

Senate Bill 1566

Sponsored by Senators THATCHER, ROBLAN; Senator KNOPP (Pre-session filed.)

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 sunset of open enrollment law; creating new provisions; amending ORS 339.127 and
3 339.133; repealing sections 21 and 22, chapter 718, Oregon Laws 2011, and section 11, chapter
4 781, Oregon Laws 2015; 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7 **chapter 434, Oregon Laws 2013, is repealed.**

8 **(2) Section 22, chapter 718, Oregon Laws 2011, is repealed.**

9 **(3) Section 11, chapter 781, Oregon Laws 2015, is repealed.**

10 **SECTION 2.** ORS 339.133, as amended by section 10, chapter 781, Oregon Laws 2015, is
11 amended to read:

12 339.133. (1)(a) Except as provided in subsections (2) to (6) of this section, children between the
13 ages of 4 and 18 shall be considered resident for school purposes in the school district in which their
14 parents, their guardians or persons in parental relationship to them reside.

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

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

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

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

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

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

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

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

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

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

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

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

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

21 (b) **For the purpose of this subsection:**

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

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

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

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

33 [(6)] (7) For the purposes of this section:

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

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

42 **SECTION 3.** ORS 339.133, as amended by section 10, chapter 781, Oregon Laws 2015, and sec-
 43 tion 2 of this 2016 Act, is amended to read:

44 339.133. (1)(a) Except as provided in subsections (2) to [(6)] (5) of this section, children between
 45 the ages of 4 and 18 shall be considered resident for school purposes in the school district in which

1 their parents, their guardians or persons in parental relationship to them reside.

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

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

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

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

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

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

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

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

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

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

32 (a) Written consent from both of the affected district school boards as provided by policies
33 adopted by the boards; or

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

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

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

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

42 *[(B) A child may be considered to be a resident of a school district as provided by this subsection
43 only if, for the 2010-2011 school year, the school district had foreign exchange students who would have
44 been considered residents under the provisions of this subsection.]*

45 *[(C) The number of children who may be considered residents under the provisions of this sub-*

1 *section may not increase relative to the number who would have been considered residents under the*
 2 *provisions of this subsection for the 2010-2011 school year.]*

3 *[(c) As used in this subsection, “foreign exchange student” means a student who attends school in*
 4 *Oregon under a cultural exchange program and whose parent, guardian or person in parental re-*
 5 *lationship resides in another country.]*

6 [(7)] (6) For the purposes of this section:

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

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

15 **SECTION 4. (1) The amendments to ORS 339.133 by section 3 of this 2016 Act become**
 16 **operative on July 1, 2017.**

17 **(2) The amendments to ORS 339.133 by section 3 of this 2016 Act first apply to the**
 18 **2017-2018 school year.**

19 **SECTION 5.** ORS 339.127, as amended by section 3, chapter 655, Oregon Laws 2013, section 2,
 20 chapter 5, Oregon Laws 2014, and section 2, chapter 499, Oregon Laws 2015, is amended to read:

21 339.127. (1) A district school board that admits nonresident students by giving consent as de-
 22 scribed in ORS 339.133 (5)(a) may not consider race, religion, sex, sexual orientation, ethnicity, na-
 23 tional origin, disability, health, whether a student has an individualized education program, the
 24 terms of an individualized education program, income level, residence, proficiency in the English
 25 language, athletic ability or academic records when:

26 (a) Determining whether to give consent; or

27 (b) Establishing any terms of consent.

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

30 (a) The name, contact information, date of birth and grade level of the student;

31 (b) Information about whether the school district may be prevented or otherwise limited from
 32 providing consent as provided by ORS 339.115 (8);

33 (c) Information about whether the student may be given priority as provided by subsection (4)
 34 of this section; and

35 (d) Information about which schools the student prefers to attend.

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

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

41 (i) Information about the student’s race, religion, sex, sexual orientation, ethnicity, national or-
 42 igin, disability, health, whether a student has an individualized education program, the terms of an
 43 individualized education program, income level, residence, proficiency in the English language or
 44 athletic ability; or

45 (ii) Academic records, including eligibility for or participation in a talented and gifted program

1 or special education and related services.

2 (B) Request or require the student to participate in an interview, to tour any of the schools or
3 facilities of the school district or to otherwise meet with any representatives of a school or a school
4 district prior to the district school board deciding whether to give consent to the student.

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

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

10 (4)(a) A district school board that gives consent as described in ORS 339.133 (5)(a) may limit the
11 number of students to whom consent is given. The district school board must make the determi-
12 nation whether to limit the number of students to whom consent is given by an annual date estab-
13 lished by the board.

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

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

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

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

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

28 (5) A district school board that is requested to give consent to allow a resident student to be
29 admitted by another school district as described in ORS 339.133 (5)(a) may not consider race, reli-
30 gion, sex, sexual orientation, ethnicity, national origin, disability, health, whether a student has an
31 individualized education program, the terms of an individualized education program, income level,
32 residence, proficiency in the English language, athletic ability or academic records when determin-
33 ing whether to give consent.

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

36 (7)(a) For a nonresident student who receives consent to be admitted to a school district as de-
37 scribed in ORS 339.133 (5)(a), a district school board may:

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

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

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

45 (c) If consent is revoked as provided by paragraph (a) of this subsection, a student may not re-

1 quest consent from the same school district that revoked the consent for the school year following
2 the school year in which the consent was revoked.

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

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

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

14 (B) Directed to nonresident students, including:

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

17 (ii) Television or radio advertisements; or

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

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

23 (c) Nothing in this subsection:

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

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

27 (10) Notwithstanding any other provision of this section, a district school board that is re-
28 quested to give consent as described in ORS 339.133 (5)(a) must give consent to a student whose
29 legal residence changes to a different school district:

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

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

34 (11) Nothing in this section:

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

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

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

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

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

45 (d) Prevents a district school board from establishing minimum standards for behavior and at-

1 tendance that a student must maintain to remain enrolled in the schools of the school district.

2 **SECTION 6. This 2016 Act being necessary for the immediate preservation of the public**
3 **peace, health and safety, an emergency is declared to exist, and this 2016 Act takes effect**
4 **on its passage.**

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