

ASSEMBLY, No. 5233

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED JANUARY 27, 2025

Sponsored by:

Assemblyman PAUL KANITRA

District 10 (Monmouth and Ocean)

SYNOPSIS

“Protecting Legally-Present Youngsters’ Limited Educational Resources Act”; requires students who are not U.S. citizens or legal immigrants to pay tuition to attend public schools.

CURRENT VERSION OF TEXT

As introduced.



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2

1 AN ACT establishing the “PLYLER Act,” supplementing chapter 38
2 of Title 18A of the New Jersey Statutes, and amending various
3 parts of the statutory law.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. (New section) Sections 1 through 3 of P.L. , c. (C.)
9 (pending before the Legislature as this bill) shall be known and may
10 be cited as the “Protecting Legally-Present Youngsters’ Limited
11 Educational Resources (PLYLER) Act.”

12
13 2. (New section) The Legislature finds and declares that:

14 a. In Plyler v. Doe, 457 U.S. 202 (1982), the United States
15 Supreme Court held that illegal alien children living in the United
16 States could not be excluded from a free public education based
17 upon their immigration status.

18 b. The Plyler decision circumvents the states’ authority over
19 education. The Tenth Amendment to the United States Constitution
20 provides: “The powers not delegated to the United States by the
21 Constitution, nor prohibited by it to the States, are reserved to the
22 States respectively, or to the people.”

23 c. In fact, the United States Supreme Court’s earlier decision in
24 San Antonio Indep. Sch. Dist. v. Rodriguez, 411 U.S. 1 (1973), held
25 that education is not a fundamental right afforded explicit or
26 implicit protection under the United States Constitution.

27 d. The Tenth Amendment, coupled with the Rodriguez
28 decision, makes clear that individual states are best suited to
29 determine the educational needs of their state and citizenry.

30 e. Unlike the United States Constitution, the New Jersey
31 Constitution requires the Legislature to provide for the maintenance
32 and support of a thorough and efficient system of free public
33 schools for the instruction of all the children in the State between
34 the ages of five and 18 years. But this constitutional mandate has
35 never been understood to extend beyond the citizens of the State,
36 those who are legally residing here.

37 f. According to the Migration Policy Institute, there were
38 approximately 28,000 illegal alien children enrolled in State public
39 schools in 2019.

40 g. While illegal alien children enjoy the benefit of free public
41 education, their parents often do not pay their full tax responsibility.

42 h. The illegal alien population of New Jersey has exponentially
43 grown since the Plyler decision. According to the United States
44 Department of Homeland Security, in 1990, 95,000 illegal aliens

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

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1 resided in the State; in 2000, the number grew to 221,000; and in
2 2023, 892,000 of the State's residents are illegal aliens.

3 i. As a result, the Plyler decision has cost the State billions of
4 dollars, negatively impacting the State's publicly funded education
5 system.

6 j. It is altogether fitting and proper for the Legislature to
7 exercise its reserved powers, challenge the outdated Plyler decision,
8 utilize public funds for United States citizens, and remove the
9 burden of educating illegal alien children from New Jersey
10 taxpayers.

11

12 3. (New section) a. Notwithstanding any other law, rule, or
13 regulation to the contrary, a board of education shall condition
14 enrollment in the schools of the district on the receipt of
15 documentation establishing that a child:

- 16 (1) is a citizen of the United States;
17 (2) is in the process of obtaining citizenship; or
18 (3) holds legal immigration or visa status.

19 b. Any child who is unable to submit documentation to satisfy
20 the requirement established pursuant to subsection a. of this section
21 shall be admitted to the schools of the district with the annual
22 payment of tuition, as the board prescribes pursuant to subsection c.
23 of this section, until documentation establishing the requirements of
24 subsection a. of this section is provided.

25 c. Each board of education, with the approval of the executive
26 county superintendent, shall annually establish a uniform tuition
27 amount for any child admitted to the schools of the district pursuant
28 to this section. The uniform tuition amount shall:

- 29 (1) be no less than \$1,000 per school year;
30 (2) not exceed the actual cost per pupil as determined pursuant
31 to rules prescribed by the Commissioner of Education and approved
32 by the State Board of Education; and
33 (3) be paid by the parent or guardian of the child in full prior to
34 the first day the child is scheduled to attend a school in the district.

35 d. For School Report Cards issued pursuant to section 2 of
36 P.L.1995, c.235 (C.18A:7E-2), a board of education shall report the
37 number and percentage of students who pay tuition to attend a
38 school in the district, and the amount of tuition collected each year
39 pursuant to this section.

40 e. A board of education shall post the information reported
41 pursuant to subsection d. of this section at an easily accessible
42 location on the board's Internet website and on each school of the
43 district's Internet website.

44

45 4. Section 3 of P.L.1995, c.235 (C.18A:7E-3) is amended to
46 read as follows:

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- 1 3. Report cards issued pursuant to section 2 of P.L.1995, c.235
2 (C.18A:7E-2) shall include, but not be limited to, the following
3 information for:
- 4 a. the school district and for each school within the district, as
5 appropriate:
- 6 (1) results of the elementary assessment programs;
7 (2) results of the Early Warning Test;
8 (3) results of the High School Proficiency Test;
9 (4) daily attendance records for students and professional staff;
10 (5) student graduation and dropout rates;
11 (6) annual student scores on the Scholastic Aptitude Test;
12 (7) total student enrollment, including: the number and
13 percentage of students who pay tuition to attend a school in the
14 district pursuant to section 3 of P.L. , c. (C.) (pending
15 before the Legislature as this bill); the percentage of limited English
16 proficient students[.]; the percentage of students in advanced
17 placement courses[.]; and any other school characteristics which
18 the commissioner deems appropriate;
- 19 (8) instructional resources including teacher/student ratio,
20 average class size and amount of instructional time per day, as
21 calculated by formulas specified by the commissioner;
- 22 (9) a written narrative by the school principal or a designee
23 which describes any special achievements, events, problems or
24 initiatives of the school or district;
- 25 (10) data identifying the number and nature of all reports of
26 harassment, intimidation, or bullying;
- 27 (11) indicators of student career readiness;
- 28 (12) the number and percentage of students who were chronically
29 absent, as defined in rules and regulations promulgated by the
30 Commissioner of Education within 90 days of the effective date of
31 P.L.2018, c.23 (C.18A:38-25.1 et al.), including the number and
32 percentage of students who were chronically absent disaggregated
33 by multiple student subgroups to be determined by the
34 commissioner;
- 35 (13) the number, percentage, and demographics, including race,
36 gender, disability, grade level, and eligibility for free or reduced-
37 price lunch under the National School Lunch Program, of students
38 who received one or more suspensions or expulsions or who were
39 reported to or arrested by law enforcement, by category of offense,
40 pursuant to the provisions of the Uniform State Memorandum of
41 Agreement Between Education and Law Enforcement Officials;
42 **[and]**
- 43 (14) the number of school psychologists, school counselors,
44 social workers, student assistance coordinators, and other mental
45 health professionals employed by, or under contract with, the school
46 district to provide mental health services to students, and the ratio
47 of students to the total number of mental health professionals
48 providing services in the school and the district; **[and]**

1 (15) the number of school safety specialists; and
 2 (16) the amount of tuition collected each year pursuant to section
 3 3 of P.L. , c. (C.) (pending before the Legislature as this
 4 bill); and

5 b. the school district, as appropriate:

6 (1) per pupil expenditures and State aid ratio;

7 (2) percent of budget allocated for salaries and benefits of
 8 administrative personnel;

9 (3) percent of budget allocated for salaries and benefits of
 10 teachers;

11 (4) percentage increase over the previous year for salaries and
 12 benefits of administrative and instructional personnel;

13 (5) the number of administrative personnel and the ratio of
 14 administrative personnel to instructional personnel;

15 (6) a profile of the most recent graduating class concerning
 16 their educational or employment plans following graduation; and

17 (7) any other information which the commissioner deems
 18 appropriate.

19 For the purposes of this section, the **【Commissioner of**
 20 **Education】** commissioner shall establish a uniform methodology for
 21 the reporting of the data concerning administrative personnel on a
 22 full-time equivalent basis.

23 (cf: P.L.2021, c.387, s.1)

24

25 5. N.J.S.18A:38-1 is amended to read as follows:

26 18A:38-1. Public schools shall be free to the following persons
 27 over five and under 20 years of age:

28 a. Any person who is a citizen of the United States, in the
 29 process of obtaining citizenship, or holds legal immigration or visa
 30 status, and is domiciled within the school district;

31 b. (1) Any person who is kept in the home of another person
 32 domiciled within the school district and is supported by **【such】** the
 33 other person gratis as if he were 【such】 like the other person's own
 34 child, upon filing by 【such】 the other person with the secretary of
 35 the board of education of the district, if so required by the board, a
 36 sworn statement that he is domiciled within the district and is
 37 supporting the child gratis and will assume all personal obligations
 38 for the child relative to school requirements and that he intends so
 39 to keep and support the child gratuitously for a longer time than
 40 merely through the school term, and a copy of his lease if a tenant,
 41 or a sworn statement by his landlord acknowledging his tenancy if
 42 residing as a tenant without a written lease, and upon filing by the
 43 child's parent or guardian with the secretary of the board of
 44 education a sworn statement that he is not capable of supporting or
 45 providing care for the child due to a family or economic hardship
 46 and that the child is not residing with the resident of the district
 47 solely for the purpose of receiving a free public education within
 48 the district. The statement shall be accompanied by documentation

1 to support the validity of the sworn statements, information from or
2 about which shall be supplied only to the board and only to the
3 extent that it directly pertains to the support or nonsupport of the
4 child. If in the judgment of the board of education the evidence
5 does not support the validity of the claim by the resident, the board
6 may deny admission to the child. The resident may contest the
7 board's decision to the commissioner within 21 days of the date of
8 the decision and shall be entitled to an expedited hearing before the
9 commissioner on the validity of the claim and shall have the burden
10 of proof by a preponderance of the evidence that the child is eligible
11 for a free education under the criteria listed in this subsection. The
12 board of education shall, at the time of its decision, notify the
13 resident in writing of his right to contest the board's decision to the
14 commissioner within 21 days. No child shall be denied admission
15 during the pendency of the proceedings before the commissioner.
16 In the event the child is currently enrolled in the district, the student
17 shall not be removed from school during the 21-day period in which
18 the resident may contest the board's decision nor during the
19 pendency of the proceedings before the commissioner. If in the
20 judgment of the commissioner the evidence does not support the
21 claim of the resident, he shall assess the resident tuition for the
22 student prorated to the time of the student's ineligible attendance in
23 the school district. Tuition shall be computed on the basis of 1/180
24 of the total annual per pupil cost to the local district multiplied by
25 the number of days of ineligible attendance and shall be collected in
26 the manner in which orders of the commissioner are enforced.
27 Nothing shall preclude a board from collecting tuition from the
28 resident, parent or guardian for a student's period of ineligible
29 attendance in the schools of the district where the issue is not
30 appealed to the commissioner;

31 (2) If the superintendent or administrative principal of a school
32 district finds that the parent or guardian of a child who is attending
33 the schools of the district is not domiciled within the district and the
34 child is not kept in the home of another person domiciled within the
35 school district and supported by him gratis as if the child was the
36 person's own child as provided for in paragraph (1) of this
37 subsection, the superintendent or administrative principal may
38 apply to the board of education for the removal of the child. The
39 parent or guardian shall be entitled to a hearing before the board
40 and if in the judgment of the board the parent or guardian is not
41 domiciled within the district or the child is not kept in the home of
42 another person domiciled within the school district and supported
43 by him gratis as if the child was the person's own child as provided
44 for in paragraph (1) of this subsection, the board may order the
45 transfer or removal of the child from school. The parent or
46 guardian may contest the board's decision before the commissioner
47 within 21 days of the date of the decision and shall be entitled to an
48 expedited hearing before the commissioner and shall have the

1 burden of proof by a preponderance of the evidence that the child is
2 eligible for a free education under the criteria listed in this
3 subsection. The board of education shall, at the time of its decision,
4 notify the parent or guardian in writing of his right to contest the
5 decision within 21 days. No child shall be removed from school
6 during the 21-day period in which the parent may contest the
7 board's decision or during the pendency of the proceedings before
8 the commissioner. If in the judgment of the commissioner the
9 evidence does not support the claim of the parent or guardian, the
10 commissioner shall assess the parent or guardian tuition for the
11 student prorated to the time of the student's ineligible attendance in
12 the schools of the district. Tuition shall be computed on the basis
13 of 1/180 of the total annual per pupil cost to the local district
14 multiplied by the number of days of ineligible attendance and shall
15 be collected in the manner in which orders of the commissioner are
16 enforced. Nothing shall preclude a board from collecting tuition
17 from the parent or guardian for a student's period of ineligible
18 attendance in the schools of the district where the issue is not
19 appealed to the commissioner;

20 The provisions of this section requiring proof of support, custody
21 or tenancy shall not apply to a person keeping a child in his home
22 whose parent or guardian is a member of the New Jersey National
23 Guard or a member of the reserve component of the armed forces of
24 the United States and who has been ordered into active military
25 service in any of the armed forces of the United States in time of
26 war or national emergency. In **【such a】** that situation, the child
27 shall be eligible to enroll in the district in which he is being kept,
28 and no tuition shall be charged by the district. Following the return
29 of the child's parent or guardian from active military service, the
30 child's eligibility for enrollment without tuition in the district in
31 which he or she is being kept shall cease at the end of the current
32 school year;

33 c. Any person who fraudulently allows a child of another
34 person to use his residence and is not the primary financial
35 supporter of that child and any person who fraudulently claims to
36 have given up custody of his child to a person in another district
37 commits a disorderly persons offense;

38 d. Any person whose parent or guardian, even though not
39 domiciled within the district, is residing temporarily therein, but
40 any person who has had or shall have his all-year-round dwelling
41 place within the district for one year or longer shall be deemed to be
42 domiciled within the district for the purposes of this section;

43 e. Any person for whom the Division of Youth and Family
44 Services in the Department of Children and Families is acting as
45 guardian and who is placed in the district by the division;

46 f. Any person whose parent or guardian moves from one
47 school district to another school district as a result of being
48 homeless and whose district of residence is determined pursuant to

1 section 19 of P.L.1979, c.207 (C.18A:7B-12). On or before
2 December 31 of each year, a public school shall report to the Office
3 of Homelessness Prevention in the Department of Community
4 Affairs an accounting of each instance in which the public school is
5 made aware that a student enrolled in the public school because the
6 student's parent or guardian moved from one school district to
7 another school district as a result of being homeless.

8 (cf: P.L.2019, c.73, s.4)

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10 6. Section 1 of P.L.2015, c.161 (C.18A:38-1.3) is amended to
11 read as follows:

12 1. a. In the case of a dispute between a school district and the
13 parents or guardians of a student in regard to a student's eligibility
14 to enroll in the district or to remain enrolled in the district pursuant
15 to the provisions of N.J.S.18A:38-1, the school district may request
16 from the New Jersey Motor Vehicle Commission the parent or
17 guardian's name and address for use in verifying a student's
18 eligibility for enrollment in the school district.

19 b. The New Jersey Motor Vehicle Commission shall disclose to
20 a school district the information requested pursuant to subsection a.
21 of this section in accordance with procedures established by the
22 commission.

23 c. A school district shall not condition enrollment in the district
24 on **[immigration status or on]** the fact that the commission does not
25 have the name or address of the parent or guardian on file.

26 (cf: P.L.2019, c.310, s.1)

27

28 7. N.J.S.18A:38-5.1 is amended to read as follows:

29 18A:38-5.1. No child between the ages of four and 20 years
30 shall be excluded from any public school on account of his race,
31 creed, color, national origin, ancestry, or other protected category
32 under subsection f. of section 11 of P.L.1945, c.169 (C.10:5-12), or
33 immigration status except that this provision shall not be construed
34 to limit the enrollment conditions established pursuant to section 3
35 of P.L. , c. (C.) (pending before the Legislature as this
36 bill). A member of any board of education who shall vote to
37 exclude from any public school any child, on account of his race,
38 creed, color, national origin, ancestry, or other protected category
39 under subsection f. of section 11 of P.L.1945, c.169 (C.10:5-12), or
40 immigration status except that this provision shall not be construed
41 to limit the enrollment conditions established pursuant to section 3
42 of P.L. , c. (C.) (pending before the Legislature as this
43 bill), shall be guilty of a disorderly persons offense.

44 (cf: P.L.2019, c.311, s.1)

45

46 8. This act shall take effect immediately and shall first apply to
47 the first full school year following the date of enactment.

STATEMENT

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2
3 This bill, entitled the “Protecting Legally-Present Youngsters’
4 Limited Educational Resources (PLYLER) Act,” provides that the
5 State’s free public schools are for U.S. citizens. It further requires
6 students who are not United States citizens, in the process of
7 obtaining citizenship, or holding legal immigration or visa status to
8 pay tuition to attend a public school.

9 The bill requires a board of education to condition enrollment in
10 the schools of the district on the receipt of documentation
11 establishing a child is a citizen of the United States, is in the
12 process of obtaining citizenship, or holds legal immigration or visa
13 status. If the documentation is not provided, the child is required to
14 be admitted to the schools of the district with the annual payment of
15 tuition.

16 Each board of education, with the approval of the executive
17 county superintendent, is required to establish a uniform tuition
18 amount. Under the bill, the uniform tuition amount is:

- 19
- 20 • not to be less than \$1,000 per school year;
 - 21 • not to exceed the actual cost per pupil as annually
22 established by the Commissioner of Education and approved
23 by the State Board of Education; and
 - 24 • required to be paid by the parent or guardian of the child in
25 full prior to the first day the child is scheduled to attend a
26 school in the district.

27 The bill further requires the board of education to report through
28 the School Report Card Program the number and percentage of
29 students who pay tuition to attend a school in the district for failing
30 to establish the citizenship requirement established under the bill,
31 and amount of tuition collected each year. Additionally, the bill
32 amends various sections of current law to comply with the
33 citizenship requirement established under the bill.

34 This bill directly challenges the constitutionality of the Plyler v.
35 Doe decision. In Plyler, the United States Supreme Court held that
36 illegal alien children living in the United States could not be
37 excluded from a free public education if offered to legal resident
38 children. The Plyler decision circumvents the states’ authority over
39 education and has cost the State billions of dollars as illegal alien
40 children benefit from a free public education, but their parents often
41 do not pay their full tax responsibility. It is the sponsor’s intent to
42 authorize the Legislature to exercise its reserved powers, challenge
43 the outdated Plyler decision, utilize public funds for United States
44 citizens, and remove the burden of educating illegal alien children
from New Jersey taxpayers.