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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 4396

03/11/2020 Authored by Albright
The bill was read for the first time and referred to the Committee on Education Policy

1.1 A bill for an act
1.2 relating to education; requiring a county board to notify a child's resident district
1.3 and serving district of placement for care and treatment; modifying the definition
1.4 of legal residence for a child with a disability placed in a foster facility; modifying
1.5 the definition of legal residence for a child without a disability placed in a foster
1.6 facility; amending Minnesota Statutes 2018, sections 125A.15; 125A.17; 125A.51.

1.7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.8 Section 1. Minnesota Statutes 2018, section 125A.15, is amended to read:

1.9 125A.15 PLACEMENT IN ANOTHER DISTRICT; RESPONSIBILITY.

1.10 The responsibility for special instruction and services for a child with a disability
1.11 temporarily placed in another district for care and treatment shall be determined in the
1.12 following manner:

1.13 (a) The district of residence of a child shall be the district in which the child's parent
1.14 resides, if living, or the child's guardian. If there is a dispute between school districts
1.15 regarding residency, the district of residence is the district designated by the commissioner.

1.16 (b) If a district other than the resident district places a pupil for care and treatment, the
1.17 district placing the pupil must notify and give the resident district an opportunity to participate
1.18 in the placement decision. When an immediate emergency placement of a pupil is necessary
1.19 and time constraints foreclose a resident district from participating in the emergency
1.20 placement decision, the district in which the pupil is temporarily placed must notify the
1.21 resident district of the emergency placement within 15 days. The resident district has up to
1.22 five business days after receiving notice of the emergency placement to request an
1.23 opportunity to participate in the placement decision, which the placing district must then
1.24 provide.

2.1 (c) If a county board places a child for care and treatment, the county board must  
2.2 immediately notify the child's resident district and serving district of any change in placement.

2.3 (d) When a child is temporarily placed for care and treatment in a day program located  
2.4 in another district and the child continues to live within the district of residence during the  
2.5 care and treatment, the district of residence is responsible for providing transportation to  
2.6 and from the care and treatment program and an appropriate educational program for the  
2.7 child. The resident district may establish reasonable restrictions on transportation, except  
2.8 if a Minnesota court or agency orders the child placed at a day care and treatment program  
2.9 and the resident district receives a copy of the order, then the resident district must provide  
2.10 transportation to and from the program unless the court or agency orders otherwise.  
2.11 Transportation shall only be provided by the resident district during regular operating hours  
2.12 of the resident district. The resident district may provide the educational program at a school  
2.13 within the district of residence, at the child's residence, or in the district in which the day  
2.14 treatment center is located by paying tuition to that district.

2.15 ~~(d)~~ (e) When a child is temporarily placed in a residential program for care and treatment,  
2.16 the nonresident district in which the child is placed is responsible for providing an appropriate  
2.17 educational program for the child and necessary transportation while the child is attending  
2.18 the educational program; and must bill the district of the child's residence for the actual cost  
2.19 of providing the program, as outlined in section 125A.11, except as provided in paragraph  
2.20 ~~(e)~~ (f). However, the board, lodging, and treatment costs incurred in behalf of a child with  
2.21 a disability placed outside of the school district of residence by the commissioner of human  
2.22 services or the commissioner of corrections or their agents, for reasons other than providing  
2.23 for the child's special educational needs must not become the responsibility of either the  
2.24 district providing the instruction or the district of the child's residence. For the purposes of  
2.25 this section, the state correctional facilities operated on a fee-for-service basis are considered  
2.26 to be residential programs for care and treatment.

2.27 ~~(e)~~ (f) A privately owned and operated residential facility may enter into a contract to  
2.28 obtain appropriate educational programs for special education children and services with a  
2.29 joint powers entity. The entity with which the private facility contracts for special education  
2.30 services shall be the district responsible for providing students placed in that facility an  
2.31 appropriate educational program in place of the district in which the facility is located. If a  
2.32 privately owned and operated residential facility does not enter into a contract under this  
2.33 paragraph, then paragraph ~~(d)~~ (e) applies.

2.34 ~~(f)~~ (g) The district of residence shall pay tuition and other program costs, not including  
2.35 transportation costs, to the district providing the instruction and services. The district of

3.1 residence may claim general education aid for the child as provided by law. Transportation  
 3.2 costs must be paid by the district responsible for providing the transportation and the state  
 3.3 must pay transportation aid to that district.

3.4 **EFFECTIVE DATE.** This section is effective July 1, 2020.

3.5 Sec. 2. Minnesota Statutes 2018, section 125A.17, is amended to read:

3.6 **125A.17 LEGAL RESIDENCE OF A CHILD WITH A DISABILITY PLACED**  
 3.7 **IN A FOSTER FACILITY.**

3.8 (a) The legal residence of a child with a disability placed in a foster facility for care and  
 3.9 treatment is the district in which the child ~~resides~~ was a resident when:

3.10 (1) parental rights have been terminated by court order;

3.11 (2) the parent or guardian is not living within the state;

3.12 (3) no other district residence can be established; or

3.13 (4) the parent or guardian having legal custody of the child is an inmate of a Minnesota  
 3.14 correctional facility or is a resident of a halfway house under the supervision of the  
 3.15 commissioner of corrections.

3.16 (b) The school board of the serving district of residence must provide the same  
 3.17 educational program for the child as it provides for all resident children with a disability in  
 3.18 the district.

3.19 (c) Once a child under this section is placed in foster care, excluding a foster care facility  
 3.20 for care and treatment, the legal residence of the child is the district in which the child  
 3.21 resides during the foster care placement.

3.22 **EFFECTIVE DATE.** This section is effective July 1, 2020.

3.23 Sec. 3. Minnesota Statutes 2018, section 125A.51, is amended to read:

3.24 **125A.51 PLACEMENT OF CHILDREN WITHOUT DISABILITIES; EDUCATION**  
 3.25 **AND TRANSPORTATION.**

3.26 The responsibility for providing instruction and transportation for a pupil without a  
 3.27 disability who has a short-term or temporary physical or emotional illness or disability, as  
 3.28 determined by the standards of the commissioner, and who is temporarily placed for care  
 3.29 and treatment for that illness or disability, must be determined as provided in this section.

4.1 (a) The school district of residence of the pupil is the district in which the pupil's parent  
4.2 or guardian resides. If there is a dispute between school districts regarding residency, the  
4.3 district of residence is the district designated by the commissioner.

4.4 (b) When parental rights have been terminated by court order, the legal residence of a  
4.5 child placed in a residential or foster facility for care and treatment is the district in which  
4.6 the child ~~resides~~ was a resident at the time of termination. Once a child under this paragraph  
4.7 is placed in foster care, excluding a foster care facility for care and treatment, the legal  
4.8 residence of the child is the district in which the child resides during the foster care  
4.9 placement.

4.10 (c) Before the placement of a pupil for care and treatment, the district of residence must  
4.11 be notified and provided an opportunity to participate in the placement decision. When an  
4.12 immediate emergency placement is necessary and time does not permit resident district  
4.13 participation in the placement decision, the district in which the pupil is temporarily placed,  
4.14 if different from the district of residence, must notify the district of residence of the  
4.15 emergency placement within 15 days of the placement. When a nonresident district makes  
4.16 an emergency placement without first consulting with the resident district, the resident  
4.17 district has up to five business days after receiving notice of the emergency placement to  
4.18 request an opportunity to participate in the placement decision, which the placing district  
4.19 must then provide.

4.20 (d) When a pupil without a disability is temporarily placed for care and treatment in a  
4.21 day program and the pupil continues to live within the district of residence during the care  
4.22 and treatment, the district of residence must provide instruction and necessary transportation  
4.23 to and from the care and treatment program for the pupil. The resident district may establish  
4.24 reasonable restrictions on transportation, except if a Minnesota court or agency orders the  
4.25 child placed at a day care and treatment program and the resident district receives a copy  
4.26 of the order, then the resident district must provide transportation to and from the program  
4.27 unless the court or agency orders otherwise. Transportation shall only be provided by the  
4.28 resident district during regular operating hours of the resident district. The resident district  
4.29 may provide the instruction at a school within the district of residence, at the pupil's residence,  
4.30 or in the case of a placement outside of the resident district, in the district in which the day  
4.31 treatment program is located by paying tuition to that district. The district of placement may  
4.32 contract with a facility to provide instruction by teachers licensed by the Professional  
4.33 Educator Licensing and Standards Board.

4.34 (e) When a pupil without a disability is temporarily placed in a residential program for  
4.35 care and treatment, the district in which the pupil is placed must provide instruction for the

5.1 pupil and necessary transportation while the pupil is receiving instruction, and in the case  
5.2 of a placement outside of the district of residence, the nonresident district must bill the  
5.3 district of residence for the actual cost of providing the instruction for the regular school  
5.4 year and for summer school, excluding transportation costs.

5.5 (f) Notwithstanding paragraph (e), if the pupil is homeless and placed in a public or  
5.6 private homeless shelter, then the district that enrolls the pupil under section 120A.20,  
5.7 subdivision 2, paragraph (b), shall provide the transportation, unless the district that enrolls  
5.8 the pupil and the district in which the pupil is temporarily placed agree that the district in  
5.9 which the pupil is temporarily placed shall provide transportation. When a pupil without a  
5.10 disability is temporarily placed in a residential program outside the district of residence,  
5.11 the administrator of the court placing the pupil must send timely written notice of the  
5.12 placement to the district of residence. The district of placement may contract with a  
5.13 residential facility to provide instruction by teachers licensed by the Professional Educator  
5.14 Licensing and Standards Board. For purposes of this section, the state correctional facilities  
5.15 operated on a fee-for-service basis are considered to be residential programs for care and  
5.16 treatment.

5.17 (g) The district of residence must include the pupil in its residence count of pupil units  
5.18 and pay tuition as provided in section 123A.488 to the district providing the instruction.  
5.19 Transportation costs must be paid by the district providing the transportation and the state  
5.20 must pay transportation aid to that district. For purposes of computing state transportation  
5.21 aid, pupils governed by this subdivision must be included in the disabled transportation  
5.22 category if the pupils cannot be transported on a regular school bus route without special  
5.23 accommodations.

5.24 (h) If a county board places a child without a disability for care and treatment, the county  
5.25 board must immediately notify the child's resident district and serving district of any change  
5.26 in placement.

5.27 **EFFECTIVE DATE.** This section is effective July 1, 2020.