

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. ~~For purposes of applying this chapter, a~~
11 a. A student's school district of residence is the district in which the student
12 resides:
13 a. At the time that a state court, tribal court, juvenile supervisor, or the division of
14 juvenile services issues an order requiring the student to stay for a prescribed
15 period at a state licensed foster home or at a state licensed child care home
16 or facility;
17 b. At the time a county or state social service agency places the student, with
18 the consent of the student's parent or legal guardian, at a state licensed foster
19 home or at a state licensed child care home or facility;
20 e. At the time the student is initially placed in a state operated institution, even if
21 the student is later placed at a state licensed foster home or at a
22 state licensed child care home or facility; or

- 1 e. ~~At the time the student is voluntarily admitted to a state-operated institution or~~
2 ~~to a state-licensed child care home or facility~~ student's custodial parent
3 resides on September tenth of each year.
- 4 b. A determination of residency under subdivision a includes applicability to:
- 5 (1) Any student placed by a state court, a tribal court, or a juvenile
6 supervisor in a state-licensed foster home, or in a state-licensed child
7 care home or facility, for noneducational purposes;
- 8 (2) Any student placed, with the consent of the student's parent or legal
9 guardian, by a county or state social service agency, in a state-licensed
10 foster home, or in a state-licensed child care home or facility, for
11 noneducational purposes;
- 12 (3) Any student placed for noneducational purposes in a state-operated
13 institution; and
- 14 (4) Any student in a placement facilitated by a developmental disabilities
15 regional office in this state.
- 16 2. The student's school district of residence is obligated to pay:
- 17 a. All charges for tuition upon claim of the admitting district; and
- 18 b. All charges for tutoring services upon claim of an admitting facility, provided
19 that the tutoring services are delivered by an individual who is licensed to
20 teach by the education standards and practices board or approved to teach by
21 the education standards and practices board.
- 22 3. a. ~~If, after a student placement is made as provided for under subsection 1, the~~
23 ~~student's custodial parent establishes residency in another school district in~~
24 ~~this state, the school district in which the custodial parent has established~~
25 ~~residency becomes the student's school district of residence for purposes of~~
26 ~~paying tuition and tutoring charges under subsection 2.~~
- 27 b. The state shall pay the tuition and tutoring charges under subsection 2 from
28 funds appropriated by the legislative assembly for state aid to schools:
- 29 (4) a. ~~If, after a student placement is made as provided for under~~
30 ~~subsection 4~~ for noneducational reasons, the student's custodial parent
31 establishes residency outside this state; or

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

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

8 (1) Within five working days after a placement is made under court order;

9 (2) Within five working days after an emergency placement is made; or

10 (3) At least ten working days prior to any other placement.

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

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

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

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

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

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

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

30 or

1 2. Other contractual arrangements exist governing responsibility for the payment of all
2 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.

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.