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STUDENT RESIDENCY AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Derrin R. Owens

Senate Sponsor: Ralph Okerlund

LONG TITLE

General Description:

This bill amends provisions governing a student's school district of residence.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ enacts provisions governing the school district of residency for a child who is receiving services from a health care facility or human services program; and
- ▶ makes technical and conforming corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53A-2-201, as last amended by Laws of Utah 1995, Chapter 282

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **53A-2-201** is amended to read:

53A-2-201. Child's school district of residence -- Determination -- Responsibility for providing educational services.



28 (1) As used in this section:

29 (a) "Health care facility" means the same as that term is defined in Section 26-21-2.

30 (b) "Human services program" means the same as that term is defined in Section
31 62A-2-101.

32 ~~[(+)]~~ (2) The school district of residence of a minor child whose custodial parent or
33 legal guardian resides within Utah is:

34 (a) the school district in which the custodial parent or legal guardian resides; or

35 (b) the school district in which the child resides:

36 (i) while in the custody or under the supervision of a Utah state agency;

37 (ii) while under the supervision of a private or public agency which is in compliance
38 with Section 62A-4a-606 and is authorized to provide child placement services by the state;

39 (iii) while living with a responsible adult resident of the district, if a determination has
40 been made in accordance with rules ~~[of the district board of education]~~ made by the State
41 Board of Education in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
42 Act, that:

43 (A) the child's physical, mental, moral, or emotional health ~~[would]~~ will best be served
44 by considering the child to be a resident for school purposes;

45 (B) exigent circumstances exist ~~[which would]~~ that do not permit the case to be
46 appropriately addressed under Section 53A-2-207; and

47 (C) considering the child to be a resident of the district under this ~~[subsection would]~~
48 Subsection (2)(b)(iii) does not violate any other law or rule of the State Board of Education;
49 [or]

50 (iv) while the child is receiving services from a health care facility or human services
51 program, if a determination has been made in accordance with rules made by the State Board of
52 Education in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

53 (A) the child's physical, mental, moral, or emotional health will best be served by
54 considering the child to be a resident for school purposes;

55 (B) exigent circumstances exist that do not permit the case to be appropriately
56 addressed under Section 53A-2-207; and

57 (C) considering the child to be a resident of the district under this Subsection (2)(b)(iv)
58 does not violate any other law or rule of the State Board of Education; or

59 ~~[(iv)]~~ (v) if the child is married or has been determined to be an emancipated minor by
60 a court of law or by a state administrative agency authorized to make that determination.

61 ~~[(2)]~~ (3) A minor child whose custodial parent or legal guardian does not reside in the
62 state is considered to be a resident of the district in which the child lives, unless that
63 designation violates any other law or rule of the State Board of Education, if:

64 (a) the child is married or an emancipated minor under Subsection ~~[(1)(b)(iv); or]~~
65 (2)(b)(v);

66 (b) the child lives with a resident of the district who is a responsible adult and whom
67 the district agrees to designate as the child's legal guardian under Section [53A-2-202](#); or

68 (c) if permissible under policies adopted by ~~[the]~~ a local school board, it is established
69 to the satisfaction of the local school board that:

70 (i) the child lives with a responsible adult who is a resident of the district and is the
71 child's noncustodial parent, grandparent, brother, sister, uncle, or aunt;

72 (ii) the child's presence in the district is not for the primary purpose of attending the
73 public schools;

74 (iii) the child's physical, mental, moral, or emotional health ~~[would]~~ will best be served
75 by considering the child to be a resident for school purposes; and

76 (iv) the child is prepared to abide by the rules and policies of the school and school
77 district in which attendance is sought.

78 ~~[(3)]~~ (4) (a) If admission is sought under Subsection ~~[(1)]~~ (2)(b)(iii), or ~~[(2)]~~ (3)(c),
79 then the district may require the person with whom the child lives to be designated as the
80 child's custodian in a durable power of attorney, issued by the party who has legal custody of
81 the child, granting the custodian full authority to take any appropriate action, including
82 authorization for educational or medical services, in the interests of the child.

83 (b) Both the party granting and the party empowered by the power of attorney shall
84 agree to:

85 (i) assume responsibility for any fees or other charges relating to the child's education
86 in the district; and

87 (ii) if eligibility for fee waivers is claimed under Section [53A-12-103](#), provide the
88 school district with all financial information requested by the district for purposes of
89 determining eligibility for fee waivers.

90 (c) Notwithstanding Section [75-5-103](#), a power of attorney meeting the requirements of
91 this section and accepted by the school district shall remain in force until the earliest of the
92 following occurs:

- 93 (i) the child reaches the age of 18, marries, or becomes emancipated;
- 94 (ii) the expiration date stated in the document; or
- 95 (iii) the power of attorney is revoked or rendered inoperative by the grantor or grantee,
96 or by order of a court of competent jurisdiction.

97 ~~[(4)]~~ (5) A power of attorney does not confer legal guardianship.

98 ~~[(5)]~~ (6) Each school district is responsible for providing educational services for all
99 children of school age who are residents of the district.

100 ~~[(6) Students who were enrolled in a Utah public school by October 1, 1992, and~~
101 ~~would, but for this part, have been allowed to attend public schools without payment of tuition~~
102 ~~shall be permitted to continue their attendance until graduation or termination of enrollment on~~
103 ~~the same basis as Utah resident students.]~~

Legislative Review Note
Office of Legislative Research and General Counsel