

1 STATE OF OKLAHOMA

2 2nd Session of the 54th Legislature (2014)

3 HOUSE BILL 2571

By: Hoskin

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5
6 AS INTRODUCED

7 An Act relating to schools; amending 70 O.S. 2011,
8 Section 1-113, which relates to school district
9 residency; providing certain child to be considered
10 as resident of originating school district for school
11 purposes; and providing an effective date.

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

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

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

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

19 Each school district board of education shall adopt a policy
20 establishing the requirements for student residency for that
21 district which provides for residence as described in this
22 paragraph. Within the discretion of each school district's board of
23 education, the policy may but is not required to allow for
24 establishment of residency by affidavit when an adult, whether a

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

18 2. The foster home, as defined in Section 1-1-105 of Title 10A
19 of the Oklahoma Statutes, except a therapeutic foster home or a
20 specialized foster home where a child is in voluntary placement as
21 defined in subsection D of this section, in which the child has been
22 placed:

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

1 b. by a state agency having legal custody of the child
2 pursuant to the provisions of Title 10A of the
3 Oklahoma Statutes; or

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

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

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

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

18 5. Any state-operated institution in which a child has been
19 placed by a parent or guardian or by a state agency having legal
20 custody of the child pursuant to the provisions of Title 10A or
21 Section 3-101 of Title 43A of the Oklahoma Statutes for care and
22 treatment due to a physical or mental condition of the child; or

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

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

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

9 C. For the purpose of ensuring that a child placed in a
10 therapeutic foster care home, as defined in Section 1-1-105 of Title
11 10A of the Oklahoma Statutes, receives an appropriate education, no
12 receiving school district shall be required to enroll such a child
13 if the enrollment would cause the proportion of students in
14 therapeutic foster care homes as compared to the average daily
15 membership of the receiving district for the preceding school year
16 to exceed two percent (2%). Children served by Head Start may not
17 be counted for the purpose of this paragraph unless the child is on
18 an individualized education program provided by the school district.
19 Any school district may enroll such students who are outside the
20 student's resident district in therapeutic foster care home
21 placements which exceed this limit if the school determines it
22 possesses the ability to provide such child an appropriate
23 education.

1 D. When a child does not meet the criteria for residency
2 provided in subsection A of this section and is placed in any of the
3 following entities which is out of the child's home and not in the
4 school district in which the child legally resides: a residential
5 facility; a treatment program or center, including the facility
6 operated pursuant to Section 485.1 of Title 63 of the Oklahoma
7 Statutes; a therapeutic foster home as defined in Section 1-1-105 of
8 Title 10A of the Oklahoma Statutes; or, a specialized foster home,
9 which is a specialized foster home or an agency-contracted home
10 under the supervision of and certified as meeting the standards set
11 by the Department of Human Services and is funded through the
12 Department of Human Services Home and Community-Based Waiver
13 Services Program, the entity shall, if the child contends he or she
14 resides in a school district other than the district where the
15 entity is located, within seven (7) days of admittance, notify the
16 school district in which the entity is located of the admittance.

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

21 Access to the due process procedure guaranteed to children with
22 disabilities shall be available to resolve disagreements about the
23 appropriateness of placements of children with disabilities.

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1 E. The governing body of any state institution for children
2 operated pursuant to the provisions of Title 10A of the Oklahoma
3 Statutes or Section 3-101 of Title 43A of the Oklahoma Statutes and
4 the board of education of the school district in which the
5 institution is located or any other school district in the state
6 willing to provide necessary educational services may enter into a
7 contract whereby the district will maintain a school for the
8 children of the institution, in which event the residence of such
9 children for school purposes will be considered as being in the
10 district maintaining the school; provided, however, that upon
11 release from such school, a child shall be considered as a resident
12 of the originating school district for school purposes. The
13 governing body of the state institutions specified in this
14 subsection shall pay the costs for educating students placed in the
15 state institution less any amount of funds received for such
16 students by the school district contracting with the state
17 institution to provide necessary educational services.

18 F. 1. The school district in which an entity as described in
19 subsection D of this section exists to serve children in out-of-home
20 placements shall, upon request of the individual or agency operating
21 the entity, provide the educational services to which the children
22 in the entity are entitled subject to the limitations provided in
23 subsection C of this section. No person operating such an entity
24 may contract for the provision of educational services with any

1 school district other than the school district in which the entity
2 is located unless the school district in which the entity is located
3 agrees in writing to allow another school district to provide the
4 educational services or unless the person operating the entity
5 contracts with another school district for the provision of
6 educational services to be provided through remote Internet-based
7 courses. No person operating such an entity may contract for the
8 provision of educational services with more than one school
9 district.

10 2. Prior to location in a school district, the individual or
11 agency operating an entity described in subsection D of this section
12 which requires provision of educational services from the school
13 district shall notify the local board of education of its
14 anticipated educational needs. No school district shall be required
15 to provide educational services for students in the entity until at
16 least sixty (60) calendar days have elapsed from the time in which
17 the local board of education was initially notified of the need
18 unless the school district so agrees to provide the educational
19 services sooner. The provisions of this paragraph shall not apply
20 to therapeutic or specialized foster homes.

21 3. Educational services provided shall meet or exceed state
22 accreditation standards. No school district shall be responsible
23 for any expenses for students in an entity described in subsection D
24 of this section which are not directly related to the provision of

1 educational services. A school district shall not be obligated for
2 expenses of those students in an entity in the current school year
3 for whom educational services are requested after the district's
4 first nine (9) weeks of the current school year if educational
5 services are requested for twelve or more students than were served
6 in the first nine (9) weeks, unless the school district chooses to
7 provide educational services for the current school year. Contracts
8 and agreements for provision of educational services may allow for
9 the use of public and private sources of support which are available
10 to share the costs of educational services and of therapies,
11 treatments, or support services. Otherwise valid obligations to
12 provide or pay for such services, such as Medicaid, shall remain in
13 effect for children who are eligible for the services from sources
14 other than the school district.

15 4. Upon the request of any residential facility which has
16 contracted with the Office of Juvenile Affairs to provide either a
17 regimented juvenile training program or a high-impact wilderness
18 camp to a minimum of forty students who have been adjudicated, a
19 school district may contract for the facility to provide the
20 educational services to those students. Under such a contract, the
21 facility shall operate in accordance with all applicable laws,
22 including compliance with Section 18-114.7 of this title. Such
23 contract shall include the State Aid generated by the students, less
24 a fee for administrative services which may be retained by the

1 school district, not to exceed ten percent (10%) of the total on an
2 annual basis. The school district shall exercise supervision over
3 the educational program in the facility and bear all responsibility
4 for required educational reporting. The school district shall
5 maintain access to all educational records for students in the
6 facility, and shall provide for the appropriate academic credit and
7 diplomas. The school district shall be indemnified against any
8 actions or penalties on the part of the facility which result in
9 adversity for the school district.

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

13 H. The receiving district shall notify the district of
14 residence immediately upon finding that the student requires special
15 education and related services and the district of residence shall
16 participate in planning the student's Individualized Education
17 Program (IEP) and in subsequent reviews of the program in accordance
18 with the Individuals with Disabilities Education Act (IDEA).

19 SECTION 2. This act shall become effective November 1, 2014.

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21 54-2-8679 AM 01/10/14

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