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February 20, 2024

By: Seifried

An Act relating to schools; amending 70 O.S. 2021, Section 1-113, which relates to determination of a child's residence; removing language creating a misdemeanor for making certain false statement on certain affidavit; updating statutory reference; updating statutory language; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 70 O.S. 2021, Section 1-113, 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 legal residence of the parents, guardian, or person having legal custody.

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

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 board of
16 education shall include in its policy on residency any documentation
17 necessary for the administration of the policy;

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

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

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

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

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

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

23 5. Any state-operated institution in which a child has been
24 placed by a parent or guardian or by a state agency having legal

1 custody of the child pursuant to the provisions of Title 10A or
2 Section 3-101 of Title 43A of the Oklahoma Statutes for care and
3 treatment due to a physical or mental condition of the child;

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

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

9 8. A state-licensed children's emergency resource center or
10 state-operated emergency shelter.

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

18 C. For the purpose of ensuring that a child placed in a
19 therapeutic foster family home, as defined in Section 1-1-105 of
20 Title 10A of the Oklahoma Statutes, receives an appropriate
21 education, no receiving school district shall be required to enroll
22 such a child if the enrollment would cause the proportion of
23 students in therapeutic foster family homes as compared to the
24 average daily membership of the receiving district for the preceding

1 school year to exceed two percent (2%). Children served by Head
2 Start may not be counted for the purpose of this paragraph unless
3 the child is on an individualized education program provided by the
4 school district. Any school district may enroll such students who
5 are outside the student's resident district in therapeutic foster
6 family home placements which exceed this limit if the school
7 determines it possesses the ability to provide such child an
8 appropriate education.

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

13 1. A residential facility;

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

17 3. A therapeutic foster family home as defined in Section 1-1-
18 105 of Title 10A of the Oklahoma Statutes;

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

24 5. An acute psychiatric care facility,

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

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

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

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

16 E. The governing body of any state institution for children
17 operated pursuant to the provisions of Title 10A of the Oklahoma
18 Statutes or Section 3-101 of Title 43A of the Oklahoma Statutes and
19 the board of education of the school district in which the
20 institution is located or any other school district in the state
21 willing to provide necessary educational services may enter into a
22 contract whereby the district will maintain a school for the
23 children of the institution, in which event the residence of the
24 children for school purposes will be considered as being in the

1 district maintaining the school; provided, however, that upon
2 release from the school, a child shall be considered as a resident
3 of the originating school district for school purposes. The
4 governing body of the state institutions specified in this
5 subsection shall pay the costs for educating students placed in the
6 state institution less any amount of funds received for the students
7 by the school district contracting with the state institution to
8 provide necessary educational services.

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

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

12 3. Educational services provided shall meet or exceed state
13 accreditation standards. No school district shall be responsible
14 for any expenses for students in an entity described in subsection D
15 of this section which are not directly related to the provision of
16 educational services. A school district shall not be obligated for
17 expenses of those students in an entity in the current school year
18 for whom educational services are requested after the first nine (9)
19 weeks of the current school year for the district if educational
20 services are requested for twelve or more students than were served
21 in the first nine (9) weeks, unless the school district chooses to
22 provide educational services for the current school year. Contracts
23 and agreements for provision of educational services may allow for
24 the use of public and private sources of support which are available

1 to share the costs of educational services and of therapies,
2 treatments, or support services. Otherwise valid obligations to
3 provide or pay for such services, such as Medicaid, shall remain in
4 effect for children who are eligible for the services from sources
5 other than the school district.

6 4. Upon the request of any residential facility which has
7 contracted with the Office of Juvenile Affairs to provide either a
8 regimented juvenile training program or a high-impact wilderness
9 camp to a minimum of forty students who have been adjudicated, a
10 school district may contract for the facility to provide the
11 educational services to those students. Under a contract, the
12 facility shall operate in accordance with all applicable laws,
13 including compliance with ~~Section 18-114.14~~ Section 18-114.15 of
14 this title. The contract shall include the State Aid generated by
15 the students, less a fee for administrative services which may be
16 retained by the school district, not to exceed ten percent (10%) of
17 the total on an annual basis. The school district shall exercise
18 supervision over the educational program in the facility and bear
19 all responsibility for required educational reporting. The school
20 district shall maintain access to all educational records for
21 students in the facility, and shall provide for the appropriate
22 academic credit and diplomas. The school district shall be
23 indemnified against any actions or penalties on the part of the
24 facility which result in adversity for the school district.

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

4 H. The receiving district shall notify the district of
5 residence immediately upon finding that the student requires special
6 education and related services, and the district of residence shall
7 participate in planning the ~~Individualized Education Program~~
8 individualized education program (IEP) for the student and in
9 subsequent reviews of the program in accordance with the Individuals
10 with Disabilities Education Act (IDEA).

11 SECTION 2. This act shall become effective July 1, 2024.

12 SECTION 3. It being immediately necessary for the preservation
13 of the public peace, health, or safety, an emergency is hereby
14 declared to exist, by reason whereof this act shall take effect and
15 be in full force from and after its passage and approval.

16 COMMITTEE REPORT BY: COMMITTEE ON EDUCATION
17 February 20, 2024 - DO PASS
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