

ENROLLED SENATE
BILL NO. 1024

BY: WILLIAMS (Penny) and CAIN of the
SENATE

and

LARASON, CAMPBELL, JOHNSON (Rob),
WEAVER, RHOADS (Karroll), BOECKMAN
and DAVIS of the HOUSE

AN ACT RELATING TO CHILDREN AND SCHOOLS;
AMENDING 10 O.S. 1991, SECTIONS 601.45 AND
601.46, AND 70 O.S. 1991, SECTIONS 1-113, 1-114,
10-105, 1210.282 AND 13-114.3, WHICH RELATE TO
THE ACT FOR COORDINATION OF SPECIAL SERVICES TO
CHILDREN AND YOUTH, RESIDENCE OF CHILD FOR
SCHOOL PURPOSES, SCHOOL ATTENDANCE, THE OKLAHOMA
SPECIAL EDUCATION ASSISTANCE FUND AND SCREENING
FOR SCHOOL READINESS; CHANGING CERTAIN DATES OF
COMPLIANCE; ADDING CERTAIN DUTIES TO CERTAIN
COUNCIL; REQUIRING CERTAIN REPORT; PROVIDING
CERTAIN DEFINITIONS; CLARIFYING LANGUAGE;
DELETING OBSOLETE LANGUAGE; ASSIGNING CERTAIN
RESPONSIBILITIES TO STATE BOARD OF EDUCATION;
DELETING CERTAIN REQUIREMENTS RELATING TO
TUITION FOR EARLY CHILDHOOD EDUCATION; EXEMPTING
CERTAIN CHILDREN FROM KINDERGARTEN ATTENDANCE
UPON CERTAIN STATEMENT OF PARENT OR GUARDIAN;
MODIFYING CERTAIN SCREENING PROCEDURE; MODIFYING
USE OF OKLAHOMA SPECIAL EDUCATION ASSISTANCE
FUND; REQUIRING CERTAIN STUDY BY CERTAIN
LEGISLATIVE COMMITTEE; REQUIRING CERTAIN REPORT;
PROVIDING FOR NONCODIFICATION; AND DECLARING AN
EMERGENCY.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 10 O.S. 1991, Section 601.45, is
amended to read as follows:

Section 601.45 A. The Governor shall appoint an Interagency
Coordinating Council for Special Services to Children and Youth
which shall be composed of eighteen (18) members as follows:

1. One superintendent of an independent school district;
2. One principal of alternative education programs;
3. One special education director employed by a public school;
4. One special education teacher employed by a public school;
5. Five parents of children who are or have been members of the
eligible population or the special services population;
6. The chief executive officers or their designees of the:
 - a. Commission on Children and Youth,
 - b. State Department of Education,
 - c. State Department of Vocational and Technical
Education,
 - d. Department of Human Services,

e. Department of Mental Health and Substance Abuse Services, and

f. State Department of Health;

7. Two persons who represent organizations of private providers of services to the eligible or special services populations; and

8. The Governor or the Governor's designee, who shall chair the Coordinating Council. Legal assistance shall be provided by the Office of the Attorney General. Other staff support and assistance shall be provided by the Commission on Children and Youth.

B. The Coordinating Council shall:

1. On or before ~~November 1, 1991~~ July 1, 1993, complete the State Plan pursuant to the provisions of Section 601.46 of this title;

2. Prior to completion of the State Plan and approval of it by the Committee, make progress reports to the Committee at least once each quarter regarding development of the State Plan; ~~and~~

3. After approval of the State Plan, monitor implementation of the plan, evaluate the plan, meet with the Committee concerning revisions whenever requested to do so, and on or before November 1, 1994, and November 1 of each subsequent year, submit a report on the implementation and evaluation of the State Plan to the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives.

SECTION 2. AMENDATORY 10 O.S. 1991, Section 601.46, is amended to read as follows:

Section 601.46 A. The State Plan for Special Education and Special Student Service Coordination and Assistance shall include but not necessarily be limited to:

1. Delineation of service responsibilities and coordination of delivery of services to the eligible population and the special services population by the agencies subject to the provisions of this act;

2. Guidelines for assigning responsibilities to appropriate agencies pursuant to IEP's, and means whereby appropriate agency personnel are involved in the development of IEP's which call for related services;

3. Establishment of service regions, and delineation of organizational structures or other means whereby coordination required by Section 601.41 et seq. of this title will be accomplished at the local and regional level;

4. Establishment for each region of a Regional Advisory Board comprised of school personnel, other agency personnel, and parents, and description of duties for said boards;

5. Procedures for monitoring and improving such service delivery on a continuing basis;

6. Methods for resolving disputes by mediation and other means; and

7. A funding and implementation plan which shall provide for the utilization of all financial resources from federal, state, local and private resources and the coordination of those resources to fund related services. The funding and implementation plan shall include but not be limited to:

a. utilization of Special Education Assistance Fund monies pursuant to Section 13-114.1 et seq. of Title 70 of the Oklahoma Statutes and of State Aid funds to public schools provided pursuant to Section 18-200 et seq. of Title 70 of the Oklahoma Statutes for special education services to handicapped children,

b. publicly funded personnel and programs in the State Department of Education, the State Department of

Vocational and Technical Education, the State Department of Health, the Department of Human Services and the Department of Mental Health and Substance Abuse Services who are currently serving the eligible population,

- c. feasibility of utilization of federal Title V funds,
- d. modification of the Medicaid State Plan to include services for eligible children utilizing state funds for the purpose of matching federal funds, and methods of securing services and reimbursements through other third-party sources, and
- e. feasibility of application for federal funds appropriated pursuant to Chapter 1 of the Education Consolidation and Improvement Act of 1981, P.L. 89-313, as amended.

B. On or before ~~November 1, 1991~~ July 1, 1994, the agencies subject to the provisions of this act shall enter into interagency agreements for the purpose of implementing the State Plan and the provisions of Section 601.41 et seq. of this title. Said state and local interagency agreements shall delineate responsibility for local and regional procedural safeguards, provision of service and related issues.

C. On or before ~~November 1, 1991~~ September 1, 1993, and each September 1 thereafter, a joint funding plan shall be submitted to the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives by the agencies subject to the provisions of this act. The individual components of such plan as they relate to individual agencies shall be incorporated annually into each affected agency's budget request in accordance with the provisions of Section 41.29 of Title 62 of the Oklahoma Statutes.

D. The legal requirements for timely payment and reimbursement for services under contract pursuant to Sections 41.4a through 41.4d of Title 62 of the Oklahoma Statutes shall govern the services, programs and activities for the implementation of Section 601.41 et seq. of this title.

SECTION 3. AMENDATORY 70 O.S. 1991, Section 1-113, is amended to read as follows:

Section 1-113. A. ~~The~~ When used in this section, unless the context otherwise requires, the residence of any child for school purposes shall be:

- 1. The school district in which the parents, guardian, or person having the care and custody of the child holds legal residence, if the parents, guardian, or person contributes in major degree to the support of such child; or
- 2. The foster care home, as defined in Section 25 of Title 10 of the Oklahoma Statutes, in which the child has been placed:
 - a. by the person or agency having legal custody of the child pursuant to a court order, or
 - b. by a state agency having legal custody of the child pursuant to the provisions of Title 10 of the Oklahoma Statutes; or
- 3. Any orphanage or eleemosynary child care facility having full-time care and custody; or
- 4. Any state-operated institution in which a child has been placed by a parent or guardian or by a state agency having legal custody of the child pursuant to the provisions of Title 10 of the Oklahoma Statutes for care and treatment due to a physical or mental condition of the child; or
- 5. The district in which a child who is supporting himself entirely by his own efforts resides and attends school; or

6. The legal residence of the parents or guardian of a child who has been placed in a public or private residential child care or treatment facility, voluntarily by a parent or guardian, or by court order, or by a state agency having legal custody.

B. Except as otherwise provided in this section no school district in which a public or private residential child care or treatment facility is located shall bear the costs of educating any child voluntarily placed by a parent or guardian in the facility unless a transfer has been approved for the child from the district in which the child has legal residence. No school district shall bear the costs of educating children placed in any state-operated institution; provided, a school district may furnish educational services pursuant to contract with such institution as elsewhere provided by law.

C. A transfer shall not be required for a child who is placed in a public or private residential child care or treatment facility by court order or by a state agency having legal custody or for a child who is placed in a public or private residential child care or treatment facility voluntarily by a parent or guardian for the purpose of alcohol or drug treatment if such child is certified as in need of such treatment by a physician in a statement provided by the parent or guardian to the public or private residential child care or treatment facility to the school district providing educational services and to the school district of legal residence. The district in which the child has legal residence for school purposes shall bear the financial responsibility as defined in Section 18-110 of this title for the child for whom a transfer is not required pursuant to the provisions of this subsection.

D. ~~Whenever~~ Except for children for whom no transfer is required pursuant to subsection C of this section, whenever a child is voluntarily placed without a transfer in a public or private residential child care or treatment facility by a parent or guardian, the facility shall, if the child contends he resides in a district other than the district where the facility is located, immediately upon admittance:

1. inform the parent or guardian that the parent or guardian must immediately apply for a transfer from the school district in which the child contends he resides to the school district in which the facility is located; and

2. notify the district in which the facility is located of the admittance.

The district of residence shall be responsible for the educational costs as defined in Section 18-110 of this title until the district of residence acts to approve or disapprove the transfer. Action to approve or disapprove the transfer shall be taken within thirty (30) days of the child's admittance to the facility.

If, however, from failure of the parent or guardian to make proper application for transfer, no transfer is approved within thirty (30) days of the child's admittance to the facility, the district of residence shall not be required to pay the educational costs for any time beyond thirty (30) days that the child remains in the facility; rather, such costs shall be the responsibility of the facility or parent or guardian. Access to the due process procedure guaranteed to ~~handicapped~~ children with disabilities shall be available to resolve disagreements about the appropriateness of placements of ~~handicapped~~ children with disabilities.

E. The governing body of any state institution operated pursuant to the provisions of Sections 1401 through 1424 of Title 10 of the Oklahoma Statutes or Sections 31 through 36 and Section 50 of

Title 43A of the Oklahoma Statutes and the board of education of the school district in which the institution is located or any other school district in the state willing to provide necessary educational services may enter into a contract whereby the district will maintain a school for the children of the institution, in which event the residence of such children for school purposes will be considered as being in the district maintaining the school. The governing body of the state institutions specified in this subsection shall pay the costs for educating students placed in the state institution less any amount of funds received for such students by the school district contracting with the state institution to provide necessary educational services.

F. The school district in which a public or private residential child care or treatment facility is located shall, upon request of the individual or agency operating the facility, contract to provide the educational services to which the residents are entitled.

G. Any question as to the place of residence of any child for school purposes shall be decided ~~by the county superintendent of schools of the county in which the pupil contends he resides~~ pursuant to procedures adopted by the State Board of Education. If ~~the county superintendent determines that~~ the place of residence for any child as defined in paragraph 6 of subsection A of this section ~~does not exist~~ cannot be determined, the legal residence of such child for school purposes shall be the district in which such public or private child care or treatment facility is located.

SECTION 4. AMENDATORY 70 O.S. 1991, Section 1-114, is amended to read as follows:

Section 1-114. A. All children between the ages of five (5) years on or before September 1, and twenty-one (21) years on or before September 1, shall be entitled to attend school free of charge in the district in which they reside. Provided that children who have reached the age of five (5) years on or before September 1 of the school year may be admitted to kindergarten classes approved by the State Board of Education. Beginning with the 1990-91 school year, all children who are at least four (4) years of age on or before September 1 and who have not attended a public school kindergarten shall be entitled to attend early childhood programs at any public school in the state where such programs are offered; provided no child shall be required to attend any early childhood education program. Children who meet the qualifications for federally sponsored Head Start programs shall be entitled to attend free of charge and shall be given priority for acceptance into the early childhood programs over children who do not meet the qualifications for the federally sponsored Head Start programs. Those children who do not meet the qualifications for a federally sponsored Head Start program shall be accepted into a program based on the date of receipt of application and upon payment of a sliding scale tuition which shall be set by the local board of education of the district where the child has applied to attend. For purposes of calculation of State Aid, no child in an early childhood education program who does not meet the qualifications for federally sponsored Head Start programs shall be included in the average daily membership of the district providing the program. For those early childhood program students who qualify to be included in the average daily membership of the school district for State Aid funding, the weight shall be limited to the early childhood grade weight, as provided in Section 18-201 of this title, for purposes of reimbursement for early childhood programs. Except as otherwise provided by law, no child shall be enrolled in the first grade unless he or she will have reached the age of six (6) years on or

before September 1 of the school year. Children who have not reached the age of five (5) years on or before September 1 may be admitted to nursery or early childhood education classes approved by the State Board of Education and conducted by the school district in which the child resides. A child accepted for enrollment in an early childhood education program outside of the district of residence shall be eligible for transfer to a district where such program is offered. Provided, however, any receiving district may object to a proposed transfer on the grounds that said district does not have the physical facilities or the teaching personnel to accommodate the kindergarten student, early childhood education student or students proposed to be transferred. Children who are underage not in attendance in a kindergarten or nursery or early childhood education class approved by the State Board of Education may be admitted to the schools of such district ~~on a tuition basis only; and no~~ if class size of such schools permit. No such nonresident and nontransferred pupil, ~~or any such underage pupil,~~ shall be allowed to attend school in any school district unless there shall have been paid in advance yearly or by semester as determined by the local board of education, to such district, before such attendance during any period, a tuition fee equal to the per capita cost of education for a similar period in such district during the preceding year. Provided, tuition shall not be required for attendance in the first grade if ~~tuition was paid on~~ an underage child was authorized pursuant to this section to attend an accredited kindergarten in the same school district, and such first grade attendance shall be a legal attendance. If the State Board of Education discovers that such attendance has been allowed without prior payment of the tuition fee in advance as herein required, no further payment of any State Aid Funds shall be made to the district until such district has shown to the satisfaction of the State Board of Education that all such tuition fees have been paid or that such tuition pupil will no longer be allowed to attend school until the required tuition fee has been paid.

B. Any parent, guardian, person or institution having care and custody of a child who pays ad valorem tax on real property in any other school district other than that in which he resides may, with the approval of the receiving board, enroll the child in any school district in which ad valorem tax is paid and receive a credit on the nonresident tuition fee equal to the amount of the ad valorem tax paid for school district purposes in the school district in which the child is enrolled. Provided, the credit shall not exceed the total amount required for the tuition payment.

SECTION 5. AMENDATORY 70 O.S. 1991, Section 10-105, is amended to read as follows:

Section 10-105. A. ~~Prior to the 1991-92 school year, it shall be unlawful for a parent, guardian, custodian or other person having control of a child who is over the age of seven (7) years and under the age of eighteen (18) years, and who has not finished four (4) years of high school work, to neglect or refuse to cause or compel such child to attend and comply with the rules of some public, private or other school, unless other means of education are provided for the full term the schools of the district are in session.~~

B. ~~Beginning with the 1991-92 school year, it~~ It shall be unlawful for a parent, guardian, ~~custodian~~ or other person having ~~control~~ custody of a child who is over the age of five (5) years, unless such child has been screened as provided for in Section ~~1210.282 of this title and such child is determined not to be ready for kindergarten,~~ and under the age of eighteen (18) years, to

neglect or refuse to cause or compel such child to attend and comply with the rules of some public, private or other school, unless such child has been screened as provided for in Section 1210.282 of this title and such child is determined not to be ready for kindergarten, or a parent, guardian, or other person having custody of the child, provides by certified mail prior to enrollment or at any time during that first year, notification of election to withhold the child from kindergarten until the next school year after the child is six (6) years of age, or unless other means of education are provided for the full term the schools of the district are in session. ~~Beginning with the 1991-92 school year, one-half~~ One-half (1/2) day of kindergarten shall be required of all children five (5) years of age or older as appropriately provided for by Section 1210.282 of this title, or as otherwise excepted from same by this section. A kindergarten program shall be directed toward developmentally appropriate objectives for such children. The program shall require that any teacher employed on and after January 1, 1993, to teach a kindergarten program within the public school system shall be certified in early childhood education. All teachers hired to teach a kindergarten program within the public school system prior to January 1, 1993, shall be required to obtain certification in early childhood education on or before the 1996-97 school year in order to continue to teach a kindergarten program.

~~C.~~ B. It shall be unlawful for any child who is over the age of sixteen (16) years and under the age of eighteen (18) years, and who has not finished four (4) years of high school work, to neglect or refuse to attend and comply with the rules of some public, private or other school, or receive an education by other means for the full term the schools of the district are in session.

Provided, that this section shall not apply:

1. If any such child is prevented from attending school by reason of mental or physical disability, to be determined by the board of education of the district upon a certificate of the school physician or public health physician, or, if no such physician is available, a duly licensed and practicing physician;

2. If any such child is excused from attendance at school, due to an emergency, by the principal teacher of the school in which such child is enrolled, at the request of the parent, guardian, custodian or other person having control of such child;

3. If any such child who has attained his or her sixteenth birthday is excused from attending school by written, joint agreement between

- a. the school administrator of the school district where the child attends school, and
- b. the parent, guardian or custodian of the child.

Provided, further, that no child shall be excused from attending school by such joint agreement between a school administrator and the parent, guardian or custodian of the child unless and until it has been determined that such action is for the best interest of the child and/or the community, and that said child shall thereafter be under the supervision of the parent, guardian or custodian until the child has reached the age of eighteen (18) years; or

4. If any such child is excused pursuant to subsection ~~D~~ C of this section.

~~D.~~ C. A school district shall excuse a student from attending school for the purpose of observing religious holy days if before the absence, the parent, guardian, or person having custody or control of the student submits a written request for the excused

absence. The school district shall excuse a student pursuant to this subsection for the days on which the religious holy days are observed and for the days on which the student must travel to and from the site where the student will observe the holy days.

~~E.~~ D. It shall be the duty of the attendance officer to enforce the provisions of this section. Any parent, guardian, custodian, child or other person violating any of the provisions of this section shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than Five Dollars (\$5.00) nor more than Twenty-five Dollars (\$25.00) for the first offense, not less than Ten Dollars (\$10.00) nor more than Fifty Dollars (\$50.00) for the second offense, and not less than Twenty-five Dollars (\$25.00) nor more than One Hundred Dollars (\$100.00) for each subsequent offense. Each day the child remains out of school after the written warning has been given or the child has been ordered to school by the juvenile court may constitute a separate offense. At the trial of any person charged with violating the provisions of this section, the attendance records of the child or ward may be presented in court by any authorized employee of the school district.

SECTION 6. AMENDATORY 70 O.S. 1991, Section 1210.282, is amended to read as follows:

Section 1210.282 The State Board of Education shall develop and implement a program to screen students enrolled in kindergarten in the public schools of the state for readiness prior to entry into public school first grade. ~~Beginning with the 1986-87 school year, students~~ Students who are enrolled or who are expected to enroll in a public school kindergarten class shall be screened for readiness. Such screening shall be performed under the direction of the regional education service centers. Results of the screening shall be transmitted to the child's parent or legal guardian, teacher and school district administration. A parent or legal guardian may also provide information and shall assist in making recommendations concerning a child's readiness for enrollment in kindergarten class. If a child is found to be unready for kindergarten, the report may include a recommendation that the child be enrolled in an appropriate pre-school program.

SECTION 7. AMENDATORY 70 O.S. 1991, Section 13-114.3, is amended to read as follows:

Section 13-114.3 A. A local school district may be eligible to receive monies from the Oklahoma Special Education Assistance Fund to defray costs of serving children who resided at Hissom Memorial Center prior to December 1, 1991, and subsequently established residency in the school district if any such children were served by the district during the 1991-92 school year including extended school year during summer 1992 or the 1992-93 school year including extended school year during summer 1993. Contingent upon available funds in the Oklahoma Special Education Assistance Fund, the district shall receive funds in the amount of the actual costs of serving each child less the district per capita and any other funding received for providing services to the child from another state agency upon timely submission of a claim for such amount, accompanied by verification of residency of each child by the school attendance officer and verification from the Department of Human Services that each child formerly resided at Hissom Memorial Center. Claims for the 1991-92 school year must be submitted on or before June 30, 1992. On or before September 1, 1992, the State Department of Education shall pay valid, timely submitted claims for the 1991-92 school year from the Oklahoma Special Education Assistance Fund. Claims for the 1992-93 school year shall be filed and paid

quarterly, with the final claim filed no later than June 1, 1993 and paid no later than June 30, 1993 from the Oklahoma Special Education Assistance Fund.

B. If funds remain in the Oklahoma Special Education Assistance Fund after satisfaction of all valid claims submitted pursuant to subsection A of this section, a local school district may be eligible to receive monies from the Oklahoma Special Education Assistance Fund if a child who is being served in that school district:

1. Has been placed in a foster care home, group home, residential hospital, shelter or independent living facility located in that school district by a state agency and a resident school district for the child cannot be determined; ~~or~~

2. Has been previously institutionalized and is eligible to receive funding for the ~~multiple handicapped~~ multi-handicapped or trainable mentally retarded and the Special Education Summer Program as defined in Section 18-109.5 of this title; or

3. Requires services pursuant to an individualized education plan (IEP) pursuant to Public Law 94-142, as amended, which result in extraordinary costs to the local school district and the child's parents, guardian, or person having the legal care and custody of the child holds legal residence in the district. The State Board of Education shall promulgate rules to define extraordinary costs, taking into consideration the funding generated by the weighted calculations relating to students with special needs as provided in paragraph 2 of subsection B of Section 18-201 of this title.

~~B.~~ C. The State Board of Education is authorized to promulgate rules and regulations as necessary to establish ~~if whether~~ a home district for a child ~~cannot~~ can be determined and the process by which such determination is made.

SECTION 8. The Joint Legislative Committee for Review of Special Services to Children and Youth, created in Section 601.44 of Title 10 of the Oklahoma Statutes, in conjunction with the Interagency Coordinating Council for Special Services to Children and Youth, created in Section 601.45 of Title 10 of the Oklahoma Statutes, shall study existing regulations and laws pertaining to the delivery of educational services to children in residential child care and treatment facilities and foster care. The study shall include, but not be limited to, the following issues:

1. Determination of the current number of children in placements outside their homes, costs of their educational services, and ways that cost-effective access to educational services can be provided in the least restrictive environment;

2. Exploration of ways to verify need of placement;

3. Examination of the methods of billing for services to children in out-of-home placements and possible ways of funding the educational costs in out-of-home placements; and

4. Possibility of developing a tracking system for children in out-of-home placements.

The Committee shall report its findings and conclusions to the President Pro Tempore of the Senate and the Speaker of the House of Representatives on or before January 1, 1993.

SECTION 9. Section 8 of this act shall not be codified in the Oklahoma Statutes.

SECTION 10. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 13th day of May, 1992.

President of the Senate

Passed the House of Representatives the 19th day of May, 1992.

Speaker of the House of
Representatives