

Enrolled
House Bill 3359

Sponsored by Representative HUFFMAN; Representatives BENTZ, MCLANE, G SMITH,
SPRENGER, Senators FERRIOLI, NELSON

CHAPTER

AN ACT

Relating to residency of students; creating new provisions; amending ORS 339.133; repealing section 4, chapter 21, Oregon Laws 2010; and declaring an emergency.

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

SECTION 1. ORS 339.133, as amended by sections 1 and 3, chapter 21, Oregon Laws 2010, is amended to read:

339.133. (1) Except as provided in subsection (3), (4), (5), [or] (7) **or (8)** of this section, children between the ages of 4 and 18 shall be considered resident for school purposes in the school district in which their parents, their guardians or persons in parental relationship to them reside.

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

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

(4) Children placed by public or private agencies who are living in licensed, certified or approved substitute care programs shall be considered resident in the school district in which they reside because of placement by a public or private agency.

(5)(a) Notwithstanding subsection (4) of this section, when a juvenile court determines that it is in a child's best interest to continue to attend the school that the child attended prior to placement by a public agency, the child:

(A) Shall be considered resident for school purposes in the school district in which the child resided prior to the placement; and

(B) May continue to attend the school the child attended prior to the placement through the highest grade level of the school.

(b) The public agency that has placed the child shall be responsible for providing the child with transportation to and from school when the need for transportation is due to the placement by the public agency.

(c) Paragraph (b) of this subsection applies only to a public agency for which funds have been designated for the specific purpose of providing a child with transportation to and from school under this subsection.

(6) Persons living temporarily in a school district for the primary purpose of attending a district school may not be considered resident in the district in which they are living temporarily, but shall

be considered resident in the district in which they, their parents, their guardians or persons in parental relationship to them maintain residency.

(7) Except as provided in ORS 327.006 (7) and 335.090, persons whose legal residence is not within the district but who attend school in the district with the written consent of the affected district school boards shall be considered to be residents in the district in which the persons attend school for purposes of the receipt by that district of State School Fund moneys for those persons.

(8)(a) Children who are foreign exchange students and who are residing in Oregon in a dormitory operated by a school district are considered to be residents of the school district in which the dormitory is located.

(b) For the purpose of this subsection:

(A) A child may not be considered to be a foreign exchange student for more than one school year.

(B) A child may be considered to be a resident of a school district as provided by this subsection only if, for the 2010-2011 school year, the school district had foreign exchange students who were considered to be residents as provided by this subsection.

(C) The number of children who are considered to be residents as provided by this subsection may not increase from the number that were considered to be residents as provided by this subsection for the 2010-2011 school year.

(c) As used in this subsection, "foreign exchange student" means a student who attends school in Oregon under a cultural exchange program and whose parent, guardian or person in parental relationship resides in another country.

[8] **(9) For the purposes of this section:**

(a) "Person in parental relationship" means an adult who has physical custody of a child or resides in the same household as the child, interacts with the child daily, provides the child with food, clothing, shelter and incidental necessities and provides the child with necessary care, education and discipline. "Person in parental relationship" does not mean a person with a power of attorney or other written delegation of parental responsibilities if the person does not have other evidence of a parental relationship.

(b) "Substitute care program" means family foster care, family group home care, parole foster care, family shelter care, adolescent shelter care and professional group care.

SECTION 2. ORS 339.133, as amended by sections 1 and 3, chapter 21, Oregon Laws 2010, and section 1 of this 2011 Act, is amended to read:

339.133. (1) Except as provided in subsection (3), (4), (5)[,] **or** (7) [*or* (8)] of this section, children between the ages of 4 and 18 shall be considered resident for school purposes in the school district in which their parents, their guardians or persons in parental relationship to them reside.

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

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

(4) Children placed by public or private agencies who are living in licensed, certified or approved substitute care programs shall be considered resident in the school district in which they reside because of placement by a public or private agency.

(5)(a) Notwithstanding subsection (4) of this section, when a juvenile court determines that it is in a child's best interest to continue to attend the school that the child attended prior to placement by a public agency, the child:

(A) Shall be considered resident for school purposes in the school district in which the child resided prior to the placement; and

(B) May continue to attend the school the child attended prior to the placement through the highest grade level of the school.

(b) The public agency that has placed the child shall be responsible for providing the child with transportation to and from school when the need for transportation is due to the placement by the public agency.

(c) Paragraph (b) of this subsection applies only to a public agency for which funds have been designated for the specific purpose of providing a child with transportation to and from school under this subsection.

(6) Persons living temporarily in a school district for the primary purpose of attending a district school may not be considered resident in the district in which they are living temporarily, but shall be considered resident in the district in which they, their parents, their guardians or persons in parental relationship to them maintain residency.

(7) Except as provided in ORS 327.006 (7) and 335.090, persons whose legal residence is not within the district but who attend school in the district with the written consent of the affected district school boards shall be considered to be residents in the district in which the persons attend school for purposes of the receipt by that district of State School Fund moneys for those persons.

[(8)(a) Children who are foreign exchange students and who are residing in Oregon in a dormitory operated by a school district are considered to be residents of the school district in which the dormitory is located.]

[(b) For the purpose of this subsection:]

[(A) A child may not be considered to be a foreign exchange student for more than one school year.]

[(B) A child may be considered to be a resident of a school district as provided by this subsection only if, for the 2010-2011 school year, the school district had foreign exchange students who were considered to be residents as provided by this subsection.]

[(C) The number of children who are considered to be residents as provided by this subsection may not increase from the number that were considered to be residents as provided by this subsection for the 2010-2011 school year.]

[(c) As used in this subsection, "foreign exchange student" means a student who attends school in Oregon under a cultural exchange program and whose parent, guardian or person in parental relationship resides in another country.]

[(9)] (8) For the purposes of this section:

(a) "Person in parental relationship" means an adult who has physical custody of a child or resides in the same household as the child, interacts with the child daily, provides the child with food, clothing, shelter and incidental necessities and provides the child with necessary care, education and discipline. "Person in parental relationship" does not mean a person with a power of attorney or other written delegation of parental responsibilities if the person does not have other evidence of a parental relationship.

(b) "Substitute care program" means family foster care, family group home care, parole foster care, family shelter care, adolescent shelter care and professional group care.

SECTION 3. The amendments to ORS 339.133 by section 2 of this 2011 Act become operative on July 1, 2013.

SECTION 4. If a school district is the resident school district of foreign exchange students as described in ORS 339.133 (8), the school district shall submit a report to the interim legislative committees on education no later than October 1, 2012. The report required by this section shall include recommendations for funding options for foreign exchange students that may be enacted in lieu of considering the students to be residents of the district as provided by ORS 339.133 (8).

SECTION 5. Section 4, chapter 21, Oregon Laws 2010, is repealed.

SECTION 6. This 2011 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect July 1, 2011.

Passed by House April 7, 2011

Repassed by House June 9, 2011

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Ramona Kenady Line, Chief Clerk of House

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Bruce Hanna, Speaker of House

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Arnie Roblan, Speaker of House

Passed by Senate June 7, 2011

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Peter Courtney, President of Senate

Received by Governor:

.....M,....., 2011

Approved:

.....M,....., 2011

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John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M,....., 2011

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Kate Brown, Secretary of State