

June 2004

Introduced by

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

5 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

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

8 **15.1-29-14. Student placement for noneducational purposes - Residency**
9 **determination - Payment of tuition.**

10 1. a. ~~For~~ Except as provided in subdivision b, for purposes of applying this chapter,
11 a student's school district of residence is the district in which the ~~student~~
12 student's custodial parent or legal guardian resides:

13 a. (1) At the time that a state court, tribal court, juvenile supervisor, or the
14 division of juvenile services issues an order requiring the student to stay
15 for a prescribed period at a state-licensed foster home or at a
16 state-licensed child care home or facility;

17 b. (2) At the time a county or state social service agency places the student,
18 with the consent of the student's parent or legal guardian, at a
19 state-licensed foster home or at a state-licensed child care home or
20 facility;

21 e. (3) At the time the student is initially placed in a state-operated institution,
22 even if the student is later placed at a state-licensed foster home or at a
23 state-licensed child care home or facility; ~~or~~

- 1 e. (4) At the time the student is voluntarily admitted to a state-operated
2 institution or to a state-licensed child care home or facility; or
3 (5) At the time the student enters a placement facilitated by the division of
4 developmental disabilities.
- 5 b. A determination regarding the student's school district of residence made
6 under subdivision a is valid until the September tenth following the
7 determination. On that date and each September tenth thereafter, the
8 superintendent of public instruction shall determine the district in which the
9 student's custodial parent or legal guardian resides and notify the district that
10 it is deemed to be the student's district of residence for purposes of this
11 chapter.
- 12 2. The student's school district of residence is obligated to pay:
- 13 a. All charges for tuition upon claim of the admitting district; and
- 14 b. All charges for tutoring services upon claim of an admitting facility, provided
15 that the tutoring services are delivered by an individual who is licensed to
16 teach by the education standards and practices board or approved to teach by
17 the education standards and practices board.
- 18 3. ~~a. If, after a student placement is made as provided for under subsection 1, the~~
19 ~~student's custodial parent establishes residency in another school district in~~
20 ~~this state, the school district in which the custodial parent has established~~
21 ~~residency becomes the student's school district of residence for purposes of~~
22 ~~paying tuition and tutoring charges under subsection 2.~~
- 23 ~~b.~~ The state shall pay the tuition and tutoring charges under subsection 2 from
24 funds appropriated by the legislative assembly for state aid to schools:
- 25 ~~(1)~~ If if, after a student placement is made as provided for under
26 subsection 1, ~~the~~:
- 27 a. The student's custodial parent or legal guardian establishes residency outside
28 this state; ~~or~~
- 29 ~~(2)~~ If a
- 30 b. A court orders a termination of parental rights with respect to the student's
31 parents; or

- 1 c. The student's custodial parent becomes deceased.
- 2 4. If the student is voluntarily admitted to a state-licensed child care home or facility,
3 or to a state-operated institution, the student's parent or, if one has been
4 appointed, the student's legal guardian may appeal a determination under section
5 15.1-29-05 regarding the payment of tuition by filing a petition with the county
6 superintendent of schools. Within fifteen days of receiving the petition, the
7 three-member committee established under section 15.1-29-06 shall consult with
8 the boards of the affected school districts and with the student's parent or legal
9 guardian and render a decision regarding responsibility for the payment of tuition
10 charges.
- 11 5. If the student's district of residence does not pay the required tuition, the admitting
12 district or facility shall notify the superintendent of public instruction. Upon
13 verification that tuition payments are due and unpaid, the superintendent shall
14 withhold an amount equal to the unpaid tuition from state aid otherwise payable to
15 the student's school district of residence until the tuition due has been fully paid.
- 16 6. An amount equal to the state average per student elementary or high school cost,
17 depending on the student's grade of enrollment, is payable to the admitting district
18 or facility as part of the cost of educating the student for the school year. The
19 payment may not exceed the actual per student cost incurred by the admitting
20 district or facility. The remainder of the actual cost of educating the student not
21 covered by other payments or credits must be paid by the state, within the limits of
22 legislative appropriations, from funds appropriated for special education in the case
23 of a student with disabilities or from state aid payments to schools in all other
24 cases.
- 25 7. If a student with disabilities placed in accordance with this section reaches age
26 eighteen and continues to receive special education and related services, the
27 student's school district of residence ~~is deemed to be the same as that of the~~
28 ~~student's custodial parent until the special education services are concluded. If the~~
29 ~~student's custodial parent establishes residency outside this state, or if a court~~
30 ~~orders a termination of parental rights with respect to the student's parents, the~~
31 ~~state shall pay the tuition and tutoring charges under subsection 2 from funds~~

- 1 ~~appropriated by the legislative assembly for state aid to schools~~ must be
2 determined by the superintendent of public instruction in accordance with
3 subsection 1. The obligations of the student's school district of residence as
4 provided in subsection 2 and the obligations of the state as provided in
5 subsection 3 are applicable to all students described in this subsection.
- 6 8. a. The placing agency shall provide ~~written~~ notice regarding an initial placement
7 and all subsequent placements of a student, by electronic mail or registered
8 mail, to the superintendent of the student's school district of residence and to
9 the superintendent of the admitting district:
- 10 (1) Within five working days after a placement is made under court order;
11 (2) Within five working days after an emergency placement is made; or
12 (3) At least ten working days prior to any other placement.
- 13 b. The ~~written~~ notice must include any information requested by the
14 superintendent of public instruction for purposes of determining payment
15 responsibility.
- 16 c. The placing agency shall afford the student's school district of residence
17 reasonable opportunity to participate in permanency planning for the student.
- 18 9. Notwithstanding this section, educational services provided to a student by the
19 youth correctional center are not subject to the payment of tuition by either the
20 student's school district of residence or the superintendent of public instruction.
- 21 10. For purposes of this section, "custodial parent" means the parent who has been
22 awarded sole legal and physical custody of the student in a legal proceeding or, if
23 there is currently no operative custody order, the parent with whom the student
24 resides. If the student resides with both parents, then both are custodial parents.

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

27 **Provision of services to nonresident student - Contract - Responsibility for tuition**
28 **and charges.** A school district in this state may not enroll a student who is placed in the district
29 for purposes other than education and whose school district of residence is located in another
30 state, unless:

- 1 1. This state and the student's state or school district of residence have entered into a
- 2 contract that addresses responsibility for the payment of all tuition and tutoring
- 3 charges; or
- 4 2. Other contractual arrangements exist governing responsibility for the payment of all
- 5 tuition and tutoring charges.

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

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

NOTE: Section 1(3)(a) provides that the state shall pay the tuition and tutoring charges if the student's custodial parent establishes residency outside of this state. Section 2 implies that another state or a school district in another state is liable for such charges. Clarification is therefore necessary.