

**A-Engrossed**  
**Senate Bill 905**

Ordered by the Senate May 28  
Including Senate Amendments dated May 28

Sponsored by COMMITTEE ON EDUCATION

**SUMMARY**

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

*[Allows individual voluntarily placed in foster care to be resident of school district where individual resides due to placement by public or private agency if placement agreement provides that individual will no longer be considered resident of school district of origin.]*

**Establishes resident school district for child whose parent or guardian voluntarily placed child outside child's home with public or private agency and who is living in licensed, certified or approved substitute care program.**

Declares emergency, effective July 1, 2019.

**A BILL FOR AN ACT**

1  
2 Relating to school district residency for children in foster care; amending ORS 339.133 and 339.134;  
3 and declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 339.133, as amended by section 6, chapter 690, Oregon Laws 2017, and section  
6 19, chapter 72, Oregon Laws 2018, is amended to read:

7 339.133. (1) As used in this section:

8 (a)(A) "Foster care" means substitute care for children placed by the Department of Human  
9 Services or a tribal child welfare agency away from their parents and for whom the department or  
10 agency has placement and care responsibility, including placements in foster family homes, foster  
11 homes of relatives, group homes, emergency shelters, residential facilities, child care institutions and  
12 preadoptive homes.

13 **(B) "Foster care" does not mean care for children whose parent or guardian voluntarily**  
14 **placed the child outside the child's home with a public or private agency and for whom the**  
15 **child's parent or guardian retains legal guardianship.**

16 (b)(A) "Person in parental relationship" means an adult who has physical custody of an indi-  
17 vidual or resides in the same household as the individual, interacts with the individual daily, pro-  
18 vides the individual with food, clothing, shelter and incidental necessities and provides the  
19 individual with necessary care, education and discipline.

20 (B) "Person in parental relationship" does not mean a person with a power of attorney or other  
21 written delegation of parental responsibilities if the person does not have other evidence of a par-  
22 ental relationship.

23 (c) "School district of origin" means the school district where an individual was a resident be-  
24 fore:

25 (A) The individual was placed into foster care; or

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted.  
New sections are in **boldfaced** type.

1 (B) The foster care placement of the individual changed.

2 (d) "School of origin" means the school that an individual attended before:

3 (A) The individual was placed into foster care; or

4 (B) The foster care placement of the individual changed.

5 (2)(a) Except as provided in subsections (3) to (5) of this section, individuals between the ages  
6 of 4 and 18 shall be considered resident for school purposes in the school district in which their  
7 parents, their guardians or persons in parental relationship to them reside.

8 (b) Nonemancipated individuals between the ages of 4 and 18 living outside the geographic area  
9 of the school district for such reasons as attending college, military service, hospital confinement  
10 or employment away from home shall be considered resident in the district in which their parents,  
11 their guardians or persons in parental relationship to them reside.

12 (c) Individuals living temporarily in a school district for the primary purpose of attending a  
13 district school may not be considered resident in the district in which they are living temporarily,  
14 but shall be considered resident in the district in which they, their parents, their guardians or per-  
15 sons in parental relationship to them reside.

16 (3) Individuals considered legally emancipated from their parents shall be considered resident  
17 in the district in which they actually reside, irrespective of the residence of their parents, their  
18 guardians or persons in parental relationship.

19 (4)(a) An individual who is between the ages of 4 and 21 and who is placed in foster care shall  
20 be considered a resident of:

21 (A) The school district of origin; or

22 (B) The school district where the individual resides due to placement by the Department of  
23 Human Services or a tribal child welfare agency if a juvenile court determines it is not in the best  
24 interest of the individual to continue attending the school of origin or any other school in the school  
25 district of origin, based on consideration of all factors relating to the individual's best interests.

26 (b) If a juvenile court makes a determination that it is not in the best interest of the individual  
27 to continue attending the school of origin, the individual shall be immediately enrolled in a new  
28 school, even if the individual is unable to produce records normally required for enrollment.

29 (c) Individuals who are residents of their school district of origin pursuant to paragraph (a)(A)  
30 of this subsection shall:

31 (A) Remain in the individual's school district of origin and, if applicable, the individual's school  
32 of origin for the duration of the individual's time in foster care; and

33 (B) Be provided, free of charge, transportation between the individual's home and the  
34 individual's school district of origin or, if applicable, the individual's school of origin.

35 (d) The Department of Education, the Department of Human Services, tribal child welfare  
36 agencies and school districts shall collaborate to ensure that the provisions of this subsection are  
37 implemented.

38 (5)(a) Except as provided in ORS 327.006 (7) and 335.090, an individual whose legal residence is  
39 not within the district but who attends school in the district is considered a resident in the district  
40 in which the individual attends school if the individual receives:

41 (A) Written consent from both of the affected district school boards as provided by policies  
42 adopted by the boards; or

43 (B) Written consent from the district school board for the district in which the school is located  
44 as provided by section 9, chapter 718, Oregon Laws 2011.

45 (b) An individual whose legal residence is not within the district but who attends school in the

1 district is considered a resident in the district in which the individual attends school if:

2 (A) The legal residence of the individual had been in the district in which the individual attends  
3 school before a boundary change was made to the district;

4 (B) The legal residence of the individual is no longer in the district in which the individual at-  
5 tends school because of the boundary change; and

6 (C) The individual has had the same legal residence and has continuously been enrolled in a  
7 school in the district since the boundary change.

8 (6)(a) Individuals who are foreign exchange students and who are residing in Oregon in a  
9 dormitory operated by a school district are considered to be residents of the school district in which  
10 the dormitory is located.

11 (b) For the purpose of this subsection:

12 (A) An individual may not be considered to be a foreign exchange student for more than one  
13 school year.

14 (B) An individual may be considered to be a resident of a school district as provided by this  
15 subsection only if, for the 2010-2011 school year, the school district had foreign exchange students  
16 who would have been considered residents under the provisions of this subsection.

17 (C) The number of individuals who may be considered residents under the provisions of this  
18 subsection may not increase relative to the number who would have been considered residents under  
19 the provisions of this subsection for the 2010-2011 school year.

20 (c) As used in this subsection, “foreign exchange student” means an individual who attends  
21 school in Oregon under a cultural exchange program and whose parent, guardian or person in par-  
22 ental relationship resides in another country.

23 **SECTION 2.** ORS 339.133, as amended by section 6, chapter 690, Oregon Laws 2017, and  
24 sections 19 and 21, chapter 72, Oregon Laws 2018, is amended to read:

25 339.133. (1) As used in this section:

26 (a)(A) “Foster care” means substitute care for children placed by the Department of Human  
27 Services or a tribal child welfare agency away from their parents and for whom the department or  
28 agency has placement and care responsibility, including placements in foster family homes, foster  
29 homes of relatives, group homes, emergency shelters, residential facilities, child care institutions and  
30 preadoptive homes.

31 **(B) “Foster care” does not mean care for children whose parent or guardian voluntarily**  
32 **placed the child outside the child’s home with a public or private agency and for whom the**  
33 **child’s parent or guardian retains legal guardianship.**

34 (b)(A) “Person in parental relationship” means an adult who has physical custody of an indi-  
35 vidual or resides in the same household as the individual, interacts with the individual daily, pro-  
36 vides the individual with food, clothing, shelter and incidental necessities and provides the  
37 individual with necessary care, education and discipline.

38 (B) “Person in parental relationship” does not mean a person with a power of attorney or other  
39 written delegation of parental responsibilities if the person does not have other evidence of a par-  
40 ental relationship.

41 (c) “School district of origin” means the school district where an individual was a resident be-  
42 fore:

43 (A) The individual was placed into foster care; or

44 (B) The foster care placement of the individual changed.

45 (d) “School of origin” means the school that an individual attended before:

1 (A) The individual was placed into foster care; or

2 (B) The foster care placement of the individual changed.

3 (2)(a) Except as provided in subsections (3) to (5) of this section, individuals between the ages  
4 of 4 and 18 shall be considered resident for school purposes in the school district in which their  
5 parents, their guardians or persons in parental relationship to them reside.

6 (b) Nonemancipated individuals between the ages of 4 and 18 living outside the geographic area  
7 of the school district for such reasons as attending college, military service, hospital confinement  
8 or employment away from home shall be considered resident in the district in which their parents,  
9 their guardians or persons in parental relationship to them reside.

10 (c) Individuals living temporarily in a school district for the primary purpose of attending a  
11 district school may not be considered resident in the district in which they are living temporarily,  
12 but shall be considered resident in the district in which they, their parents, their guardians or per-  
13 sons in parental relationship to them reside.

14 (3) Individuals considered legally emancipated from their parents shall be considered resident  
15 in the district in which they actually reside, irrespective of the residence of their parents, their  
16 guardians or persons in parental relationship.

17 (4)(a) An individual who is between the ages of 4 and 21 and who is placed in foster care shall  
18 be considered a resident of:

19 (A) The school district of origin; or

20 (B) The school district where the individual resides due to placement by the Department of  
21 Human Services or a tribal child welfare agency if a juvenile court determines it is not in the best  
22 interest of the individual to continue attending the school of origin or any other school in the school  
23 district of origin, based on consideration of all factors relating to the individual's best interests.

24 (b) If a juvenile court makes a determination that it is not in the best interest of the individual  
25 to continue attending the school of origin, the individual shall be immediately enrolled in a new  
26 school, even if the individual is unable to produce records normally required for enrollment.

27 (c) Individuals who are residents of their school district of origin pursuant to paragraph (a)(A)  
28 of this subsection shall:

29 (A) Remain in the individual's school district of origin and, if applicable, the individual's school  
30 of origin for the duration of the individual's time in foster care; and

31 (B) Be provided, free of charge, transportation between the individual's home and the  
32 individual's school district of origin or, if applicable, the individual's school of origin.

33 (d) The Department of Education, the Department of Human Services, tribal child welfare  
34 agencies and school districts shall collaborate to ensure that the provisions of this subsection are  
35 implemented.

36 (5)(a) Except as provided in ORS 327.006 (7) and 335.090, an individual whose legal residence is  
37 not within the district but who attends school in the district is considered a resident in the district  
38 in which the individual attends school if the individual receives written consent from both of the  
39 affected district school boards as provided by policies adopted by the boards.

40 (b) An individual whose legal residence is not within the district but who attends school in the  
41 district is considered a resident in the district in which the individual attends school if:

42 (A) The legal residence of the individual had been in the district in which the individual attends  
43 school before a boundary change was made to the district;

44 (B) The legal residence of the individual is no longer in the district in which the individual at-  
45 tends school because of the boundary change; and

1 (C) The individual has had the same legal residence and has continuously been enrolled in a  
2 school in the district since the boundary change.

3 (6)(a) Individuals who are foreign exchange students and who are residing in Oregon in a  
4 dormitory operated by a school district are considered to be residents of the school district in which  
5 the dormitory is located.

6 (b) For the purpose of this subsection:

7 (A) An individual may not be considered to be a foreign exchange student for more than one  
8 school year.

9 (B) An individual may be considered to be a resident of a school district as provided by this  
10 subsection only if, for the 2010-2011 school year, the school district had foreign exchange students  
11 who would have been considered residents under the provisions of this subsection.

12 (C) The number of individuals who may be considered residents under the provisions of this  
13 subsection may not increase relative to the number who would have been considered residents under  
14 the provisions of this subsection for the 2010-2011 school year.

15 (c) As used in this subsection, "foreign exchange student" means an individual who attends  
16 school in Oregon under a cultural exchange program and whose parent, guardian or person in par-  
17 ental relationship resides in another country.

18 **SECTION 3.** ORS 339.133, as amended by section 6, chapter 690, Oregon Laws 2017, and  
19 sections 19, 21 and 23, chapter 72, Oregon Laws 2018, is amended to read:

20 339.133. (1) As used in this section:

21 (a)(A) "Foster care" means substitute care for children placed by the Department of Human  
22 Services or a tribal child welfare agency away from their parents and for whom the department or  
23 agency has placement and care responsibility, including placements in foster family homes, foster  
24 homes of relatives, group homes, emergency shelters, residential facilities, child care institutions and  
25 preadoptive homes.

26 **(B) "Foster care" does not mean care for children whose parent or guardian voluntarily**  
27 **placed the child outside the child's home with a public or private agency and for whom the**  
28 **child's parent or guardian retains legal guardianship.**

29 (b)(A) "Person in parental relationship" means an adult who has physical custody of an indi-  
30 vidual or resides in the same household as the individual, interacts with the individual daily, pro-  
31 vides the individual with food, clothing, shelter and incidental necessities and provides the  
32 individual with necessary care, education and discipline.

33 (B) "Person in parental relationship" does not mean a person with a power of attorney or other  
34 written delegation of parental responsibilities if the person does not have other evidence of a par-  
35 ental relationship.

36 (c) "School district of origin" means the school district where an individual was a resident be-  
37 fore:

38 (A) The individual was placed into foster care; or

39 (B) The foster care placement of the individual changed.

40 (d) "School of origin" means the school that an individual attended before:

41 (A) The individual was placed into foster care; or

42 (B) The foster care placement of the individual changed.

43 (2)(a) Except as provided in subsections (3) to (5) of this section, individuals between the ages  
44 of 4 and 18 shall be considered resident for school purposes in the school district in which their  
45 parents, their guardians or persons in parental relationship to them reside.

1 (b) Nonemancipated individuals between the ages of 4 and 18 living outside the geographic area  
2 of the school district for such reasons as attending college, military service, hospital confinement  
3 or employment away from home shall be considered resident in the district in which their parents,  
4 their guardians or persons in parental relationship to them reside.

5 (c) Individuals living temporarily in a school district for the primary purpose of attending a  
6 district school may not be considered resident in the district in which they are living temporarily,  
7 but shall be considered resident in the district in which they, their parents, their guardians or per-  
8 sons in parental relationship to them reside.

9 (3) Individuals considered legally emancipated from their parents shall be considered resident  
10 in the district in which they actually reside, irrespective of the residence of their parents, their  
11 guardians or persons in parental relationship.

12 (4)(a) An individual who is between the ages of 4 and 21 and who is placed in foster care shall  
13 be considered a resident of:

14 (A) The school district of origin; or

15 (B) The school district where the individual resides due to placement by the Department of  
16 Human Services or a tribal child welfare agency if a juvenile court determines it is not in the best  
17 interest of the individual to continue attending the school of origin or any other school in the school  
18 district of origin, based on consideration of all factors relating to the individual's best interests.

19 (b) If a juvenile court makes a determination that it is not in the best interest of the individual  
20 to continue attending the school of origin, the individual shall be immediately enrolled in a new  
21 school, even if the individual is unable to produce records normally required for enrollment.

22 (c) Individuals who are residents of their school district of origin pursuant to paragraph (a)(A)  
23 of this subsection shall:

24 (A) Remain in the individual's school district of origin and, if applicable, the individual's school  
25 of origin for the duration of the individual's time in foster care; and

26 (B) Be provided, free of charge, transportation between the individual's home and the  
27 individual's school district of origin or, if applicable, the individual's school of origin.

28 (d) The Department of Education, the Department of Human Services, tribal child welfare  
29 agencies and school districts shall collaborate to ensure that the provisions of this subsection are  
30 implemented.

31 (5)(a) Except as provided in ORS 327.006 (7) and 335.090, an individual whose legal residence is  
32 not within the district but who attends school in the district is considered a resident in the district  
33 in which the individual attends school if the individual receives written consent from both of the  
34 affected district school boards as provided by policies adopted by the boards.

35 (b) An individual whose legal residence is not within the district but who attends school in the  
36 district is considered a resident in the district in which the individual attends school if:

37 (A) The legal residence of the individual had been in the district in which the individual attends  
38 school before a boundary change was made to the district;

39 (B) The legal residence of the individual is no longer in the district in which the individual at-  
40 tends school because of the boundary change; and

41 (C) The individual has had the same legal residence and has continuously been enrolled in a  
42 school in the district since the boundary change.

43 **SECTION 4.** ORS 339.134 is amended to read:

44 339.134. (1) [Notwithstanding ORS 339.133 (4), a child with a disability] **Except as provided by**  
45 **subsection (2) of this section, a child whose parent or guardian voluntarily placed the child**

1 **outside the child's home with a public or private agency and who is living in a licensed, cer-**  
2 **tified or approved substitute care program shall be considered a resident for school purposes**  
3 **in the school district in which the child resides because of the voluntary placement.**

4 **(2) A child whose parent or guardian voluntarily placed the child outside the child's home**  
5 **with a public or private agency and who is living in a licensed, certified or approved substi-**  
6 **tute care program shall be considered a resident for school purposes in the school district in which**  
7 **the child's parent or guardian resides if:**

8 *[(a) The child is voluntarily placed outside the child's home by the child's parent or guardian;]*

9 **(a) The child's preferences in school attendance are taken into consideration;**

10 (b) The child's parent or guardian retains legal guardianship of the child;

11 (c) There is a plan for the child to return home;

12 (d) The **voluntary** placement is within 20 miles by the nearest traveled road from the *[original*  
13 *school building]* **school the child attended prior to the voluntary placement**, unless there are  
14 physiographic conditions that make transportation to the *[original school building]* **school** not fea-  
15 sible; and

16 (e) The child's parent or guardian and the school staff **from the school the child attended**  
17 **prior to the voluntary placement** can demonstrate that it is in the best interest of the child to  
18 continue to attend the school the child *[was attending]* **attended** prior to the **voluntary** placement.  
19 The best interest of the child may be demonstrated by factors, including but not limited to the fol-  
20 lowing:

21 (A) The child's siblings attend the school;

22 (B) A change in the child's routine would be detrimental to the child; or

23 (C) The child has developed and maintained a network of personal contacts, support services  
24 and friends and a sense of community within the school.

25 **(3) Transportation for a child whose parent or guardian voluntarily placed the child out-**  
26 **side the child's home with a public or private agency and who is living in a licensed, certified**  
27 **or approved substitute care program shall be the responsibility of the child's resident school**  
28 **district, as determined under subsection (1) or (2) of this section.**

29 *[(2) If a child qualifies under subsection (1) of this section, the child may continue to attend the*  
30 *school the child was attending prior to the placement in the child's resident school district].*

31 *[(3)]* **(4) Nothing in this section shall affect the ability of school districts to enter into agree-**  
32 **ments with other school districts for the transportation of students.**

33 **SECTION 5. This 2019 Act being necessary for the immediate preservation of the public**  
34 **peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect**  
35 **July 1, 2019.**