

1 ENGROSSED HOUSE  
2 BILL NO. 2069

By: Nelson and Ownbey of the  
House

3 and

4 Griffin of the Senate

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8 [ schools - providing for changing the residency of  
9 children in foster care upon request of the foster  
10 parent - ~~effective date~~ -  
11 emergency ]

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

15 SECTION 1. AMENDATORY 70 O.S. 2011, Section 1-113, as  
16 amended by Section 1, Chapter 150, O.S.L. 2014 (70 O.S. Supp. 2014,  
17 Section 1-113), is amended to read as follows:

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

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

22 Each school district board of education shall adopt a policy  
23 establishing the requirements for student residency for that  
24 district which provides for residence as described in this

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

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

8 Upon request of the foster parent, the residence of a child in  
9 foster care for school purposes may be changed to the school  
10 district in which the child resided prior to being placed in foster  
11 care or the school district in which the previous foster family home  
12 of the child is located; ~~or~~

13 3. Any orphanage or eleemosynary child care facility having  
14 full-time care and custody; ~~or~~

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

- 22 a. where child care and services are provided, and
- 23 b. which is funded predominantly by benevolent or  
24 charitable funds and is exempt from taxation pursuant

1 to the provisions of Section 501(c) (3) of the Internal  
2 Revenue Code, 26 U.S.C., Section 501(c) (3); ~~or~~

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

8 6. Any facility in which a child has been admitted and is  
9 receiving on-site educational services as provided for in Section 3-  
10 104.7 of this title;

11 7. The district in which a child who is entirely self-  
12 supporting resides and attends school; or

13 ~~7.~~ 8. A state-licensed or operated emergency shelter.

14 B. No school district shall bear the cost of educating children  
15 who are not residents of this state; ~~provided, a.~~ a. A school district  
16 may furnish educational services pursuant to contract as elsewhere  
17 provided by law. A school district may furnish educational services  
18 pursuant to a contract to children who do not reside in the United  
19 States of America; provided, the children shall not be counted in  
20 the average daily membership of the school district.

21 C. For the purpose of ensuring that a child placed in a  
22 therapeutic foster ~~care~~ family home, as defined in Section 1-1-105  
23 of Title 10A of the Oklahoma Statutes, receives an appropriate  
24 education, no receiving school district shall be required to enroll

1 such a child if the enrollment would cause the proportion of  
2 students in therapeutic foster ~~care~~ family homes as compared to the  
3 average daily membership of the receiving district for the preceding  
4 school year to exceed two percent (2%). Children served by Head  
5 Start may not be counted for the purpose of this paragraph unless  
6 the child is on an individualized education program provided by the  
7 school district. Any school district may enroll such students who  
8 are outside the student's resident district in therapeutic foster  
9 ~~care~~ family home placements which exceed this limit if the school  
10 determines it possesses the ability to provide such child an  
11 appropriate education.

12 D. When a child does not meet the criteria for residency  
13 provided in subsection A of this section and is placed in any of the  
14 following entities which is out of the child's home and not in the  
15 school district in which the child legally resides: a residential  
16 facility; a treatment program or center, including the facility  
17 operated pursuant to Section 485.1 of Title 63 of the Oklahoma  
18 Statutes; a therapeutic foster family home as defined in Section 1-  
19 1-105 of Title 10A of the Oklahoma Statutes; or, a specialized  
20 foster home, which is a specialized foster home or an agency-  
21 contracted home under the supervision of and certified as meeting  
22 the standards set by the Department of Human Services and is funded  
23 through the Department of Human Services Home and Community-Based  
24 Waiver Services Program, the entity shall, if the child contends he

1 or she resides in a school district other than the district where  
2 the entity is located, within seven (7) days of admittance, notify  
3 the school district in which the entity is located of the  
4 admittance.

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; provided, however, that upon  
22 release from such school, a child shall be considered as a resident  
23 of the originating school district for school purposes. The  
24 governing body of the state institutions specified in this

1 subsection shall pay the costs for educating students placed in the  
2 state institution less any amount of funds received for such  
3 students by the school district contracting with the state  
4 institution to provide necessary educational services.

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

21 2. Prior to location in a school district, the individual or  
22 agency operating an entity described in subsection D of this section  
23 which requires provision of educational services from the school  
24 district shall notify the local board of education of its

1 anticipated educational needs. No school district shall be required  
2 to provide educational services for students in the entity until at  
3 least sixty (60) calendar days have elapsed from the time in which  
4 the local board of education was initially notified of the need  
5 unless the school district so agrees to provide the educational  
6 services sooner. The provisions of this paragraph shall not apply  
7 to therapeutic or specialized foster homes.

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

3 4. Upon the request of any residential facility which has  
4 contracted with the Office of Juvenile Affairs to provide either a  
5 regimented juvenile training program or a high-impact wilderness  
6 camp to a minimum of forty students who have been adjudicated, a  
7 school district may contract for the facility to provide the  
8 educational services to those students. Under such a contract, the  
9 facility shall operate in accordance with all applicable laws,  
10 including compliance with Section ~~18-114.7~~ 18-114.14 of this title.  
11 Such contract shall include the State Aid generated by the students,  
12 less a fee for administrative services which may be retained by the  
13 school district, not to exceed ten percent (10%) of the total on an  
14 annual basis. The school district shall exercise supervision over  
15 the educational program in the facility and bear all responsibility  
16 for required educational reporting. The school district shall  
17 maintain access to all educational records for students in the  
18 facility, and shall provide for the appropriate academic credit and  
19 diplomas. The school district shall be indemnified against any  
20 actions or penalties on the part of the facility which result in  
21 adversity for the school district.

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

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

~~SECTION 2. This act shall become effective July 1, 2015.~~

~~SECTION 3. 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 House of Representatives the 10th day of March, 2015.

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Presiding Officer of the House  
of Representatives

Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2015.

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Presiding Officer of the Senate