

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas  
90th General Assembly  
Regular Session, 2015

*As Engrossed: H3/10/15*  
**A Bill**

HOUSE BILL 1694

By: Representative C. Fite  
By: Senator E. Cheatham

### **For An Act To Be Entitled**

AN ACT TO ALLOW SCHOOL DISTRICT ENROLLMENT BY FOSTER CHILDREN; TO ALLOW THE PAYMENT OF STATE FOUNDATION FUNDING AID FOR FOSTER CHILDREN; TO ENSURE CONTINUITY OF EDUCATIONAL SERVICES FOR FOSTER CHILDREN; AND FOR OTHER PURPOSES.

### **Subtitle**

TO ALLOW SCHOOL DISTRICT ENROLLMENT BY FOSTER CHILDREN; TO ALLOW THE PAYMENT OF STATE FOUNDATION FUNDING; AND TO ENSURE CONTINUITY OF EDUCATION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 6-18-202(b), concerning transfers to a school district, is amended to read as follows:

(b)(1) The public schools of any school district in this state shall be open and free through completion of the secondary program to all persons in this state between five (5) and twenty-one (21) years of age whose parents, foster parents, legal guardians, or other persons having lawful control of the person under an order of a court reside within the school district and to all persons between those ages who have been legally transferred to the district for education purposes.

(2) For purposes of this section, a student may use the residential address of a legal guardian, person having legal, lawful control of the student under order of a court, or person standing in loco parentis



only if the student resides at the same residential address and if the guardianship or other legal authority is not granted solely for educational needs or school attendance purposes.

(3) Any school district may require a parent, foster parent, legal guardian, or other person in loco parentis who enrolls a student in a school district to sign a statement under oath attesting to his or her residential address or to provide other proof that a student is a resident of the school district as defined by this section.

(4) A foster child may remain enrolled in a school district in this state under § 9-28-113 even if the foster home or placement is located outside the boundaries of the school district.

SECTION 2. Arkansas Code § 6-20-502(1), concerning the definition of a "child living in a foster home", is amended to read as follows:

(1)(A) "Child living in a foster home" means a school-age child in this state ~~living in the residence of the guardian or the residence of a foster family home or child care facility when the Department of Human Services has custody of the child or when the child has been placed in a foster family home or child care facility by a circuit court or a juvenile division of a circuit court, or when the child has been placed in a family care and training home by the department~~ who is in the custody of the Department of Human Services and placed in a licensed or approved foster home, shelter, or facility or an exempt child welfare agency, as defined under § 9-28-402.

(B) "~~Child care facility~~ living in a foster home" ~~shall~~ does not include a school-age child living in any unit of the human development centers operated by the department or its successor;

SECTION 3. Arkansas Code § 6-20-504(a), concerning children living in foster homes, is amended to read as follows:

(a) ~~For the purpose of the education of a school-age child in this state, the residence of a child living in a foster home shall be the school district of the residence of the foster family home or child care facility in which the child resides.~~ A school district shall ensure the continuity of educational services for a child living in a foster home so that the child:

(1) Can remain in his or her school of origin in the state, if

it is in the child's best interest;

(2) Is moved to a new school in this state in a timely manner when it is necessary, appropriate, and in the best interest of the child under § 9-28-113;

(3) Can participate in the appropriate educational programs; and

(4) Has access to the academic resources, services, and extracurricular enrichment activities that are available to all students.

SECTION 4. Arkansas Code § 6-20-2303(3)(C), concerning the definitions for the Public School Funding Act of 2003, is amended to add a new subdivision to read as follows:

(vi) Students who are enrolled in a public school operated by the school district and who have been placed by the Department of Human Services in a licensed or approved foster home, shelter, or facility or an exempt child welfare agency as defined under § 9-28-402, if:

(a) The student was enrolled in the school district prior to placement;

(b) The foster home or other placement is located within the boundaries of the school district;

(c) The juvenile division of the circuit court with jurisdiction over a dependency-neglect action concerning the child has issued an order allowing the child to attend school in the school district;  
or

(d) Enrollment in the school district is necessary to ensure continuity of educational services under § 9-28-113.

SECTION 5. Arkansas Code § 9-27-332(a)(2), concerning disposition of families found to be in need of services, is amended to read as follows:

(2)(A) If it is in the best interest of the juvenile, transfer custody of juvenile family members to another licensed agency responsible for the care of juveniles or to a relative or other individual.

(B) If it is in the best interest of the juvenile and because of acts or omissions by the parent, guardian, or custodian, removal is necessary to protect the juvenile's health and safety, transfer custody to the department.

~~(C) All juveniles in shelters or awaiting foster care~~

~~placement who are in the custody of the department are "homeless children and youth" as defined under 42 U.S.C. § 11434a(2), as in effect on February 1, 2005~~ A juvenile in the custody of the department is "awaiting foster care placement", as that term is used in the definition of "homeless children and youths" in the McKinney-Vento Homeless Assistance Act, 42 U.S.C. § 11434a(2), if the juvenile:

(i) Is placed in a shelter, facility, or other short-term placement with a plan of moving the juvenile within ninety (90) days;

(ii) Is transferred to an emergency placement to protect the juvenile's health or welfare;

(iii) Is placed in a provisional foster home as defined by § 9-28-402;

(iv) Has experienced three (3) or more placements within a twelve-month period; or

(v) Is placed in a regular foster home or other placement that is not directly related to the permanency goal identified in the case plan required under § 9-28-111;

SECTION 6. Arkansas Code § 9-27-334(a)(2), concerning disposition of dependent-neglected juveniles, is amended to read as follows:

(2)(A) If it is in the best interest of the juvenile, transfer custody of the juvenile to the Department of Human Services, to another licensed agency responsible for the care of juveniles, or to a relative or other individual.

(B) If the court grants custody of the juvenile to the department, the juvenile shall be placed in a licensed or approved foster home, shelter, or facility or an exempt child welfare agency as defined at § 9-28-402(12).

~~(C) All juveniles in shelters or awaiting foster care placement who are in the custody of the department are "homeless children and youth" as defined at 42 U.S.C. § 11434a(2), as in effect on February 1, 2005~~ A juvenile in the custody of the department is "awaiting foster care placement", as that term is used in the definition of "homeless children and youths" in the McKinney-Vento Homeless Assistance Act, 42 U.S.C. § 11434a(2), if the juvenile:

(i) Is placed in a shelter, facility, or other short-term placement with a plan of moving the juvenile within ninety (90) days;

(ii) Is transferred to an emergency placement to protect the juvenile's health or welfare;

(iii) Is placed in a provisional foster home as defined by § 9-28-402;

(iv) Has experienced three (3) or more placements within a twelve-month period; or

(v) Is placed in a regular foster home or other placement that is not directly related to the permanency goal identified in the case plan required under § 9-28-111;

SECTION 7. Arkansas Code § 9-28-113(a) and (b), concerning the continuity of educational services for foster children, are amended to read as follows:

(a)(1)(A) It is the intent of the General Assembly that each child in foster care is:

(i) Entitled to the same opportunities to meet the academic achievement standards to which all children are held;

(ii) Assisted so that the child can remain in his or her ~~current~~ school of origin;

(iii) Placed in the least restrictive educational placement; and

(iv) Given the same access to academic resources, services, and extracurricular enrichment activities as all other children.

(B) Decisions regarding the education of a child in foster care shall be based on what is in the best interest of the child.

(2)(A) Individuals directly involved in the care, custody, and education of a foster child shall work together to ensure continuity of educational services to the foster child, including without limitation:

(i) Educators;

(ii) The Department of Human Services;

(iii) The Department of Education;

(iv) The circuit court presiding over the foster care case;

(v) Providers of services to the foster child;  
 (vi) Attorneys;  
 (vii) Court-appointed special advocates; and  
 (viii) Parents, guardians, or any persons appointed  
 by the court.

(B) The individuals in subdivision (a)(2)(A) of this section shall ensure the continuity of educational services so that a foster child:

- (i) Can remain in his or her ~~current~~ school of origin whenever possible;
- (ii) Is moved to a new school in a timely manner when it is necessary, appropriate, and in the best interest of the child under this section;
- (iii) Can participate in the appropriate educational programs; and
- (iv) Has access to the academic resources, services, and extracurricular enrichment activities that are available to all students.

(b)(1) A foster child shall have continuity in his or her educational placements.

(2) The Department of Human Services shall consider continuity of educational services and school stability in making foster placement decisions.

(3) The school district shall allow the foster child to remain in the child's ~~current~~ school of origin and continue the child's education unless the court finds that the placement:

- (A) Is not in the best interest of the child; and
- (B) Conflicts with any other provision of current law, excluding the residency requirement under § 6-18-202.

(4)(A) The school district will work with the Department of Human Services to develop a transportation plan to ensure continuity of educational services, to the extent reasonable and practical.

(B) The school district is encouraged to arrange for transportation for the child to enable him or her to remain in his or her ~~current~~ school of origin if reasonable and practical.

(C) The school district shall provide transportation for the child if reasonable and practical and if an additional expense will not

be imposed on the district.

(5) Except for emergencies, before making a recommendation to move a child from his or her ~~current~~ school of origin, the Department of Human Services shall state the basis for the recommended school change and how it serves the best interest of the child in a written statement to the following:

- (A) The foster child;
- (B) The child's attorney ad litem;
- (C) The court-appointed special advocate, if appointed;

and

(D) Parents, guardians, or any person appointed by the court.

(6)(A) If the court transfers custody of a child to the Department of Human Services, the court shall issue an order containing the following determinations regarding the educational issues of the child and whether the parent or guardian of the child may:

- (i) Have access to the child's school records;
- (ii) Obtain information on the current placement of the child, including the name and address of the child's foster parent or provider, if the parent or guardian has access to the child's school records;

and

- (iii) Participate in school conferences or similar activities at the child's school.

(B) If the court transfers custody of a child to the Department of Human Services, the court may appoint an individual to consent to an initial evaluation of the child and serve as the child's surrogate parent under the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq., as in effect on February 1, 2007.

*/s/C. Fite*