law requires parents to provide their children with necessities such as food, shelter, clothing, and supervision. The law also defines and prohibits abusive behaviors (such as intentionally inflicting physical injury on a child). Parents who violate these laws can lose custody of their children. In these cases, the state can place those children in the care of another family member, a foster family, or a group home.
- ***Compulsory Education.*** The state’s compulsory education law requires parents to ensure that children between the ages of 6 and 18 attend school. Parents can meet this requirement by sending their children to a public or private school, or by homeschooling their children. Parents who refuse to send their children to school can be required to take parenting courses or pay a fine. In extreme cases, courts also can send parents to jail.

- ***Immunization Requirements.*** State law requires children attending public and private schools to be immunized against certain infectious diseases. Parents must provide proof of these immunizations before their children can attend school. Some exceptions to the immunization requirement exist for parents who homeschool their children and parents who obtain an exemption from their children's doctor.

School Districts Approve Classes and Textbooks. School districts in California are governed by locally elected school boards. Within certain limits set by the state, these boards determine what classes are taught in their districts. School boards also approve the textbooks for these classes. Parents have certain rights to participate in these decisions, including the right to observe classes, examine textbooks, and participate on committees that advise districts about their classes. Parents also can remove their children from classes involving sexual health education or HIV/AIDS prevention education. Some states grant parents greater or fewer rights than California. As an example of the former, a few states allow parents to remove their children from any class that they find objectionable.

Proposal

Amends State Constitution to Give Parents the “Sole Authority and Responsibility” for Raising Their Children. At a minimum, this authority would include the right for parents to determine the “venue, curriculum, and methods” by which their children are educated. The measure also prohibits the state and any local government from infringing upon this authority.

Fiscal Effects

Effects Depend on Actions by Parents and Interpretation by the Courts. The fiscal effects of this measure are uncertain because the measure does not specifically create any new programs or repeal any state laws. The effects would depend primarily on (1) how many parents use the measure to challenge existing laws or policies, and (2) how broadly the courts interpret the measure. The fiscal effects could be relatively minor to the extent that few parents challenge existing laws and the courts interpret the measure largely as affirming rights that parents already possess. On the other hand, the effects could be significant if many parents challenge existing laws, or if the courts interpret the measure as significantly expanding parental rights.

Potential Costs for State and Local Governments. Under the measure, state and local governments likely would experience additional costs to review complaints and make alternative arrangements for parents who believe laws or policies violate their rights under the measure. Given that the measure specifically mentions education, school districts could be affected to the greatest extent. For example, parents might determine that the topics covered in a particular class are inconsistent with the way they wish to raise their children. In these cases, the measure could require school districts to offer an alternative class or modified curriculum. Providing this alternative might require districts to buy additional textbooks or hire additional staff. If many parents asked for such alternatives, the costs could be significant. The measure also could have a number of indirect fiscal effects. For example, the measure might allow parents to exempt their children from the immunization requirement, which could affect the cost of state programs designed to improve public health. These indirect effects are difficult to estimate.

Summary of Fiscal Effects. This measure would have the following fiscal effects:

- Potentially significant costs for state and local governments to resolve complaints and make alternative arrangements for parents who believe existing laws or policies violate their rights under this measure.

Sincerely,

Mac Taylor
Legislative Analyst

Michael Cohen
Director of Finance