An Act

ENROLLED HOUSE
BILL NO. 2069

By: Nelson and Ownbey of the House

and

Griffin of the Senate

An Act relating to schools; amending 70 O.S. 2011, Section 1-113, as last amended by Section 27 of Enrolled Senate Bill No. 831 of the 1st Session of the 55th Oklahoma Legislature, which relates to school district residency; clarifying language; updating statutory language; providing for changing the residency of children in foster care upon request of the foster parent; adding residency for children admitted to certain facilities; amending 70 O.S. 2011, Section 8-101.2, which relates to the approval of student transfers; allowing children in foster care to transfer to a certain school; providing an exception for children in foster care to certain transfer limit; providing an effective date; and declaring an emergency.

SUBJECT: School district residency of children in foster care

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

SECTION 1. AMENDATORY 70 O.S. 2011, Section 1-113, as last amended by Section 27 of Enrolled Senate Bill No. 831 of the 1st Session of the 55th Oklahoma Legislature, is amended to read as follows:

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

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

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

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

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

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

a. where child care and services are provided, and

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

5. 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 10A or Section 3-101 of Title 43A of the Oklahoma Statutes for care and treatment due to a physical or mental condition of the child; ~~or~~

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

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

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

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

C. For the purpose of ensuring that a child placed in a therapeutic foster ~~care~~ family home, as defined in Section 1-1-105 of Title 10A of the Oklahoma Statutes, receives an appropriate

education, no receiving school district shall be required to enroll such a child if the enrollment would cause the proportion of students in therapeutic foster ~~care~~ family homes as compared to the average daily membership of the receiving district for the preceding school year to exceed two percent (2%). Children served by Head Start may not be counted for the purpose of this paragraph unless the child is on an individualized education program provided by the school district. Any school district may enroll such students who are outside the student's resident district in therapeutic foster ~~care~~ family home placements which exceed this limit if the school determines it possesses the ability to provide such child an appropriate education.

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

1. A residential facility;

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

3. A therapeutic foster family home as defined in Section 1-1-105 of Title 10A of the Oklahoma Statutes;

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

5. An acute psychiatric care facility,

the entity shall, if the child contends he or she resides in a school district other than the district where the entity is located, within eleven (11) days of admittance, notify the school district in which the entity is located of the admittance.

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

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

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

E. The governing body of any state institution for children operated pursuant to the provisions of Title 10A of the Oklahoma Statutes or Section 3-101 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~~ the children for school purposes will be considered as being in the district maintaining the school; provided, however, that upon release from ~~such~~ the school, a child shall be considered as a resident of the originating school district for school purposes. 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~~ the students by the school district contracting with the state institution to provide necessary educational services.

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

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

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

4. Upon the request of any residential facility which has contracted with the Office of Juvenile Affairs to provide either a regimented juvenile training program or a high-impact wilderness camp to a minimum of forty students who have been adjudicated, a school district may contract for the facility to provide the educational services to those students. Under ~~such~~ a contract, the facility shall operate in accordance with all applicable laws, including compliance with Section ~~18-114.7~~ 18-114.14 of this title. ~~Such~~ The contract shall include the State Aid generated by the students, less a fee for administrative services which may be retained by the school district, not to exceed ten percent (10%) of the total on an annual basis. The school district shall exercise supervision over the educational program in the facility and bear all responsibility for required educational reporting. The school

district shall maintain access to all educational records for students in the facility, and shall provide for the appropriate academic credit and diplomas. The school district shall be indemnified against any actions or penalties on the part of the facility which result in adversity for the school district.

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

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) for the student and in subsequent reviews of the program in accordance with the Individuals with Disabilities Education Act (IDEA).

SECTION 2. AMENDATORY 70 O.S. 2011, Section 8-101.2, is amended to read as follows:

Section 8-101.2 A. On and after January 1, 2000, the transfer of a student from the district in which the student resides to another school district furnishing instruction in the grade the student is entitled to pursue shall be granted if the transfer has the approval of the board of education of the receiving district. A student granted a transfer may continue to attend the school to which the student transferred with the approval of the receiving district only~~, and any~~. Any brother or sister of ~~such~~ a student granted a transfer and any child in the custody of the Department of Human Services in foster care who is living in the home of a student granted a transfer may attend ~~such~~ the school to which the student transferred with the approval of the receiving district only. ~~No~~ Except for a child in the custody of the Department of Human Services in foster care, no student shall be permitted to transfer more than once in any school year.

If the grade a student is entitled to pursue is not offered in the district where the student resides, the transfer shall be automatically approved.

B. When a student has been transferred and later changes residence to another school district in the State of Oklahoma, the student shall be entitled to continue to attend school in the district to which the student was transferred. If a change of

residence is to the district to which the student was transferred, upon affidavit of the parent of the student, that district shall become the resident district. If a student changes residence to another district during the school year which is not the same district the student transferred to, the student shall be entitled to attend school in either the receiving district or the new district of residence for the remainder of the current year.

C. Any student transfer approved for any reason prior to January 1, 2000, shall continue to be valid and shall not be subject to the Education Open Transfer Act unless the parent having custody chooses otherwise.

SECTION 3. This act shall become effective July 1, 2015.

SECTION 4. 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 21st day of May, 2015.

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Presiding Officer of the House
of Representatives

Passed the Senate the 22nd day of May, 2015.

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Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

_____
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____