

House Bill 2448

Sponsored by Representative PARRISH; Representative NEARMAN (Presession 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**.

Repeals 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 July 1, 2017.

A BILL FOR AN ACT

1
2 Relating to school attendance by nonresident students; amending ORS 339.127 and 339.133 and
3 sections 17 and 24, chapter 60, Oregon Laws 2016; repealing sections 21 and 22, chapter 718,
4 Oregon Laws 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7 **chapter 434, Oregon Laws 2013, and section 1, chapter 60, Oregon Laws 2016, is repealed.**

8 (2) **Section 22, chapter 718, Oregon Laws 2011, as amended by section 11, chapter 7,**
9 **Oregon Laws 2016, and sections 18 and 19, chapter 60, Oregon Laws 2016, is repealed.**

10 **SECTION 2.** Section 17, chapter 60, Oregon Laws 2016, is amended to read:

11 **Sec. 17.** [(1)] The amendments to ORS 339.133 by section 16, **chapter 60, Oregon Laws 2016,**
12 [of this 2016 Act] become operative on July 1, [2019] **2017.**

13 [(2) *The amendments to ORS 339.133 by section 16 of this 2016 Act first apply to the 2019-2020*
14 *school year.*]

15 **SECTION 3.** ORS 339.133, as amended by section 10, chapter 781, Oregon Laws 2015, and
16 sections 4, 12, 14 and 16, chapter 60, Oregon Laws 2016, is amended to read:

17 339.133. (1)(a) Except as provided in subsections (2) to (5) of this section, individuals between the
18 ages of 4 and 18 shall be considered resident for school purposes in the school district in which their
19 parents, their guardians or persons in parental relationship to them reside.

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

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

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

31 (3) Individuals placed by public or private agencies who are living in licensed, certified or ap-

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 proved substitute care programs shall be considered resident in the school district in which they
2 reside because of placement by a public or private agency.

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

6 (A) Shall be considered resident for school purposes in the school district in which the individ-
7 ual resided prior to the placement; and

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

10 (b) The public agency that has placed the individual shall be responsible for providing the indi-
11 vidual with transportation to and from school when the need for transportation is due to the
12 placement by the public agency.

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

16 (5)(a) Except as provided in ORS 327.006 (7) and 335.090, an individual whose legal residence is
17 not within the district but who attends school in the district is considered a resident in the district
18 in which the individual attends school if the individual receives written consent from:

19 (A) Both of the affected district school boards as provided by policies adopted by the boards[.];
20 **or**

21 **(B) The district school board for the district in which the school is located as provided**
22 **by section 9, chapter 718, Oregon Laws 2011.**

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

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

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

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

31 (6) As used in this section:

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

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

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

41 **SECTION 4.** Section 24, chapter 60, Oregon Laws 2016, is amended to read:

42 **Sec. 24.** The amendments to ORS 339.127 by section 23 [*of this 2016 Act*], **chapter 60, Oregon**
43 **Laws 2016**, become operative on July 1, [2019] **2017**.

44 **SECTION 5.** ORS 339.127, as amended by section 3, chapter 655, Oregon Laws 2013, section 2,
45 chapter 5, Oregon Laws 2014, section 2, chapter 499, Oregon Laws 2015, and sections 8, 21 and 23,

1 chapter 60, Oregon Laws 2016, is amended to read:

2 339.127. (1) A district school board that admits nonresident students by giving consent as de-
 3 scribed in ORS 339.133 [(5)(a)] **(5)(a)(A)** may not consider race, religion, sex, sexual orientation,
 4 ethnicity, national origin, disability, health, whether a student has an individualized education pro-
 5 gram, the terms of an individualized education program, income level, residence, proficiency in the
 6 English language, athletic ability or academic records when:

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

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

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

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

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

- 22 (i) Information about the student's race, religion, sex, sexual orientation, ethnicity, national or-
 23 igin, disability, health, whether a student has an individualized education program, the terms of an
 24 individualized education program, income level, residence, proficiency in the English language or
 25 athletic ability; or
- 26 (ii) Academic records, including eligibility for or participation in a talented and gifted program
 27 or special education and related services.

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

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

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

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

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

- 43 (A) Have siblings currently enrolled in a school of the same school district for which the student
 44 seeks admission;
- 45 (B) Previously had received consent as provided by subsection (10) of this section because of a

1 change in legal residence; or

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

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

9 (5) A district school board that is requested to give consent to allow a resident student to be
 10 admitted by another school district as described in ORS 339.133 [(5)(a)] **(5)(a)(A)** may not consider
 11 race, religion, sex, sexual orientation, ethnicity, national origin, disability, health, whether a student
 12 has an individualized education program, the terms of an individualized education program, income
 13 level, residence, proficiency in the English language, athletic ability or academic records when de-
 14 termining whether to give consent.

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

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

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

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

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

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

29 (8) For a resident student who receives consent to be admitted to another school district as
 30 described in ORS 339.133 [(5)(a)] **(5)(a)(A)**, a district school board may not impose any limitations
 31 on the length of time for which consent is given to the student. The board may not require the
 32 student to receive consent more than one time to be admitted to the same school district, regardless
 33 of any time limitations imposed by the district school board under paragraph (a) of this subsection.

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

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

40 (B) Directed to nonresident students, including:

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

43 (ii) Television or radio advertisements; or

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

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

4 (c) Nothing in this subsection:

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

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

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

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

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

15 (11) Nothing in this section:

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

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

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

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

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

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

28 **SECTION 6. This 2017 Act being necessary for the immediate preservation of the public**
29 **peace, health and safety, an emergency is declared to exist, and this 2017 Act takes effect**
30 **on July 1, 2017.**

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