

1 **SENATE FLOOR VERSION**

2 February 17, 2014

3 SENATE BILL NO. 1377

By: Paddack of the Senate

4 and

5 Thomsen of the House

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7
8 An Act relating to educational services; amending 70
9 O.S. 2011, Section 1-113, which relates to
10 determination of child's residence; adding a facility
11 to the list of entities required to make certain
12 notification to certain school district; directing
13 educational services to be provided to certain
14 persons after certain time; amending 70 O.S. 2011,
15 Section 3-104.7, which relates to educational
16 services in certain programs; directing educational
17 services to be provided to certain persons after
18 certain time; providing an effective date; and
19 declaring an emergency.

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

21 SECTION 1. AMENDATORY 70 O.S. 2011, Section 1-113, is
22 amended to read as follows:

23 Section 1-113. A. When used in this section, the residence of
24 any child for school purposes shall be:

1. The school district in which the parents, guardian, or
person having legal custody holds legal residence.

Each school district board of education shall adopt a policy
establishing the requirements for student residency for that

1 district which provides for residence as described in this
2 paragraph. Within the discretion of each school district's board of
3 education, the policy may but is not required to allow for
4 establishment of residency by affidavit when an adult, whether a
5 relative or not, who does not fall within one of the categories
6 listed above, who holds legal residence in the school district, and
7 who has assumed permanent care and custody of the child files an
8 affidavit with the school district attesting that they have assumed
9 custody and the reasons for assuming custody. Any policy allowing
10 the establishment of residency by affidavit shall require the adult
11 who provides the affidavit to affirm in such affidavit that the
12 custody arrangement is permanent and that the adult contributes the
13 major degree of support to the child. If the school district policy
14 allows establishment of residency by affidavit, any person who
15 willfully makes a statement in the affidavit which the person knows
16 to be false shall, upon conviction, be guilty of a misdemeanor
17 punishable by imprisonment in the county jail for not more than one
18 (1) year or a fine of not more than Five Hundred Dollars (\$500.00)
19 or both such fine and imprisonment. Each school district shall
20 include in its policy on residency any documentation necessary for
21 the administration of the policy; or

22 2. The foster home, as defined in Section 1-1-105 of Title 10A
23 of the Oklahoma Statutes, except a therapeutic foster home or a
24 specialized foster home where a child is in voluntary placement as

1 defined in subsection D of this section, in which the child has been
2 placed:

3 a. by the person or agency having legal custody of the
4 child pursuant to a court order, or

5 b. by a state agency having legal custody of the child
6 pursuant to the provisions of Title 10A of the
7 Oklahoma Statutes; or

8 3. Any orphanage or eleemosynary child care facility having
9 full-time care and custody; or

10 4. Any eleemosynary child care facility in which a child is
11 placed by a parent or guardian for full-time residential care;
12 provided, the provision of this paragraph shall apply only to
13 children who attend a district school by joint agreement of the
14 school district and facility and who are not placed in the facility
15 through a state contract. For purposes of this paragraph,
16 "eleemosynary child care facility" means a facility:

17 a. where child care and services are provided, and

18 b. which is funded predominantly by benevolent or
19 charitable funds and is exempt from taxation pursuant
20 to the provisions of Section 501(c)(3) of the Internal
21 Revenue Code, 26 U.S.C., Section 501(c)(3); or

22 5. Any state-operated institution in which a child has been
23 placed by a parent or guardian or by a state agency having legal
24 custody of the child pursuant to the provisions of Title 10A or

1 Section 3-101 of Title 43A of the Oklahoma Statutes for care and
2 treatment due to a physical or mental condition of the child; or

3 6. The district in which a child who is entirely self-
4 supporting resides and attends school; or

5 7. A state-licensed or operated emergency shelter.

6 B. No school district shall bear the cost of educating children
7 who are not residents of this state; provided, a school district may
8 furnish educational services pursuant to contract as elsewhere
9 provided by law. A school district may furnish educational services
10 pursuant to a contract to children who do not reside in the United
11 States of America; provided, the children shall not be counted in
12 the average daily membership of the school district.

13 C. For the purpose of ensuring that a child placed in a
14 therapeutic foster care home, as defined in Section 1-1-105 of Title
15 10A of the Oklahoma Statutes, receives an appropriate education, no
16 receiving school district shall be required to enroll such a child
17 if the enrollment would cause the proportion of students in
18 therapeutic foster care homes as compared to the average daily
19 membership of the receiving district for the preceding school year
20 to exceed two percent (2%). Children served by Head Start may not
21 be counted for the purpose of this paragraph unless the child is on
22 an individualized education program provided by the school district.
23 Any school district may enroll such students who are outside the
24 student's resident district in therapeutic foster care home

1 placements which exceed this limit if the school determines it
2 possesses the ability to provide such child an appropriate
3 education.

4 D. When a child does not meet the criteria for residency
5 provided in subsection A of this section and is placed in any of the
6 following entities which is out of the child's home and not in the
7 school district in which the child legally resides: a

8 1. A residential facility; a

9 2. A treatment program or center, including the facility
10 operated pursuant to Section 485.1 of Title 63 of the Oklahoma
11 Statutes; a

12 3. A therapeutic foster family home as defined in Section 1-1-
13 105 of Title 10A of the Oklahoma Statutes; ~~or, a~~

14 4. A specialized foster home, which is a specialized foster
15 home or an agency-contracted home under the supervision of and
16 certified as meeting the standards set by the Department of Human
17 Services and is funded through the Department of Human Services Home
18 and Community-Based Waiver Services Program; or

19 5. An acute psychiatric care facility,
20 the entity shall, if the child contends he or she resides in a
21 school district other than the district where the entity is located,
22 within ~~seven (7)~~ eleven (11) days of admittance, notify the school
23 district in which the entity is located of the admittance.

24

1 For minors who are persons requiring psychiatric treatment as
2 defined by Title 43A of the Oklahoma Statutes, on-site educational
3 services shall be provided beginning on the eleventh day of
4 admission.

5 Upon provision of educational services to such children pursuant
6 to the provisions of subsection F of this section, the receiving
7 school district shall receive the State Aid as defined in subsection
8 C of Section 18-110 of this title for those students.

9 Access to the due process procedure guaranteed to children with
10 disabilities shall be available to resolve disagreements about the
11 appropriateness of placements of children with disabilities.

12 E. The governing body of any state institution for children
13 operated pursuant to the provisions of Title 10A of the Oklahoma
14 Statutes or Section 3-101 of Title 43A of the Oklahoma Statutes and
15 the board of education of the school district in which the
16 institution is located or any other school district in the state
17 willing to provide necessary educational services may enter into a
18 contract whereby the district will maintain a school for the
19 children of the institution, in which event the residence of such
20 children for school purposes will be considered as being in the
21 district maintaining the school. The governing body of the state
22 institutions specified in this subsection shall pay the costs for
23 educating students placed in the state institution less any amount
24 of funds received for such students by the school district

1 contracting with the state institution to provide necessary
2 educational services.

3 F. 1. The school district in which an entity as described in
4 subsection D of this section exists to serve children in out-of-home
5 placements shall, upon request of the individual or agency operating
6 the entity, provide the educational services to which the children
7 in the entity are entitled subject to the limitations provided in
8 subsection C of this section. No person operating such an entity
9 may contract for the provision of educational services with any
10 school district other than the school district in which the entity
11 is located unless the school district in which the entity is located
12 agrees in writing to allow another school district to provide the
13 educational services or unless the person operating the entity
14 contracts with another school district for the provision of
15 educational services to be provided through remote Internet-based
16 courses. No person operating such an entity may contract for the
17 provision of educational services with more than one school
18 district.

19 2. Prior to location in a school district, the individual or
20 agency operating an entity described in subsection D of this section
21 which requires provision of educational services from the school
22 district shall notify the local board of education of its
23 anticipated educational needs. No school district shall be required
24 to provide educational services for students in the entity until at

1 least sixty (60) calendar days have elapsed from the time in which
2 the local board of education was initially notified of the need
3 unless the school district so agrees to provide the educational
4 services sooner. The provisions of this paragraph shall not apply
5 to therapeutic or specialized foster homes.

6 3. Educational services provided shall meet or exceed state
7 accreditation standards. No school district shall be responsible
8 for any expenses for students in an entity described in subsection D
9 of this section which are not directly related to the provision of
10 educational services. A school district shall not be obligated for
11 expenses of those students in an entity in the current school year
12 for whom educational services are requested after the district's
13 first nine (9) weeks of the current school year if educational
14 services are requested for twelve or more students than were served
15 in the first nine (9) weeks, unless the school district chooses to
16 provide educational services for the current school year. Contracts
17 and agreements for provision of educational services may allow for
18 the use of public and private sources of support which are available
19 to share the costs of educational services and of therapies,
20 treatments, or support services. Otherwise valid obligations to
21 provide or pay for such services, such as Medicaid, shall remain in
22 effect for children who are eligible for the services from sources
23 other than the school district.

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1 4. Upon the request of any residential facility which has
2 contracted with the Office of Juvenile Affairs to provide either a
3 regimented juvenile training program or a high-impact wilderness
4 camp to a minimum of forty students who have been adjudicated, a
5 school district may contract for the facility to provide the
6 educational services to those students. Under such a contract, the
7 facility shall operate in accordance with all applicable laws,
8 including compliance with Section 18-114.7 of this title. Such
9 contract shall include the State Aid generated by the students, less
10 a fee for administrative services which may be retained by the
11 school district, not to exceed ten percent (10%) of the total on an
12 annual basis. The school district shall exercise supervision over
13 the educational program in the facility and bear all responsibility
14 for required educational reporting. The school district shall
15 maintain access to all educational records for students in the
16 facility, and shall provide for the appropriate academic credit and
17 diplomas. The school district shall be indemnified against any
18 actions or penalties on the part of the facility which result in
19 adversity for the school district.

20 G. Any question as to the place of residence of any child for
21 school purposes shall be decided pursuant to procedures utilized by
22 the State Department of Education.

23 H. The receiving district shall notify the district of
24 residence immediately upon finding that the student requires special

1 education and related services and the district of residence shall
2 participate in planning the student's Individualized Education
3 Program (IEP) and in subsequent reviews of the program in accordance
4 with the Individuals with Disabilities Education Act (IDEA).

5 SECTION 2. AMENDATORY 70 O.S. 2011, Section 3-104.7, is
6 amended to read as follows:

7 Section 3-104.7. A. For purposes of this act, partial
8 hospitalization programs, day treatment programs and day hospital
9 programs mean nonresidential settings in which school-age children
10 are placed for psychiatric or psychological treatment which
11 precludes their attendance at a regular public school.

12 B. No later than August 15, 1994, the State Board of Education
13 shall establish standards for on-site educational services provided
14 in partial hospitalization programs, day treatment programs, and day
15 hospital programs for persons between the ages of three (3) and
16 twenty-one (21) years of age. For minors who are persons requiring
17 psychiatric treatment as defined by Title 43A of the Oklahoma
18 Statutes, on-site educational services shall be provided beginning
19 on the eleventh day of admission. The standards shall address all
20 areas of education including teacher certification requirements,
21 number of hours taught, adequacy of facilities, and educational
22 plans including plans for transition into regular school setting.

23 C. No facility listed in subsection A of this section shall be
24 licensed pursuant to the provisions of this act unless the facility

1 meets the standards for educational services established by the
2 State Board of Education.

3 D. The State Board of Education shall promulgate rules to
4 implement the provisions of this ~~section~~ act.

5 SECTION 3. This act shall become effective July 1, 2014.

6 SECTION 4. It being immediately necessary for the preservation
7 of the public peace, health and safety, an emergency is hereby
8 declared to exist, by reason whereof this act shall take effect and
9 be in full force from and after its passage and approval.

10 COMMITTEE REPORT BY: COMMITTEE ON EDUCATION
11 February 17, 2014 - DO PASS
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