

House Bill 3573

Sponsored by Representatives MCINTIRE, RESCHKE

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Establishes open enrollment process for school districts to allow students to attend schools in nonresident school district with consent of receiving school district.

A BILL FOR AN ACT

1 Relating to open enrollment; creating new provisions; and amending ORS 339.127 and 339.133.

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

3 **SECTION 1.** ORS 339.133 is amended to read:

4 339.133. (1) As used in this section:

5 (a)(A) "Foster care" means substitute care for children placed by the Department of Human
6 Services or a tribal child welfare agency away from their parents and for whom the department or
7 agency has placement and care responsibility, including placements in foster family homes, foster
8 homes of relatives, group homes, emergency shelters, residential facilities, child care institutions and
9 preadoptive homes.
10

11 (B) "Foster care" does not mean care for children whose parent or guardian voluntarily placed
12 the child outside the child's home with a public or private agency and for whom the child's parent
13 or guardian retains legal guardianship.

14 (b)(A) "Person in parental relationship" means an adult who has physical custody of an indi-
15 vidual or resides in the same household as the individual, interacts with the individual daily, pro-
16 vides the individual with food, clothing, shelter and incidental necessities and provides the
17 individual with necessary care, education and discipline.

18 (B) "Person in parental relationship" does not mean a person with a power of attorney or other
19 written delegation of parental responsibilities if the person does not have other evidence of a par-
20 ental relationship.

21 (c) "School district of origin" means the school district where an individual was a resident be-
22 fore:

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

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

25 (d) "School of origin" means the school that an individual attended before:

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

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

28 (2)(a) Except as provided in subsections (3) to (5) of this section, individuals between the ages
29 of 4 and 18 shall be considered resident for school purposes in the school district in which their
30 parents, their guardians or persons in parental relationship to them reside.

31 (b) Nonemancipated individuals between the ages of 4 and 18 living outside the geographic area

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 of the school district for such reasons as attending college, military service, hospital confinement
 2 or employment away from home shall be considered resident in the district in which their parents,
 3 their guardians or persons in parental relationship to them reside.

4 (c) Individuals living temporarily in a school district for the primary purpose of attending a
 5 district school may not be considered resident in the district in which they are living temporarily,
 6 but shall be considered resident in the district in which they, their parents, their guardians or per-
 7 sons in parental relationship to them reside.

8 (3) Individuals considered legally emancipated from their parents shall be considered resident
 9 in the district in which they actually reside, irrespective of the residence of their parents, their
 10 guardians or persons in parental relationship.

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

13 (A) The school district of origin; or

14 (B) The school district where the individual resides due to placement by the Department of
 15 Human Services or a tribal child welfare agency if a juvenile court determines it is not in the best
 16 interest of the individual to continue attending the school of origin or any other school in the school
 17 district of origin, based on consideration of all factors relating to the individual's best interests.

18 (b) If a juvenile court makes a determination that it is not in the best interest of the individual
 19 to continue attending the school of origin, the individual shall be immediately enrolled in a new
 20 school, even if the individual is unable to produce records normally required for enrollment.

21 (c) Individuals who are residents of their school district of origin pursuant to paragraph (a)(A)
 22 of this subsection shall:

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

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

27 (d) The Department of Education, the Department of Human Services, tribal child welfare
 28 agencies and school districts shall collaborate to ensure that the provisions of this subsection are
 29 implemented.

30 (5)(a) Except as provided in ORS 327.006 (6) and 335.090, an individual whose legal residence is
 31 not within the district but who attends school in the district is considered a resident in the district
 32 in which the individual attends school if the individual receives written consent from:

33 (A) Both of the affected district school boards as provided by policies adopted by the boards[.];

34 **or**

35 **(B) The district school board for the district in which the school is located as provided**
 36 **by section 2 of this 2023 Act.**

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

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

41 (B) The legal residence of the individual is no longer in the district in which the individual at-
 42 tends school because of the boundary change; and

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

45 (6)(a) Individuals who are foreign exchange students and who are residing in Oregon in a

1 dormitory operated by a school district are considered to be residents of the school district in which
 2 the dormitory is located.

3 (b) For the purpose of this subsection:

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

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

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

12 (c) As used in this subsection, "foreign exchange student" means an individual who attends
 13 school in Oregon under a cultural exchange program and whose parent, guardian or person in par-
 14 ental relationship resides in another country.

15 **SECTION 2. (1) For purposes of ORS 339.133 (5)(a)(B), a person whose legal residence is**
 16 **not within a school district but who attends a school in the district is considered a resident**
 17 **of the district in which the person attends the school if the person receives written consent**
 18 **to attend the school from the district school board where the school is located, as provided**
 19 **by this section.**

20 (2)(a) **By March 1 of each year, a district school board shall determine whether the school**
 21 **district will participate in open enrollment as provided by this section. When a school district**
 22 **participates in open enrollment, the district school board shall give consent to persons whose**
 23 **legal residence is not within the school district as provided by this section.**

24 (b) **If the district school board will give consent, the board shall establish standards by**
 25 **which consent will be given. The standards must:**

26 (A) **Identify the number of persons to whom consent will be given for the school year.**
 27 **The district school board may limit the number of persons to whom consent will be given**
 28 **based on school, grade or a combination of school and grade.**

29 (B) **Allow persons who live within the boundaries of the school district the first oppor-**
 30 **tunity to change to a different school in the district if the district school board will be giving**
 31 **consent to attend that school to persons who do not reside within the district.**

32 (3) **A person seeking consent as provided by this section must request consent no later**
 33 **than April 1 prior to the beginning of the school year for which consent is being requested.**
 34 **Requests may be submitted before the district school board makes the determination and**
 35 **establishes the standards as described in subsection (2) of this section, but may not be con-**
 36 **sidered by the board when the board makes the determination and establishes the standards.**

37 (4)(a) **A district school board must give consent to a person who requests consent unless:**

38 (A) **The board decides to not give consent to any person as allowed by subsection (2) of**
 39 **this section;**

40 (B) **The board decides to limit the number of persons to whom consent will be given and**
 41 **does not give consent to the person based on the selection process described in subsection**
 42 **(5) of this section; or**

43 (C) **The board is not required to admit the person, as provided by ORS 339.115 (8).**

44 (b) **A district school board may not deny consent or give priority based on race, religion,**
 45 **sex, sexual orientation, gender identity, ethnicity, national origin, disability, health, terms**

1 of an individualized education program, income level, proficiency in the English language,
2 athletic ability, academic records or residence.

3 (5) If the number of persons seeking consent exceeds the number of persons to whom the
4 district school board has determined will be given consent, the board shall give consent based
5 on an equitable lottery selection process. The process may give priority to persons who have
6 siblings currently enrolled in a school of the school district, but in no event may a sibling
7 be given priority to any open spot in the schools of the school district over any persons who
8 reside within the school district.

9 (6)(a) If a person is considered a resident of the school district as provided by this section
10 and the person has expressed an interest in attending the schools of another school district
11 before the end of the school year, the school district shall meet with the person and en-
12 courage the person to continue to attend the schools of the school district for the remainder
13 of the school year.

14 (b) If a person is considered a resident of the school district as provided by this section,
15 the school district may not encourage or require the person to attend the schools of another
16 school district as a condition of avoiding a disciplinary measure, including but not limited to
17 suspension or expulsion.

18 (7)(a) Except as provided by paragraphs (b) and (c) of this subsection, a person who re-
19 ceives consent and who is considered a resident of a district as provided by this section shall
20 be considered a resident of the district for all educational purposes. A person who is con-
21 sidered a resident of the district as provided by this section shall continue to be considered
22 a resident of the district until the person:

23 (A) Graduates from high school;

24 (B) Is no longer required to be admitted to the schools of the school district under ORS
25 339.115; or

26 (C) Enrolls in a school in a different school district.

27 (b) A school district is not required to provide transportation outside the boundaries of
28 the district to a person who is considered a resident of the district as provided by this sec-
29 tion, except that a district:

30 (A) Must allow persons who are considered residents of the district as provided by this
31 section to use existing bus routes and transportation services of the district. Costs incurred
32 for transportation provided under this subparagraph are considered approved transportation
33 costs for purposes of ORS 327.013, except for costs incurred for providing transportation
34 solely to persons who are considered residents of the district as provided by this section if
35 the transportation is provided:

36 (i) Outside the boundaries of the district; and

37 (ii) For the purpose of transporting the persons between home and school.

38 (B) May provide a stipend for a person who is a member of a low-income family, as de-
39 fined in ORS 339.147, in an amount that does not exceed the district's average cost per stu-
40 dent for transportation.

41 (C) Must provide transportation if required by federal law. Costs incurred for transpor-
42 tation provided under this subparagraph are considered approved transportation costs for
43 purposes of ORS 327.013.

44 (c) After the first year that a person is considered a resident of a district as provided
45 by this section, the district school board may transfer the person to a different school in the

1 **district. Any transfers must be made consistent with district policy and do not affect the**
 2 **status of the person as a resident of the district.**

3 **(8) A district school board shall provide written notification of the attendance of a person**
 4 **who receives consent as provided by this section to the district school board where the legal**
 5 **residence of the person is located. The written notification required by this subsection must**
 6 **be provided no later than May 1 prior to the beginning of the school year for which consent**
 7 **was given.**

8 **(9) Nothing in this section:**

9 **(a) Requires a district school board to give consent to siblings if the board determines**
 10 **that consent will not be given to any students for a school year.**

11 **(b) Prevents a school district from entering into interagency agreements to provide ser-**
 12 **vices to persons who do not reside in the school district or are not considered residents of**
 13 **the school district.**

14 **(c) Prevents or otherwise limits a district school board from giving consent to a person**
 15 **who has received consent from the district school board for the school district in which the**
 16 **person resides, as provided by ORS 339.133 (5)(a)(A).**

17 **SECTION 3.** ORS 339.127 is amended to read:

18 339.127. (1) A district school board that admits nonresident students by giving consent as de-
 19 scribed in ORS 339.133 [(5)(a)] **(5)(a)(A)** may not consider race, religion, sex, sexual orientation,
 20 gender identity, ethnicity, national origin, disability, health, whether a student has an individualized
 21 education program, the terms of an individualized education program, income level, residence, pro-
 22 ficiency in the English language, athletic ability or academic records when:

- 23 (a) Determining whether to give consent; or
- 24 (b) Establishing any terms of consent.

25 (2) A district school board that is considering whether to admit a nonresident student by giving
 26 consent may require only the following information prior to deciding whether to give consent:

- 27 (a) The name, contact information, date of birth and grade level of the student;
- 28 (b) Information about whether the school district may be prevented or otherwise limited from
 29 providing consent as provided by ORS 339.115 (8);
- 30 (c) Information about whether the student may be given priority as provided by subsection (4)
 31 of this section; and
- 32 (d) Information about which schools the student prefers to attend.

33 (3)(a) A district school board that is considering whether to admit a nonresident student by
 34 giving consent may not:

35 (A) Request or require any person to provide or have provided any of the following information
 36 related to a student prior to the district school board deciding whether to give consent to the stu-
 37 dent:

- 38 (i) Information about the student's race, religion, sex, sexual orientation, gender identity,
 39 ethnicity, national origin, disability, health, whether a student has an individualized education pro-
 40 gram, the terms of an individualized education program, income level, residence, proficiency in the
 41 English language or athletic ability; or
- 42 (ii) Academic records, including eligibility for or participation in a talented and gifted program
 43 or special education and related services.

44 (B) Request or require the student to participate in an interview, to tour any of the schools or
 45 facilities of the school district or to otherwise meet with any representatives of a school or a school

1 district prior to the district school board deciding whether to give consent to the student.

2 (C) Request any information used to supplement the information described in subsection (2) of
 3 this section prior to deciding whether to give consent to the student.

4 (b) Nothing in this subsection prevents a student from voluntarily touring any of the schools or
 5 facilities of a school district or from requesting or receiving any information from a school or the
 6 school district.

7 (4)(a) A district school board that gives consent as described in ORS 339.133 [(5)(a)] **(5)(a)(A)**
 8 may limit the number of students to whom consent is given. The district school board must make
 9 the determination whether to limit the number of students to whom consent is given by an annual
 10 date established by the board.

11 (b) If the number of students seeking consent exceeds any limitations imposed by the district
 12 school board, the board must give consent to students based on an equitable lottery selection pro-
 13 cess. The process may give priority to students who:

14 (A) Have siblings currently enrolled in a school of the same school district for which the student
 15 seeks admission;

16 (B) Previously had received consent as provided by subsection (10) of this section because of a
 17 change in legal residence; or

18 (C) Attended a public charter school located in the same district for which the student seeks
 19 admission for at least three consecutive years, completed the highest grade offered by the public
 20 charter school and did not enroll in and attend school in another district following completion of
 21 the highest grade offered by the public charter school.

22 (c) A district school board may revise the maximum number of students to whom consent will
 23 be given at a time other than the annual date established by the board if there are no pending ap-
 24 plications for consent.

25 (5) A district school board that is requested to give consent to allow a resident student to be
 26 admitted by another school district as described in ORS 339.133 [(5)(a)] **(5)(a)(A)** may not consider
 27 race, religion, sex, sexual orientation, gender identity, ethnicity, national origin, disability, health,
 28 whether a student has an individualized education program, the terms of an individualized education
 29 program, income level, residence, proficiency in the English language, athletic ability or academic
 30 records when determining whether to give consent.

31 (6) If a district school board decides to not give consent to a student, the board must provide
 32 a written explanation to the student.

33 (7)(a) For a nonresident student who receives consent to be admitted to a school district as de-
 34 scribed in ORS 339.133 [(5)(a)] **(5)(a)(A)**, a district school board may:

35 (A) Determine the length of time for which consent is given; and

36 (B) Revoke consent for failure to comply with minimum standards for behavior or attendance,
 37 but may not revoke consent for failure to meet standards for academics.

38 (b) Any limitations in length of time for consent, as allowed under paragraph (a) of this sub-
 39 section, must be applied consistently among all students to whom consent is given. The length of
 40 time for which consent is given shall not be affected by any changes in the legal residence of the
 41 student if the student wishes to continue to attend the schools of the school district.

42 (c) If consent is revoked as provided by paragraph (a) of this subsection, a student may not re-
 43 quest consent from the same school district that revoked the consent for the school year following
 44 the school year in which the consent was revoked.

45 (8) For a resident student who receives consent to be admitted to another school district as

1 described in ORS 339.133 [(5)(a)] **(5)(a)(A)**, a district school board may not impose any limitations
 2 on the length of time for which consent is given to the student. The board may not require the
 3 student to receive consent more than one time to be admitted to the same school district, regardless
 4 of any time limitations imposed by the district school board under (7)(a)(A) of this section.

5 (9)(a) A school district that provides consent to nonresident students to attend the schools of
 6 the school district may not expend moneys received from the State School Fund or as Local Re-
 7 venues, as described in ORS 327.011, to advertise openings for nonresident students if the adver-
 8 tisements are:

9 (A) Located outside the boundaries of the school district, including advertisements that are
 10 made by signage or billboards; or

11 (B) Directed to nonresident students, including:

12 (i) Advertisements that are targeted to nonresident students through direct mail or online mar-
 13 keting;

14 (ii) Television or radio advertisements; or

15 (iii) Newspaper advertisements, unless the advertisement is in a newspaper that primarily serves
 16 the residents of the school district.

17 (b) Notwithstanding paragraph (a)(A) of this subsection, if a school is located outside the
 18 boundaries of the school district, the school district may advertise openings for nonresident students
 19 on the property of the school.

20 (c) Nothing in this subsection:

21 (A) Prohibits a school district from providing information or advertisements to nonresident stu-
 22 dents if the parents of the students request the information or advertisements.

23 (B) Prohibits a public charter school from advertising openings.

24 (10) Notwithstanding any other provision of this section, a district school board that is re-
 25 quested to give consent as described in ORS 339.133 [(5)(a)] **(5)(a)(A)** must give consent to a student
 26 whose legal residence changes to a different school district:

27 (a) During the school year, to enable the student to complete the school year in the school dis-
 28 trict; or

29 (b) During the summer prior to the school year, to enable the student to complete the school
 30 year following the summer in the school district.

31 (11) Nothing in this section:

32 (a) Requires a district school board to admit students for whom priority may be given under
 33 subsection (4)(b) of this section if the board imposes limitations on the number of students admitted
 34 by consent.

35 (b) Prevents a district school board from denying admission to a nonresident student as provided
 36 by ORS 339.115 (8).

37 (c) Prevents a district school board from requesting information or giving consent to a student
 38 in the event of:

39 (A) An emergency to protect the health, safety or welfare of the student; or

40 (B) A hardship of the student, as determined based on rules adopted by the State Board of Ed-
 41 ucation.

42 (d) Prevents a district school board from establishing minimum standards for behavior and at-
 43 tendance that a student must maintain to remain enrolled in the schools of the school district.

44 **SECTION 4. (1) Section 2 of this 2023 Act and the amendments to ORS 339.133 by section**
 45 **1 of this 2023 Act first apply to persons who seek consent for the 2024-2025 school year.**

1 **(2) Nothing in section 2 of this 2023 Act or the amendments to ORS 339.133 by section 1**
2 **of this 2023 Act affects the status of a person who was considered a resident as provided by**
3 **ORS 339.133 (5)(a) prior to the 2024-2025 school year.**

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