

STATE OF OKLAHOMA

2nd Session of the 43rd Legislature (1992)

SENATE BILL NO. 1024

BY: WILLIAMS (Penny) of the
SENATE

and

LARASON of the HOUSE

AS INTRODUCED

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 AND 13-114.3, WHICH RELATE TO
THE ACT FOR COORDINATION OF SPECIAL SERVICES TO
CHILDREN AND YOUTH, RESIDENCE OF CHILD FOR SCHOOL
PURPOSES, AND THE OKLAHOMA SPECIAL EDUCATION
ASSISTANCE FUND; CHANGING CERTAIN DATES OF
COMPLIANCE; ADDING CERTAIN DUTIES TO CERTAIN
COUNCIL; REQUIRING CERTAIN REPORT; PROVIDING
CERTAIN DEFINITIONS; MODIFYING RESIDENCE OF CERTAIN
CHILDREN FOR SCHOOL PURPOSES; MODIFYING CERTAIN
TRANSFER REQUIREMENTS FOR CERTAIN CHILDREN;
ENTITLING CERTAIN CHILDREN TO TRANSFER UNDER
CERTAIN CIRCUMSTANCES; CLARIFYING LANGUAGE;
DELETING OBSOLETE LANGUAGE; ASSIGNING CERTAIN
RESPONSIBILITIES TO STATE BOARD OF EDUCATION;
MODIFYING USE OF OKLAHOMA SPECIAL EDUCATION
ASSISTANCE FUND; LIMITING AMOUNTS FROM FUND TO BE
USED FOR CERTAIN PURPOSES; PROVIDING FOR
CODIFICATION; 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
- c. by the parent, guardian, or person having legal custody of the child through voluntary arrangement by a state agency having authority for foster placements or otherwise in accordance with Section 28 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. The definitions of residential child care and treatment facilities shall include:

- a. public or private residential child care institutions as defined by Sections 402 and 403 of Title 10 of the Oklahoma Statutes,

- b. group homes, transitional living programs, independent living programs, and community residential centers as defined in Section 1101 of Title 10 of the Oklahoma Statutes,
- c. youth service shelters as defined in Section 607 of Title 10 of the Oklahoma Statutes, as well as juvenile detention facilities defined in Section 1108 of Title 10 of the Oklahoma Statutes, and
- d. residential public or private mental health facilities as defined in Section 1101 of Title 10 of the Oklahoma Statutes.

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. A transfer shall not be required for a child who is placed by a

parent, guardian, or person having legal custody of the child in a public or private nonprofit residential child care institution or for a child placed in a juvenile detention facility in accordance with Title 10 of the Oklahoma Statutes. 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. Such contracts shall also be written to provide educational services for temporary placements in youth service shelters or other residential child care facilities.

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. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 8-101.1 of Title 70, unless there is created a duplication in numbering, reads as follows:

Any child residing in a school district where appropriate day treatment is not available as defined in Section 1101 of Title 10 of the Oklahoma Statutes shall be entitled to be transferred to any school district, inside or outside of the transportation area in which such student resides, where day treatment is available if authorized by an independent licensed psychologist or psychiatrist as the least restrictive environment needed for that child or by the individualized education plan team when the child is on an individualized education plan (IEP) pursuant to Public Law 94-142, as amended. 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.

SECTION 5. 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 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~~ public or private residential child care or treatment facility as defined in paragraph 6 of subsection A of Section 1-113 of this title 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 and

trainable mentally retarded and the Special Education Summer Program as defined in Section 18-109.5 of this title; or

3. Has been placed in a foster family home as defined in paragraph 2 of subsection A of Section 1-113 of this title and 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.

B. As funds are made available, a school district may be eligible to receive monies from the Oklahoma Special Education Assistance Fund if a child whose parents, guardian, or person having the legal care and custody of the child holds legal residence in the district is being served in the district and 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. The maximum amount a district may receive pursuant to this subsection is twice the state average per child revenue.

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

SECTION 6. 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.

43-2-1469

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