

DRAFT

SUMMARY

Allows individual voluntarily placed in foster care to be resident of school district where individual resides due to placement by public or private agency if placement agreement provides that individual will no longer be considered resident of school district of origin.

Declares emergency, effective July 1, 2019.

A BILL FOR AN ACT

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Relating to school district residency for children in foster care; amending ORS 339.133; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 339.133, as amended by section 6, chapter 690, Oregon Laws 2017, and section 19, chapter 72, Oregon Laws 2018, is amended to read:

339.133. (1) As used in this section:

(a) “Foster care” means substitute care for children placed by [*the Department of Human Services or a tribal child welfare agency*] **a public or private agency** away from their parents and for whom the [*department or*] agency has placement and care responsibility, including placements in foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities, child care institutions and preadoptive homes.

(b)(A) “Person in parental relationship” means an adult who has physical custody of an individual or resides in the same household as the individual, interacts with the individual daily, provides the individual with food, clothing, shelter and incidental necessities and provides the individual with necessary care, education and discipline.

(B) “Person in parental relationship” does not mean a person with a

1 power of attorney or other written delegation of parental responsibilities if
2 the person does not have other evidence of a parental relationship.

3 (c) "School district of origin" means the school district where an indi-
4 vidual was a resident before:

5 (A) The individual was placed into foster care; or

6 (B) The foster care placement of the individual changed.

7 (d) "School of origin" means the school that an individual attended be-
8 fore:

9 (A) The individual was placed into foster care; or

10 (B) The foster care placement of the individual changed.

11 (2)(a) Except as provided in subsections (3) to (5) of this section, individ-
12 uals between the ages of 4 and 18 shall be considered resident for school
13 purposes in the school district in which their parents, their guardians or
14 persons in parental relationship to them reside.

15 (b) Nonemancipated individuals between the ages of 4 and 18 living out-
16 side the geographic area of the school district for such reasons as attending
17 college, military service, hospital confinement or employment away from
18 home shall be considered resident in the district in which their parents, their
19 guardians or persons in parental relationship to them reside.

20 (c) Individuals living temporarily in a school district for the primary
21 purpose of attending a district school may not be considered resident in the
22 district in which they are living temporarily, but shall be considered resident
23 in the district in which they, their parents, their guardians or persons in
24 parental relationship to them reside.

25 (3) Individuals considered legally emancipated from their parents shall be
26 considered resident in the district in which they actually reside, irrespective
27 of the residence of their parents, their guardians or persons in parental re-
28 lationship.

29 (4)(a) An individual who is between the ages of 4 and 21 and who is placed
30 in foster care shall be considered a resident of:

31 (A) The school district of origin; or

1 (B) The school district where the individual resides due to placement
2 by:

3 (i) The Department of Human Services or a tribal child welfare agency
4 if a juvenile court determines it is not in the best interest of the individual
5 to continue attending the school of origin or any other school in the school
6 district of origin, based on consideration of all factors relating to the
7 individual's best interests[.]; **or**

8 (ii) **Any public or private agency that provides voluntary place-**
9 **ments of children in foster care, if the placement agreement provides**
10 **that the individual no longer will be a resident of the school district**
11 **of origin.**

12 (b) If a juvenile court makes a determination **under paragraph (a)(B)(i)**
13 **of this subsection** that it is not in the best interest of the individual to
14 continue attending the school of origin, the individual shall be immediately
15 enrolled in a new school, even if the individual is unable to produce records
16 normally required for enrollment.

17 (c) Individuals who are residents of their school district of origin pursu-
18 ant to paragraph (a)(A) of this subsection shall:

19 (A) Remain in the individual's school district of origin and, if applicable,
20 the individual's school of origin for the duration of the individual's time in
21 foster care; and

22 (B) Be provided, free of charge, transportation between the individual's
23 home and the individual's school district of origin or, if applicable, the
24 individual's school of origin.

25 (d) The Department of Education, the Department of Human Services,
26 tribal child welfare agencies, **other public and private entities that place**
27 **children in foster care** and school districts shall collaborate to ensure that
28 the provisions of this subsection are implemented.

29 (5)(a) Except as provided in ORS 327.006 (7) and 335.090, an individual
30 whose legal residence is not within the district but who attends school in
31 the district is considered a resident in the district in which the individual

1 attends school if the individual receives:

2 (A) Written consent from both of the affected district school boards as
3 provided by policies adopted by the boards; or

4 (B) Written consent from the district school board for the district in
5 which the school is located as provided by section 9, chapter 718, Oregon
6 Laws 2011.

7 (b) An individual whose legal residence is not within the district but who
8 attends school in the district is considered a resident in the district in which
9 the individual attends school if:

10 (A) The legal residence of the individual had been in the district in which
11 the individual attends school before a boundary change was made to the
12 district;

13 (B) The legal residence of the individual is no longer in the district in
14 which the individual attends school because of the boundary change; and

15 (C) The individual has had the same legal residence and has continuously
16 been enrolled in a school in the district since the boundary change.

17 (6)(a) Individuals who are foreign exchange students and who are residing
18 in Oregon in a dormitory operated by a school district are considered to be
19 residents of the school district in which the dormitory is located.

20 (b) For the purpose of this subsection:

21 (A) An individual may not be considered to be a foreign exchange student
22 for more than one school year.

23 (B) An individual may be considered to be a resident of a school district
24 as provided by this subsection only if, for the 2010-2011 school year, the
25 school district had foreign exchange students who would have been consid-
26 ered residents under the provisions of this subsection.

27 (C) The number of individuals who may be considered residents under the
28 provisions of this subsection may not increase relative to the number who
29 would have been considered residents under the provisions of this subsection
30 for the 2010-2011 school year.

31 (c) As used in this subsection, "foreign exchange student" means an in-

1 individual who attends school in Oregon under a cultural exchange program
2 and whose parent, guardian or person in parental relationship resides in
3 another country.

4 **SECTION 2.** ORS 339.133, as amended by section 6, chapter 690, Oregon
5 Laws 2017, and sections 19 and 21, chapter 72, Oregon Laws 2018, is amended
6 to read:

7 339.133. (1) As used in this section:

8 (a) “Foster care” means substitute care for children placed by [*the De-*
9 *partment of Human Services or a tribal child welfare agency*] **a public or**
10 **private agency** away from their parents and for whom the [*department or*]
11 agency has placement and care responsibility, including placements in foster
12 family homes, foster homes of relatives, group homes, emergency shelters,
13 residential facilities, child care institutions and preadoptive homes.

14 (b)(A) “Person in parental relationship” means an adult who has physical
15 custody of an individual or resides in the same household as the individual,
16 interacts with the individual daily, provides the individual with food, cloth-
17 ing, shelter and incidental necessities and provides the individual with nec-
18 essary care, education and discipline.

19 (B) “Person in parental relationship” does not mean a person with a
20 power of attorney or other written delegation of parental responsibilities if
21 the person does not have other evidence of a parental relationship.

22 (c) “School district of origin” means the school district where an indi-
23 vidual was a resident before:

24 (A) The individual was placed into foster care; or

25 (B) The foster care placement of the individual changed.

26 (d) “School of origin” means the school that an individual attended be-
27 fore:

28 (A) The individual was placed into foster care; or

29 (B) The foster care placement of the individual changed.

30 (2)(a) Except as provided in subsections (3) to (5) of this section, individ-
31 uals between the ages of 4 and 18 shall be considered resident for school

1 purposes in the school district in which their parents, their guardians or
2 persons in parental relationship to them reside.

3 (b) Nonemancipated individuals between the ages of 4 and 18 living out-
4 side the geographic area of the school district for such reasons as attending
5 college, military service, hospital confinement or employment away from
6 home shall be considered resident in the district in which their parents, their
7 guardians or persons in parental relationship to them reside.

8 (c) Individuals living temporarily in a school district for the primary
9 purpose of attending a district school may not be considered resident in the
10 district in which they are living temporarily, but shall be considered resident
11 in the district in which they, their parents, their guardians or persons in
12 parental relationship to them reside.

13 (3) Individuals considered legally emancipated from their parents shall be
14 considered resident in the district in which they actually reside, irrespective
15 of the residence of their parents, their guardians or persons in parental re-
16 lationship.

17 (4)(a) An individual who is between the ages of 4 and 21 and who is placed
18 in foster care shall be considered a resident of:

19 (A) The school district of origin; or

20 (B) The school district where the individual resides due to placement
21 by:

22 (i) The Department of Human Services or a tribal child welfare agency
23 if a juvenile court determines it is not in the best interest of the individual
24 to continue attending the school of origin or any other school in the school
25 district of origin, based on consideration of all factors relating to the
26 individual's best interests[.]; or

27 (ii) **Any public or private agency that provides voluntary place-**
28 **ments of children in foster care, if the placement agreement provides**
29 **that the individual no longer will be a resident of the school district**
30 **of origin.**

31 (b) If a juvenile court makes a determination **under paragraph (a)(B)(i)**

1 **of this subsection** that it is not in the best interest of the individual to
2 continue attending the school of origin, the individual shall be immediately
3 enrolled in a new school, even if the individual is unable to produce records
4 normally required for enrollment.

5 (c) Individuals who are residents of their school district of origin pursu-
6 ant to paragraph (a)(A) of this subsection shall:

7 (A) Remain in the individual's school district of origin and, if applicable,
8 the individual's school of origin for the duration of the individual's time in
9 foster care; and

10 (B) Be provided, free of charge, transportation between the individual's
11 home and the individual's school district of origin or, if applicable, the
12 individual's school of origin.

13 (d) The Department of Education, the Department of Human Services,
14 tribal child welfare agencies, **other public and private entities that place**
15 **children in foster care** and school districts shall collaborate to ensure that
16 the provisions of this subsection are implemented.

17 (5)(a) Except as provided in ORS 327.006 (7) and 335.090, an individual
18 whose legal residence is not within the district but who attends school in
19 the district is considered a resident in the district in which the individual
20 attends school if the individual receives written consent from both of the
21 affected district school boards as provided by policies adopted by the boards.

22 (b) An individual whose legal residence is not within the district but who
23 attends school in the district is considered a resident in the district in which
24 the individual attends school if:

25 (A) The legal residence of the individual had been in the district in which
26 the individual attends school before a boundary change was made to the
27 district;

28 (B) The legal residence of the individual is no longer in the district in
29 which the individual attends school because of the boundary change; and

30 (C) The individual has had the same legal residence and has continuously
31 been enrolled in a school in the district since the boundary change.

1 (6)(a) Individuals who are foreign exchange students and who are residing
2 in Oregon in a dormitory operated by a school district are considered to be
3 residents of the school district in which the dormitory is located.

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5 (A) An individual may not be considered to be a foreign exchange student
6 for more than one school year.

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8 as provided by this subsection only if, for the 2010-2011 school year, the
9 school district had foreign exchange students who would have been consid-
10 ered residents under the provisions of this subsection.

11 (C) The number of individuals who may be considered residents under the
12 provisions of this subsection may not increase relative to the number who
13 would have been considered residents under the provisions of this subsection
14 for the 2010-2011 school year.

15 (c) As used in this subsection, “foreign exchange student” means an in-
16 dividual who attends school in Oregon under a cultural exchange program
17 and whose parent, guardian or person in parental relationship resides in
18 another country.

19 **SECTION 3.** ORS 339.133, as amended by section 6, chapter 690, Oregon
20 Laws 2017, and sections 19, 21 and 23, chapter 72, Oregon Laws 2018, is
21 amended to read:

22 339.133. (1) As used in this section:

23 (a) “Foster care” means substitute care for children placed by [*the De-*
24 *partment of Human Services or a tribal child welfare agency*] **a public or**
25 **private agency** away from their parents and for whom the [*department or*]
26 agency has placement and care responsibility, including placements in foster
27 family homes, foster homes of relatives, group homes, emergency shelters,
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30 custody of an individual or resides in the same household as the individual,
31 interacts with the individual daily, provides the individual with food, cloth-

1 ing, shelter and incidental necessities and provides the individual with nec-
2 essary care, education and discipline.

3 (B) "Person in parental relationship" does not mean a person with a
4 power of attorney or other written delegation of parental responsibilities if
5 the person does not have other evidence of a parental relationship.

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16 purposes in the school district in which their parents, their guardians or
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24 purpose of attending a district school may not be considered resident in the
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2 in foster care shall be considered a resident of:

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10 individual's best interests[.]; **or**

11 **(ii) Any public or private agency that provides voluntary place-**
12 **ments of children in foster care, if the placement agreement provides**
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30 **children in foster care** and school districts shall collaborate to ensure that
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8 the individual attends school if:

9 (A) The legal residence of the individual had been in the district in which
10 the individual attends school before a boundary change was made to the
11 district;

12 (B) The legal residence of the individual is no longer in the district in
13 which the individual attends school because of the boundary change; and

14 (C) The individual has had the same legal residence and has continuously
15 been enrolled in a school in the district since the boundary change.

16 **SECTION 4. This 2019 Act being necessary for the immediate pres-**
17 **ervation of the public peace, health and safety, an emergency is de-**
18 **clared to exist, and this 2019 Act takes effect July 1, 2019.**

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