

House Bill 2812

Sponsored by Representative PARRISH

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**.

Removes sunset on provisions that allow students whose legal residence is not within school district to attend school in district as resident if student receives written consent.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to school attendance by nonresident students; amending ORS 339.127 and 339.133 and sec-
3 tion 20, chapter 718, Oregon Laws 2011; repealing sections 21 and 22, chapter 718, Oregon Laws
4 2011; and declaring an emergency.

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

6 **SECTION 1.** (1) **Section 21, chapter 718, Oregon Laws 2011, as amended by section 9,**
7 **chapter 434, Oregon Laws 2013, is repealed.**

8 **(2) Section 22, chapter 718, Oregon Laws 2011, is repealed.**

9 **SECTION 2.** Section 20, chapter 718, Oregon Laws 2011, as amended by section 4, chapter 655,
10 Oregon Laws 2013, is amended to read:

11 **Sec. 20.** (1) The amendments to ORS 327.006, 329.485, 332.405, 339.115, 339.134 and 343.151 by
12 sections 11 to 14, 17 and 18, chapter 718, Oregon Laws 2011, become operative on January 1, 2012.

13 (2) The amendments to ORS 339.133 by section 19, chapter 718, Oregon Laws 2011, and the
14 amendments to [*section 1 of this 2013 Act*] **ORS 339.127** by section 3, **chapter 655, Oregon Laws**
15 **2013**, [*of this 2013 Act*] become operative on [*July 1, 2017*] **the effective date of this 2015 Act.**

16 [*(3) The amendments to ORS 339.133 by section 19, chapter 718, Oregon Laws 2011, first apply to*
17 *the 2017-2018 school year.*]

18 **SECTION 3.** ORS 339.133, as amended by sections 4 and 19, chapter 718, Oregon Laws 2011, is
19 amended to read:

20 339.133. (1)(a) Except as provided in subsections (2) to (5) of this section, children between the
21 ages of 4 and 18 shall be considered resident for school purposes in the school district in which their
22 parents, their guardians or persons in parental relationship to them reside.

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

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

31 (2) Individuals considered legally emancipated from their parents shall be considered resident

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 in the district in which they actually reside, irrespective of the residence of their parents, their
 2 guardians or persons in parental relationship.

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

6 (4)(a) Notwithstanding subsection (3) of this section, when a juvenile court determines that it is
 7 in a child’s best interest to continue to attend the school that the child attended prior to placement
 8 by a public agency, the child:

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

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

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

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

19 (5) Except as provided in ORS 327.006 (7) and 335.090, persons whose legal residence is not
 20 within the district but who attend school in the district are considered residents in the district in
 21 which the persons attend school if those persons receive:

22 (a) Written consent from both of the affected district school boards as provided by policies
 23 adopted by the boards[.]; **or**

24 **(b) Written consent from the district school board for the district in which the school is**
 25 **located as provided by section 9, chapter 718, Oregon Laws 2011.**

26 (6) For the purposes of this section:

27 (a) “Person in parental relationship” means an adult who has physical custody of a child or re-
 28 sides in the same household as the child, interacts with the child daily, provides the child with food,
 29 clothing, shelter and incidental necessities and provides the child with necessary care, education
 30 and discipline. “Person in parental relationship” does not mean a person with a power of attorney
 31 or other written delegation of parental responsibilities if the person does not have other evidence
 32 of a parental relationship.

33 (b) “Substitute care program” means family foster care, family group home care, parole foster
 34 care, family shelter care, adolescent shelter care and professional group care.

35 **SECTION 4.** ORS 339.127, as amended by section 3, chapter 655, Oregon Laws 2013, and section
 36 2, chapter 5, Oregon Laws 2014, is amended to read:

37 339.127. (1) A district school board that admits nonresident students by giving consent as de-
 38 scribed in ORS 339.133 (5)(a) may not consider race, religion, sex, sexual orientation, ethnicity, na-
 39 tional origin, disability, health, whether a student has an individualized education program, the
 40 terms of an individualized education program, income level, residence, proficiency in the English
 41 language, athletic ability or academic records when:

42 (a) Determining whether to give consent; or

43 (b) Establishing any terms of consent.

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

- 1 (a) The name, contact information, date of birth and grade level of the student; and
 2 (b) Information about whether the school district may be prevented or otherwise limited from
 3 providing consent as provided by ORS 339.115 (8).
- 4 (3)(a) A district school board that is considering whether to admit a nonresident student by
 5 giving consent may not:
- 6 (A) Request or require any person to provide or have provided any of the following information
 7 related to a student prior to the district school board deciding whether to give consent to the stu-
 8 dent:
- 9 (i) Information about the student's race, religion, sex, sexual orientation, ethnicity, national or-
 10 igin, disability, health, whether a student has an individualized education program, the terms of an
 11 individualized education program, income level, residence, proficiency in the English language or
 12 athletic ability; or
- 13 (ii) Academic records, including eligibility for or participation in a talented and gifted program
 14 or special education and related services.
- 15 (B) Request or require the student to participate in an interview, to tour any of the schools or
 16 facilities of the school district or to otherwise meet with any representatives of a school or a school
 17 district prior to the district school board deciding whether to give consent to the student.
- 18 (C) Request any information used to supplement the information described in subsection (2) of
 19 this section prior to deciding whether to give consent to the student.
- 20 (b) Nothing in this subsection prevents a student from voluntarily touring any of the schools or
 21 facilities of a school district or from requesting or receiving any information from a school or the
 22 school district.
- 23 (4)(a) A district school board that admits nonresident students by giving consent as described
 24 in ORS 339.133 (5)(a) may limit the number of students to whom consent is given. The district school
 25 board must make the determination whether to limit the number of students to whom consent is
 26 given by an annual date established by the board.
- 27 (b) If the number of students seeking admission exceeds any limitations imposed by the district
 28 school board, the board must admit nonresident students based on an equitable lottery selection
 29 process. The process may give priority to students who have siblings currently enrolled in a school
 30 of the school district.
- 31 (c) A district school board may revise the maximum number of students to whom consent will
 32 be given at a time other than the annual date established by the board if there are no pending ap-
 33 plications for consent.
- 34 (5) A district school board that is requested to give consent to allow a resident student to be
 35 admitted by another school district as described in ORS 339.133 (5)(a) may not consider race, reli-
 36 gion, sex, sexual orientation, ethnicity, national origin, disability, health, whether a student has an
 37 individualized education program, the terms of an individualized education program, income level,
 38 residence, proficiency in the English language, athletic ability or academic records when determin-
 39 ing whether to give consent.
- 40 (6) If a district school board decides to not give consent to a student, the board must provide
 41 a written explanation to the student.
- 42 (7)(a) For a nonresident student who receives consent to be admitted to a school district as de-
 43 scribed in ORS 339.133 (5)(a), a district school board may determine the length of time for which
 44 consent is given. Any limitations in length of time must be applied consistently among all students
 45 to whom consent is given.

1 (b) For a resident student who receives consent to be admitted to another school district as
2 described in ORS 339.133 (5)(a), a district school board may not impose any limitations on the length
3 of time for which consent is given to the student. The board may not require the student to receive
4 consent more than one time to be admitted to the same school district, regardless of any time limi-
5 tations imposed by the district school board under paragraph (a) of this subsection.

6 (8) Notwithstanding any other provision of this section, a district school board that is requested
7 to give consent as described in ORS 339.133 (5) must give consent to enable a student whose legal
8 residence changes to a different school district during the school year to complete the school year
9 in the school district.

10 (9) Nothing in this section:

11 (a) Requires a district school board to admit siblings if the board imposes limitations on the
12 number of students admitted by consent.

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

15 (c) Prevents a district school board from requesting information or giving consent to a student
16 in the event of an emergency to protect the health, safety or welfare of the student.

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

19 **SECTION 5. This 2015 Act being necessary for the immediate preservation of the public**
20 **peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect**
21 **on its passage.**

22