

Fifty-ninth
Legislative Assembly
of North Dakota

Introduced by

A BILL for an Act to create and enact two new sections to North Dakota Century Code chapter 15.1-29, regarding the enrollment and provision of services to nonresident elementary and high school students: and to amend and reenact section 15.1-29-14 of the North Dakota Century Code, relating to elementary and high school student residency determinations.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15.1-29-14 of the North Dakota Century Code is amended and reenacted as follows:

15.1-29-14. Student placement for noneducational purposes - Residency determination - Payment of tuition.

1. ~~For purposes of applying this chapter, a~~

~~a. A student's school district of residence is the district in which the student resides;~~

~~a. At the time that a state court, tribal court, juvenile supervisor, or the division of juvenile services issues an order requiring the student to stay for a prescribed period at a state-licensed foster home or at a state-licensed child care home or facility;~~

~~b. At the time a county or state social service agency places the student, with the consent of the student's parent or legal guardian, at a state-licensed foster home or at a state-licensed child care home or facility;~~

~~c. At the time the student is initially placed in a state-operated institution, even if the student is later placed at a state-licensed foster home or at a state-licensed child care home or facility; or~~

d. ~~At the time the student is voluntarily admitted to a state-operated institution or to a state-licensed child care home or facility, the student's custodial parent resides on September 10th of each year.~~

b. A determination of residency under subdivision a includes applicability to:

(1) Any student placed by a state court, a tribal court, or a juvenile supervisor in a state-licensed foster home, or in a state-licensed child care home or facility, for noneducational purposes;

(2) Any student placed, with the consent of the student's parent or legal guardian, by a county or state social service agency, in a state-licensed foster home, or in a state-licensed child care home or facility, for noneducational purposes;

(3) Any student placed for noneducational purposes in a state-operated institution; and

(4) Any student in a placement facilitated by a developmental disabilities regional office in this state.

2. The student's school district of residence is obligated to pay:

a. All charges for tuition upon claim of the admitting district; and

b. All charges for tutoring services upon claim of an admitting facility, provided that the tutoring services are delivered by an individual who is licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board.

3. a. ~~If, after a student placement is made as provided for under subsection 1, the student's custodial parent establishes residency in another school district in this state, the school district in which the custodial parent has established residency becomes the student's school district of residence for purposes of paying tuition and tutoring charges under subsection 2.~~

b. The state shall pay the tuition and tutoring charges under subsection 2 from funds appropriated by the legislative assembly for state aid to schools:

(4) a. If, after a student placement is made as provided for under subsection 1, the student's custodial parent establishes residency outside this state; or

(2) b. If a court orders a termination of parental rights with respect to the student's parents.

4. If the student is voluntarily admitted to a state-licensed child care home or facility, or to a state-operated institution, the student's parent or, if one has been appointed, the student's legal guardian may appeal a determination under section 15.1-29-05 regarding the payment of tuition by filing a petition with the county superintendent of schools. Within fifteen days of receiving the petition, the three-member committee established under section 15.1-29-06 shall consult with the boards of the affected school districts and with the student's parent or legal guardian and render a decision regarding responsibility for the payment of tuition charges.

5. If the student's district of residence does not pay the required tuition, the admitting district or facility shall notify the superintendent of public instruction. Upon verification that tuition payments are due and unpaid, the superintendent shall withhold an amount equal to the unpaid tuition from state aid otherwise payable to the student's school district of residence until the tuition due has been fully paid.

6. An amount equal to the state average per student elementary or high school cost, depending on the student's grade of enrollment, is payable to the admitting district or facility as part of the cost of educating the student for the school year. The payment may not exceed the actual per student cost incurred by the admitting district or facility. The remainder of the actual cost of educating the student not covered by other payments or credits must be paid by the state, within the limits of legislative appropriations, from funds appropriated for special education in the case of a student with disabilities or from state aid payments to schools in all other cases.

7. If a student with disabilities placed in accordance with this section reaches age eighteen and continues to receive special education and related services, the student's school district of residence is ~~deemed to be the same as that of the~~ district in which the student's custodial parent resides on September tenth of each year until the special education services are concluded. If the student's custodial parent establishes residency outside this state, or if a court orders a termination of

parental rights with respect to the student's parents, the state shall pay the tuition and tutoring charges under subsection 2 from funds appropriated by the legislative assembly for state aid to schools.

8. a. The placing agency shall provide written notice regarding an initial placement and all subsequent placements of a student, by registered mail, to the superintendent of the student's school district of residence and to the superintendent of the admitting district:

- (1) Within five working days after a placement is made under court order;
- (2) Within five working days after an emergency placement is made; or
- (3) At least ten working days prior to any other placement.

- b. The written notice must include any information requested by the superintendent of public instruction for purposes of determining payment responsibility.

- c. The placing agency shall afford the student's school district of residence reasonable opportunity to participate in permanency planning for the student.

9. Notwithstanding this section, educational services provided to a student by the youth correctional center are not subject to the payment of tuition by either the student's school district of residence or the superintendent of public instruction.

10. For purposes of this section, "custodial parent" means the parent who has been awarded sole legal and physical custody of the student in a legal proceeding or, if there is currently no operative custody order, the parent with whom the student resides. If the student resides with both parents, then both are custodial parents.

SECTION 2. A new section to chapter 15.1-29 of the North Dakota Century Code is created and enacted as follows:

Provision of services to nonresident student - Contract - Responsibility for tuition and charges. A school district in this state may not provide services to a nonresident student who is placed in the district for purposes other than education, unless:

- a. This state and the student's state or school district of residence have entered into a contract governing responsibility for the payment of all tuition and tutoring charges; or

- 1 b. Other contractual arrangements exist governing responsibility for the payment
2 of all tuition and tutoring charges.

3 **SECTION 3.** A new section to chapter 15.1-29 of the North Dakota Century Code is
4 created and enacted as follows:

5 **Enrollment of student - Authority to verify residency.** Before a student is enrolled in
6 a public school without the payment of nonresident tuition, the superintendent of the district may
7 require that the student's parent or legal guardian provide evidence of residency in the school
8 district. The evidence may include title to real property in the district, a current lease, rental
9 payment receipts, utility receipts, a motor vehicle license or registration, or a notarized affidavit
10 verifying residency.