

2-8-1980

Burden Of Proof In Pupil School Assignment And Pupil Busing Cases

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Office of the Secretary of State
March Fong Eu

1230 J Street
Sacramento, California 95814

Elections Division
(916) 445-0820

July 9, 1980

TO: ALL REGISTRARS OF VOTERS/COUNTY CLERKS/PROPONENT

FROM: CASHMERE M. APPERSON - ELECTIONS TECHNICIAN

Pursuant to Elections Code 3520(b) you are hereby notified that the total number of signatures to the hereinafter named proposed Initiative Statute filed with all county clerks is less than 100 percent of the number of qualified voters required to find the petition sufficient.

TITLE: BURDEN OF PROOF IN PUPIL SCHOOL
ASSIGNMENT AND PUPIL BUSING CASES

SUMMARY DATE: FEBRUARY 8, 1980

PROPONENT: HONORABLE ALAN ROBBINS

The petition has failed and no further action is necessary.



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1230 J Street
Sacramento, California 95814

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(916) 445-0820

February 8, 1980

TO ALL COUNTY CLERKS/ REGISTRARS OF VOTERS

Pursuant to Section 3513 of the Elections Code, there is transmitted herewith a copy of the Title and Summary prepared by the Attorney General on a proposed Initiative Measure entitled:

BURDEN OF PROOF IN PUPIL SCHOOL ASSIGNMENT
AND PUPIL BUSING CASES
INITIATIVE STATUTE

Circulating and Filing Schedule

- 1. Minimum number of signatures required 346,119
Constitution II, 8 (b)
- 2. Official Summary Date Friday, 2/08/80
Elections Code Section 3513.
- 3. Petition Sections:
 - a. First day Proponent can circulate
Sections for signatures Friday, 2/08/80
Elections Code Section 3513.
 - b. Last day Proponent can circulate and
file with the county. All Sections are
to be filed at the same time within
each county Monday, 7/07/80 *
Elections Code Sections 3513, 3520 (a).
 - c. Last day for county to determine total
number of signatures affixed to petition
and to transmit total to the Secretary
of State Monday, 7/14/80

(If the Proponent files the petition with the county on a date prior to 7/07/80, the county has 5 working days from the filing of the petition to determine the total number of signatures affixed to the petition and to transmit this total to the Secretary of State).
Elections Code Section 3520 (b).

* PLEASE NOTE: To Proponent(s) who wish to qualify for the 1980 General Election. The law allows up to 55 days to county election officials for checking and reporting petition signatures. The law also requires that this process be completed 131 days before the election in which the people will vote on any initiative. It is possible that the county may not need the whole 55 days. But if you want to be sure that this initiative qualifies for the 1980 General Election, you should file this petition with the county by May 1, 1980.

- d. Last day for county to determine number of qualified electors who have signed the petition, and to transmit certificate with a blank copy of the petition to the Secretary of State Tuesday, 7/29/80
(If the Secretary of State notifies the counties to determine the number of qualified electors who signed the petition on a date prior to 7/14/80, the last day is not later than the fifteenth day after the notification). Elections Code Section 3520 (d), (e).

- e. If the signature count is between 311,507 and 380,731, then the Secretary of State notifies counties using the random sampling technique to determine validity of all signatures.

Last day for county to determine actual number of all qualified electors who signed the petition, and to transmit certificate with a blank copy of the petition to the Secretary of State Thursday, 8/28/80

(If the Secretary of State notifies the counties to determine the number of qualified electors who have signed the petition on a date prior to 7/29/80, the last day is not later than the thirtieth day after the notification). Elections Code Section 3521 (b), (c).

4. Campaign Statements:

Last day for Proponent to file a Campaign Statement of Receipts and Expenditures for period ending 8/04/80 Monday, 8/11/80

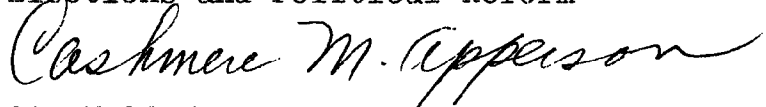
(If the Secretary of State finds that the measure has either qualified or failed to qualify on a date earlier than 7/07/80, the last date to file is the 35th calendar day after the date of notification by the Secretary of State that the measure has either qualified or failed to qualify. The closing date for this campaign statement is 7 days prior to the filing deadline).
Government Code Section 84204.

5. The proponent of the above named measure is:

Honorable Alan Robbins
State Senator
6320 Van Nuys Boulevard, #404
Van Nuys, CA 91401
(213) 988-5894

Sincerely,

WILLIAM N. DURLEY
Assistant to the Secretary of State
Elections and Political Reform



CASHMERE M. APPERSON
Elections Technician

CMA:rb

NOTE TO PROPONENT (S): Your attention is directed to Elections Code Sections 41, 44, 3501, 3507, 3508, 3516, 3517, and 3519 for appropriate format and type considerations in printing, typing, and otherwise preparing your initiative petition for circulation and signatures. Your attention is further directed to the campaign disclosure and petition circulating requirements of the Political Reform Act of 1974, Government Code Sections 81000 et seq.

DECLARATION OF SERVICE BY MAIL

I, **MARILYN THIELEN**, declare as follows:
I am over the age of 18 years, and not a party to the
within action; my place of employment and business address
is 555 Capitol Mall, Suite 350, Sacramento, California
95814.

On **February 8, 1980**, I served the
attached **letter addressed to Honorable March Fong Eu, Secretary
of State, dated**, re: **Initiative Statutory
Amendment - Burden of Proof in Busing Cases,**

by placing a true copy thereof in an envelope addressed to
each of the persons named below at the address set out
immediately below each respective name, and by sealing and
depositing said envelope in the United States Mail at
Sacramento, California, with postage thereon fully prepaid.
There is delivery service by United States Mail at each of
the places so addressed, or there is regular communication
by mail between the place of mailing and each of the places
so addressed:

**Honorable Alan Robbins
State Senator
6320 Van Nuys Boulevard, No. 404
Van Nuys, California 91401**

Telephone: (213) 988-5894

I declare under penalty of perjury that the foregoing
is true and correct.

Executed on **February 8, 1980**, at **Sacramento,**
California.


Declarant **MARILYN THIELEN**



State of California
Department of Justice
George Deukmejian
(PRONOUNCED DUKE-MAY-GIN)
Attorney General

555 CAPITOL MALL, SUITE 350
SACRAMENTO 95814
(916) 445-9555

February 8, 1980

FILED
In the office of the Secretary of State
of the State of California

FEB - 8 1980

MARCH FONG EU, Secretary of State

By *C. S. Anderson*

Honorable March Fong Eu
Secretary of State
1230 J Street
Sacramento, California 95814

Attention: Rico Nannini

Re: Initiative Statutory Amendment - Burden of
Proof in Busing Cases

Dear Mrs. Eu:

Pursuant to the provisions of sections 3503 and 3513 of the Elections Code, you are hereby informed that on this day we mailed to Alan Robbins, as proponent, the following title and summary:

BURDEN OF PROOF IN PUPIL SCHOOL ASSIGNMENT AND PUPIL BUSING CASES. INITIATIVE STATUTORY AMENDMENT. Requires those who seek by any action or proceeding to enforce any provision of the California Constitution by means of pupil school assignment or pupil busing to have the burden of proof in establishing the existence or nonexistence of each fact necessary to justify the granting or continuation of such relief. Prohibits use of presumptions, inferences, or any other procedure which would shift or modify this burden at any stage of the proceeding. Applies to actions and proceedings pending on date of passage or commenced thereafter. Financial impact on state or local government: Indeterminable.

Enclosed herewith is a declaration of mailing and a copy of the proposed measure.

Honorable March Fong Eu

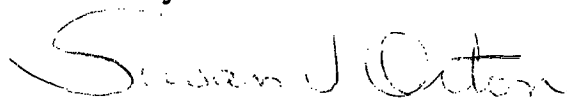
-2-

February 8, 1980

According to information available in our records, the address and phone number of the proponent of this measure are as stated on the declaration of mailing.

Very truly yours,

George Deukmejian
Attorney General

A handwritten signature in cursive script, reading "Susan J. Orton".

Susan J. Orton
Deputy Attorney General

SJO:rr
Enclosures

AMENDED IN SENATE AUGUST 27, 1979

AMENDED IN SENATE AUGUST 20, 1979

SENATE BILL

No. 1244

Introduced by Senator Robbins
(Coauthors: Senators Briggs, Campbell, Carpenter, Craven,
Cusanovich, Alex Garcia, Russell, Schmitz, Speraw, and
Wilson)

July 19, 1979

An act to add Section 523 to the Evidence Code, relating to burden of proof, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 1244, as amended, Robbins. Burden of proof.

Existing state law provides that a party has the ultimate burden of proof as to each fact the existence or nonexistence of which is essential to the claim that is being asserted. Existing law also specifies that a presumption is an assumption of fact that the law requires to be made from another fact or group of facts found or otherwise established in the action; and creates presumptions affecting the burden of proof, although a presumption is not evidence. The effect of such a presumption is to impose upon the party against whom it operates the burden of proof as to the nonexistence of the presumed fact. Existing law also specifies that an inference is a deduction of fact that may logically and reasonably be drawn from another fact or group of facts found or otherwise established in the action.

This bill, in addition, would provide that the burden of proof, in specified actions concerning the use of pupil school assignment or pupil transportation in order to enforce any provision of the California Constitution, may not be shifted, ameliorated, or modified by any presumption, inference, or

other rule of procedure.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

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

1 SECTION 1. Section 523 is added to the Evidence
2 Code, to read:

3 523. Prevention of Unnecessary Forced Busing of School Children.

4 In any action or proceeding seeking or otherwise
5 involving the imposition or continuation in effect upon
6 the State of California or any public entity, board, or
7 official of any obligation or responsibility with respect to
8 the use of pupil school assignment or pupil transportation
9 in order to enforce any provision of the California
10 Constitution, the party or parties seeking the imposition
11 or continuation in effect of any such obligation or
12 responsibility has the burden of proof as to each fact the
13 existence or nonexistence of which is necessary to the
14 granting or continuation in effect of such relief, and no
15 presumption, inference, or other rule or procedure
16 shifting, ~~ameliorating~~, or modifying this burden of proof
17 may be imposed or applied at any stage of such action or
18 proceeding. *This section shall apply to all actions and*
19 *proceedings pending as of the date of passage by the electorate, or*
commenced after that date.

As a short-form title, this provision may be referred
to as the "Prevention of Unnecessary Forced Busing of
School Children Act"