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FOR IMMEDIATE RELEASE

NEW LAW AIMS FOR EDUCATIONAL STABILITY FOR CHILDREN IN FOSTER CARE

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On September 9, 2010, Governor Christie signed into law a [bill](#) to promote educational stability for children in foster care. The law, designed to comply with the Federal Fostering Connections to Success and Increasing Adoptions Act of 2008, [Pub.L.110-351](#), will allow more children to remain in their current schools when placed in foster care.

The primary sponsors in the Assembly are Assemblymen Jack Conners, Herb Conaway, Jr., and Patrick J. Diegnan, Jr. The primary sponsors of the law in the Senate are Senators Joseph F. Vitale and Teresa M. Ruiz.

Under prior law, a child's district of residency became the district where her foster or "resource" family lived. This often meant that, in addition to leaving their homes of origin and adjusting to a new living arrangement, children entering foster care or changing foster care placements also had to leave the schools that they had been attending. Educational disruption is especially problematic for children receiving special education services or those with other special needs.

Data shows that children change homes an average of once or twice per year while in foster care, and many more times over the course of their placement in the foster care system. In addition, most children who enter foster care are eventually reunified with their parents.

"We know that students who change schools repeatedly obtain fewer credits, are less likely to graduate, and more likely to experience other negative outcomes," said Lauren S. Michaels, Education Law Center (ELC) attorney and Greenberg Traurig Equal Justice Works Fellow. "Children benefit from an uninterrupted program, and educational stability translates to better academic and social outcomes. They need stable relationships with peers and teachers, especially when their home and family life is in flux."

The new law creates a presumption that a child remains in her current school when she moves to a foster care placement. The Division of Youth and Family Services (DYFS) of the Department of Children and Families (DCF) is required to consider several factors when making a determination about educational placement. If DYFS determines that changing districts is in the child's best interest, the agency must notify the child's parent and law guardian (child's attorney), who can seek court review if they disagree with DYFS's decision. Even if it is determined that a child will attend school in the foster family's district, the "district of residence," i.e., the district in which the child's parents live, remains financially responsible.

Although it represents an improvement over prior law, advocates have raised concerns about how the new law will be implemented and about its effect on school districts that have more court-involved families.

"By putting the onus on the parent or the law guardian to challenge a DYFS determination that a child should change school districts, the State missed an opportunity to place the burden on DYFS when it

seeks to change an educational placement," said Michaels. "We will carefully monitor implementation and seek further changes, if needed."

There also remain concerns about transportation. Under the new law, DYFS is financially responsible for transporting students for the first five days, but after that, the district where the child's parent resides must pick up the cost for transporting the child. Five days is a very short time frame to coordinate transportation services, and this may pose a problem for financially-strapped districts. The annual transportation cost to the Department of Children and Families could be between \$1.52 million and \$3.04 million if one-quarter to one-half of the 250 students entering foster care each month require transportation. The cost to school districts to transport students under the new law is unknown because relevant data is not available.

ELC is pleased that the Legislature and Governor recognize that children in care benefit tremendously from educational stability. However, it is critical that schools, DYFS, and advocates work together to ensure this goal is achieved for every child in the foster system.

ELC's Foster Care Initiative works with parents, foster parents, caregivers, and service providers to ensure appropriate and consistent special education services to improve outcomes for children in foster care so that they have the opportunity to become productive and successful adults.

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