

HOUSE BILL REPORT

HB 1366

As Reported by House Committee On:
Education

Title: An act relating to requiring school districts to prioritize the resumption of in-person instruction to certain students following an emergency.

Brief Description: Requiring school districts to prioritize the resumption of in-person instruction to certain students following an emergency.

Sponsors: Representatives Caldier and Chase.

Brief History:

Committee Activity:

Education: 2/2/21, 2/9/21 [DPS].

Brief Summary of Substitute Bill

- Requires school districts that have discontinued the provision of in-person instruction due to an emergency to, when resuming in-person instruction, prioritize instruction for students meeting specified requirements, including students in foster care, students experiencing homelessness, and students who are English language learners.

HOUSE COMMITTEE ON EDUCATION

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Santos, Chair; Dolan, Vice Chair; Ybarra, Ranking Minority Member; Walsh, Assistant Ranking Minority Member; Berg, Bergquist, Callan, McCaslin, McEntire, Ortiz-Self, Rude, Steele and Stonier.

Staff: Ethan Moreno (786-7386).

Background:

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

On January 30, 2020, the World Health Organization declared the outbreak of COVID-19 to be a public health emergency of international concern. On January 31, 2020, the federal Department of Health and Human Services declared a public health emergency for the United States. On February 29, 2020, Governor Inslee declared a state of emergency in all counties of Washington and directed state agencies to take all reasonable measures to assist affected local governments to respond to and recover from the COVID-19 outbreak.

On March 13, 2020, Governor Inslee announced the closure of all public and private kindergarten through grade 12 school facilities in the state until April 24, 2020. The closure directive was subsequently extended through the remainder of the 2019-20 school year. Although school facilities were closed to in-person instruction during the final months of the school year, the provision of education remained mandatory and was provided through the implementation of remote instruction practices.

With few exceptions, school districts in Washington began the 2020-21 school year with the continuation and modification of remote instruction delivery practices that were employed in the prior school year.

The Office of the Superintendent of Public Instruction (OSPI) tracks school reopening data for the state. According to the OSPI survey data from the week of January 18, 2021, 22 percent of public school students received in-person instruction at any point during the week. The OSPI survey for the same week also indicated that 38 of 295 school districts were providing traditional, in-person instruction to all district students.

Of the recently surveyed school districts that are targeting small groups for in-person instruction, students with disabilities and students who are English language learners are the most commonly served students.

Summary of Substitute Bill:

School districts that have discontinued the provision of in-person instruction to all or most students in response to an emergency must, when resuming in-person instruction through a phased, hybrid, or otherwise noncomprehensive process, prioritize the offering and delivery of in-person instruction to the following:

- students in foster care;
- students experiencing homelessness;
- students recently released from a juvenile rehabilitation facility or other facility providing education services to students in an institutional setting, and, to the extent practicable, students in a juvenile rehabilitation facility or other facility providing education services to students in an institutional setting;
- students who are English language learners;
- students with individualized education programs;
- students with plans developed under Section 504 of the Rehabilitation Act of 1973

- (504 plan); and
- students who have 10 or more unexcused absences within any month during the current school year.

A student who is offered a return to in-person may, at the discretion of the student or the student's parent or guardian, continue remote instruction until the school district resumes in-person instruction for all students. Provisions allowing the elective continuation of remote instruction do not apply to students in a juvenile rehabilitation facility or other facility providing education services to students in an institutional setting.

"Emergency" is defined through an existing statute to mean an event or set of circumstances that: demands immediate action to preserve public health, protect life, protect public property, or to provide relief to any stricken community overtaken by such occurrences; or reaches such a dimension or degree of destructiveness as to warrant the Governor proclaiming a state of emergency. Emergency may also include a national declaration of emergency by an authorized federal official.

Substitute Bill Compared to Original Bill:

The substitute bill makes the following changes to the original bill:

- adds English language learners and students with individualized education programs to the list of students who are prioritized for the offering and delivery of in-person instruction;
- adds, to the extent practicable, students in a juvenile rehabilitation facility or other facility providing education services to students in an institutional setting to the list of students who are prioritized for the offering and delivery of in-person instruction;
- allows students, excepting those in specified secure settings, who are offered a return to in-person instruction to, at the discretion of the student or the student's parent or guardian, continue remote instruction until the school district resumes in-person instruction for all students; and
- changes the definition of "emergency" by assigning it the same meaning as "emergency or disaster" in an existing emergency management statute, and specifies that the term may also include a national declaration of emergency by an authorized federal official.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony:

(In support) A 12-year old family member with Attention-Deficit/Hyperactivity Disorder and a 504 plan does not engage in remote schooling, but the school district is not letting the student return to in-person instruction. Family members are providing instruction to the student, but in-person instruction at the school is limited to one hour per week.

Many foster kids are not enrolled in school, or if they are, they are not participating in remote instruction. The bill does not include students with individualized education programs (IEPs), but an amendment is being drafted to add those students to the prioritized list.

Students with IEPs and students who are English language learners should be added to the list of prioritized students. This bill speaks to the reality that some students are farther from educational justice than others. Education services to students with IEPs vary significantly, but these students have significant barriers to success.

(Opposed) None.

(Other) An amendment that includes students with IEPs and students who are English language learners should be offered. Serving students with disabilities is critical.

Students are struggling with online learning, including high rates of disconnection. School districts should, when returning to in-person instruction, prioritize students in foster care, provided it is safe to do so. All students should return to classrooms as soon as it is safe to do so.

School districts need to consider which students should return first. Lists can be valuable in prioritizing the return of students, but it is possible to inadvertently exclude students, so mandating a list may be problematic. Facility issues can also impact the ability of schools to safely resume in-person education.

School districts should prioritize in-person instruction for the students who need support. The opt-in provisions in the bill should be strengthened to specify that students may decline an offer to return to in-person instruction. Students in institutional education facilities should be added to the prioritized list.

Persons Testifying: (In support) Representative Caldier, prime sponsor; and Ramona Hattendorf, The Arc of King County.

(Other) Adrienne Stuart, Washington State Developmental Disabilities Council; Lucinda Young, Washington Education Association; Dawn Rains, Treehouse; and Katherine Mahoney, Office of the Superintendent of Public Instruction.

Persons Signed In To Testify But Not Testifying: None.