

LEGISLATIVE BILL 115

Approved by the Governor March 07, 2019

Introduced by Blood, 3; Gragert, 40; Linehan, 39; Crawford, 45; Hunt, 8.

A BILL FOR AN ACT relating to schools; to amend section 79-216, Reissue Revised Statutes of Nebraska, and section 79-215, Revised Statutes Cumulative Supplement, 2018; to change provisions relating to enrollment; to harmonize provisions; and to repeal the original sections.
Be it enacted by the people of the State of Nebraska,

Section 1. Section 79-215, Revised Statutes Cumulative Supplement, 2018, is amended to read:

79-215 (1) Except as otherwise provided in this section, a student is a resident of the school district where he or she resides and shall be admitted to any such school district upon request without charge.

(2) A school board shall admit a student upon request without charge if at least one of the student's parents resides in the school district.

(3) A school board shall admit any homeless student upon request without charge if the district is the district in which the student (a) is currently located, (b) attended when permanently housed, or (c) was last enrolled.

(4) A school board may allow a student whose residency in the district ceases during a school year to continue attending school in such district for the remainder of that school year.

(5) A school board may admit nonresident students to the school district pursuant to a contract with the district where the student is a resident and shall collect tuition pursuant to the contract.

(6) A school board may admit nonresident students to the school district pursuant to the enrollment option program as authorized by sections 79-232 to 79-246, and such admission shall be without charge.

~~(7) In order to carry out the provisions of section 79-2201, a school board shall permit children of military families to enroll preliminarily in a school district if a parent presents evidence of military orders that the military family will be stationed in this state during the current or following school year. A student of a military family shall be admitted to the school district without charge upon arrival in Nebraska if the requirements of this section are met For school years prior to school year 2017-18, a school board of any school district that is a member of a learning community shall admit nonresident students to the school district pursuant to the open enrollment provisions of a diversity plan in a learning community as authorized by section 79-2110, and such admission shall be without charge.~~

(8) A school board may admit a student who is a resident of another state to the school district and collect tuition in advance at a rate determined by the school board.

(9) When a student as a ward of the state or as a ward of any court (a) has been placed in a school district other than the district in which he or she resided at the time he or she became a ward and such ward does not reside in a foster family home licensed or approved by the Department of Health and Human Services or a foster home maintained or used pursuant to section 83-108.04 or (b) has been placed in any institution which maintains a special education program which has been approved by the State Department of Education and such institution is not owned or operated by the district in which he or she resided at the time he or she became a ward, the cost of his or her education and the required transportation costs associated with the student's education shall be paid by the state, but not in advance, to the receiving school district or approved institution under rules and regulations prescribed by the Department of Health and Human Services and the student shall remain a resident of the district in which he or she resided at the time he or she became a ward. Any student who is a ward of the state or a ward of any court who resides in a foster family home licensed or approved by the Department of Health and Human Services or a foster home maintained or used pursuant to section 83-108.04 shall be deemed a resident of the district in which he or she resided at the time he or she became a foster child, unless it is determined under section 43-1311 or 43-1312 that he or she will not attend such district in which case he or she shall be deemed a resident of the district in which the foster family home or foster home is located.

(10)(a) When a student is not a ward of the state or a ward of any court and is residing in a residential setting located in Nebraska for reasons other than to receive an education and the residential setting is operated by a service provider which is certified or licensed by the Department of Health and Human Services or is enrolled in the medical assistance program established pursuant to the Medical Assistance Act and Title XIX or XXI of the federal Social Security Act, as amended, the student shall remain a resident of the district in which he or she resided immediately prior to residing in such residential setting. The resident district for a student who is not a ward of the state or a ward of any court does not change when the student moves from one residential setting to another.

(b) If a student is residing in a residential setting as described in

subdivision (10)(a) of this section and such residential setting does not maintain an interim-program school as defined in section 79-1119.01 or an approved or accredited school, the resident school district shall contract with the district in which such residential setting is located for the provision of all educational services, including all special education services and support services as defined in section 79-1125.01, unless a parent or guardian and the resident school district agree that an appropriate education will be provided by the resident school district while the student is residing in such residential setting. If the resident school district is required to contract, the district in which such residential setting is located shall contract with the resident district and provide all educational services, including all special education services, to the student. If the two districts cannot agree on the amount of the contract, the State Department of Education shall determine the amount to be paid by the resident district to the district in which such residential setting is located based on the needs of the student, approved special education rates, the department's general experience with special education budgets, and the cost per student in the district in which such residential setting is located. Once the contract has been entered into, all legal responsibility for special education and related services shall be transferred to the school district in which the residential setting is located.

(c) If a student is residing in a residential setting as described in subdivision (10)(a) of this section and such residential setting maintains an interim-program school as defined in section 79-1119.01 or an approved or accredited school, the department shall reimburse such residential setting for the provision of all educational services, including all special education services and support services, with the amount of payment for all educational services determined pursuant to the average per pupil cost of the service agency as defined in section 79-1116. The resident school district shall retain responsibility for such student's individualized education plan, if any. The educational services may be provided through (i) such interim-program school or approved or accredited school, (ii) a contract between the residential setting and the school district in which such residential setting is located, (iii) a contract between the residential setting and another service agency as defined in section 79-1124, or (iv) a combination of such educational service providers.

(d) If a school district pays a school district in which a residential setting is located for educational services provided pursuant to subdivision (10)(b) of this section and it is later determined that a different school district was the resident school district for such student at the time such educational services were provided, the school district that was later determined to be the resident school district shall reimburse the school district that initially paid for the educational services one hundred ten percent of the amount paid.

(e) A student residing in a residential setting described in this subsection shall be defined as a student with a handicap pursuant to Article VII, section 11, of the Constitution of Nebraska, and as such the state and any political subdivision may contract with institutions not wholly owned or controlled by the state or any political subdivision to provide the educational services to the student if such educational services are nonsectarian in nature.

(11) In the case of any individual eighteen years of age or younger who is a ward of the state or any court and who is placed in a county detention home established under section 43-2,110, the cost of his or her education shall be paid by the state, regardless of the district in which he or she resided at the time he or she became a ward, to the agency or institution which: (a) Is selected by the county board with jurisdiction over such detention home; (b) has agreed or contracted with such county board to provide educational services; and (c) has been approved by the State Department of Education pursuant to rules and regulations prescribed by the State Board of Education.

(12) No tuition shall be charged for students who may be by law allowed to attend the school without charge.

(13) ~~The On a form prescribed by the State Department of Education shall establish procedures and criteria for collecting enrollment, admission, and related information needed for any student to attend a school district in this state which shall include, but not be limited to, having , an adult with legal or actual charge or control of a student shall provide through electronic means or other means specified by the department the name of the student, the name of the adult with legal or actual charge or control of the student, the address where the student is or will be residing, and information on how and the telephone number and address where the adult may generally be reached during the school day. If the student is homeless or if the adult does not have a telephone number and address where he or she may generally be reached during the school day, those parts of the form may be left blank and a box may be marked acknowledging that these are the reasons these parts of the form were left blank. The adult with legal or actual charge or control of the student shall also sign the form.~~

(14) The department may adopt and promulgate rules and regulations to carry out the provisions of department's responsibilities under this section.

Sec. 2. Section 79-216, Reissue Revised Statutes of Nebraska, is amended to read:

79-216 In all cases when any person is on active duty as a officer or enlisted member of the United States Army, Navy, Marine Corps, or Air Force is on active duty in the State of Nebraska and is residing on federally owned

~~property, acquired by the United States pursuant to Chapter 72, article 6, prior to the repeal of such article by Laws 1969, Chapter 593, the children any child of school age of any such active duty officer or enlisted member who also resides on such property shall be considered a resident of the school district where such property is located and are of school age may be admitted pursuant to subsection (1) of section 79-215 to any of the public schools in any school district, in, near, or adjacent to the place where such officer or enlisted member is stationed so long as such officer or enlisted member is on active duty in Nebraska, and such children may be admitted to the public schools of any such district without payment of tuition.~~

This section also applies to children of parents employed by the federal government and residing with their parents on the property of national parks or national monuments within this state.

Sec. 3. Original section 79-216, Reissue Revised Statutes of Nebraska, and section 79-215, Revised Statutes Cumulative Supplement, 2018, are repealed.