

2012 -- S 2711

=====
LC01882
=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2012

—————
A N A C T

RELATING TO EDUCATION - RESIDENCE OF CHILDREN FOR SCHOOL PURPOSES

Introduced By: Senators Perry, Maher, Sosnowski, Pichardo, and Miller

Date Introduced: March 06, 2012

Referred To: Senate Education

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 16-64-1, 16-64-1.1, 16-64-2, 16-64-5 and 16-64-8 of the General
2 Laws in Chapter 16-64 entitled "Residence of Children for School Purposes" are hereby amended
3 to read as follows:

4 **16-64-1. Residency of children for school purposes.** -- Except as provided by law or by
5 agreement, a child shall be enrolled in the school system of the city or town where he or she
6 resides. A child shall be deemed to be a resident of the city or town where his or her parents
7 reside. If the child's parents reside in different cities or towns the child shall be deemed to be a
8 resident of the city or town in which the parent having actual custody of the child resides. In cases
9 where a child has no living parents, has been abandoned by his or her parents, or when parents are
10 unable to care for their child on account of parental illness or family break-up, the child shall be
11 deemed to be a resident of the city or town where the child lives with his or her legal guardian,
12 natural guardian, or other person acting in loco parentis to the child. An emancipated minor shall
13 be deemed to be a resident of the city or town where he or she lives. Children placed in group
14 homes, in foster care, in child caring facilities, or by a Rhode Island state agency or a Rhode
15 Island licensed child placing agency shall be deemed to be residents of the city or town where the
16 group home, child caring facility, or foster home is located for the purposes of enrollment, ~~and~~
17 ~~this~~ but will have the right to continue to attend school in a district where they have previously
18 resided in order to maintain educational stability as provided for in section 16-64-5. A city or
19 town providing education to a student in state care shall be reimbursed or the child's education

1 shall be paid for in accordance with section 16-64-1.1. In all other cases a child's residence shall
2 be determined in accordance with the applicable rules of the common law. Where a child is a
3 resident in a dwelling which lies in more than one municipality, the parent(s) or guardian shall
4 choose which school district the child shall attend without payment of costs as tuition.

5 **16-64-1.1. Payment and reimbursement for educational costs of children placed in**
6 **foster care, group homes, or other residential facility by a Rhode Island state agency. --** (a)

7 Children placed in foster care by a Rhode Island licensed child placing agency or a Rhode Island
8 governmental agency shall be entitled to the same free appropriate public education provided to
9 all other residents of the city or town where the child is placed [or in a district where they have](#)
10 [previously resided as provided for by section 16-64-5](#). The city or town shall pay the cost of the
11 education of the child during the time the child is in foster care in the city or town.

12 (b) Children placed by DCYF in a group home or other residential facility that does not
13 include the delivery of educational services are to be educated by the community in which the
14 group home or other residential facility is located, [or in a district where they have previously](#)
15 [resided as provided for by section 16-64-5](#), and those children shall be entitled to the same free
16 appropriate public education provided to all other residents of the city or town where the child is
17 placed. For purposes of payment and reimbursement for educational costs under this chapter, the
18 term "group home or other residential facility" shall not include independent living programs.
19 Each city and town that contains one or more group homes or other residential facilities that do
20 not include delivery of educational services will receive funds as part of state aid to education in
21 accordance with the following provisions:

22 (1) On December 31 of each year the DCYF shall provide the department of elementary
23 and secondary education with a precise count of how many group home or other residential
24 facility "beds" exist in each Rhode Island city or town, counting only those "beds" in facilities
25 that do not include the delivery of educational services. The number of "beds" in each group
26 home or other residential facility shall be equal to the maximum number of children that may be
27 placed in that group home or other residential facility on any given night according to the
28 applicable licensure standards of the DCYF.

29 (2) For the fiscal year beginning July 1, 2007, if the number of beds certified by the
30 Department of Children, Youth and Families for a school district by December 31, 2007 is greater
31 than the number certified March 14, 2007 upon which the education aid for FY 2008 was
32 appropriated, the education aid for that district will be increased by the number of increased beds
33 multiplied by fifteen thousand dollars (\$15,000). Notwithstanding the provisions of this section or
34 any law to the contrary, the education aid for all group home or other residential facility "beds"

1 located or associated with the Children's Residential and Family Treatment (CRAFT) program
2 located on the East Providence campus of Bradley Hospital shall be twenty-two thousand dollars
3 (\$22,000) per bed. The Department of Elementary and Secondary Education shall include the
4 additional aid in equal payments in March, April, May and June, and the Governor's budget
5 recommendations pursuant to section 35-3-8 shall include the amounts required to provide the
6 increased aid.

7 For all fiscal years beginning after June 30, 2008, education aid for each school district
8 shall include fifteen thousand dollars (\$15,000) for each bed certified by the Department of
9 Children, Youth and Families by the preceding December 31. Notwithstanding the provisions of
10 this section or any law to the contrary, the education aid for all group home or other residential
11 facility "beds" located or associated with the Children's Residential and Family Treatment
12 (CRAFT) program located on the East Providence campus of Bradley Hospital shall be twenty-
13 two thousand dollars (\$22,000) per bed. For all fiscal years beginning after June 30, 2008,
14 whenever the number of beds certified by the Department of Children, Youth and Families for a
15 school district by December 31 is greater than the number certified the prior December 31 upon
16 which the education aid for that fiscal year was appropriated, the education aid for that district as
17 enacted by the assembly during the prior legislative session for that fiscal year will be increased
18 by the number of increased beds multiplied by the amount per bed authorized for that fiscal year.
19 The Department of Elementary and Secondary Education shall include the additional aid in equal
20 payments in March, April, May and June, and the Governor's budget recommendations pursuant
21 to section 35-3-8 shall include the amounts required to provide the increased aid.

22 (3) [Deleted by P.L. 2007, ch. 73, art. 21, section 6.]

23 (4) [Deleted by P.L. 2007, ch. 73, art. 21, section 6.]

24 (5) [Deleted by P.L. 2007, ch. 73, art. 21, section 6.]

25 (c) Children placed by DCYF in a residential treatment program, group home, or other
26 residential facility, whether or not located in the state of Rhode Island, which includes the
27 delivery of educational services, provided by that facility (excluding facilities where students are
28 taught on grounds for periods of time by teaching staff provided by the school district in which
29 the facility is located), shall have the cost of their education paid for as provided for in subsection
30 (d) of this section and section 16-64-1.2. The city or town determined to be responsible to DYCF
31 for a per-pupil special education cost pursuant to section 16-64-1.2 shall pay its share of the cost
32 of educational services to DCYF or to the facility providing educational services.

33 (d) Children placed by DCYF in group homes, child caring facilities, community
34 residences, or other residential facilities shall have the entire cost of their education paid for by

1 DCYF if:

2 (1) The facility is operated by the state of Rhode Island or the facility has a contract with
3 DCYF to fund a pre-determined number of placements or part of the facility's program;

4 (2) The facility is state-licensed; and

5 (3) The facility operates an approved on-grounds educational program, whether or not
6 the child attends the on-grounds program.

7 SECTION 2. Section 16-64-2 of the General Laws in Chapter 16-64 entitled "Residence
8 of Children for School Purposes" is hereby amended to read as follows:

9 **16-64-2. Retention of residence.** -- A child shall be eligible to receive education from
10 the city or town in which the child's residence has been established until his or her residence has
11 been established in another city or town and that city or town has enrolled the child within its
12 school system, unless the commissioner of elementary and secondary education, pursuant to
13 section 16-64-6, has ordered otherwise or, in the case of a child in foster care, until they have
14 achieved permanency, if maintaining educational stability is determined by the family court to be
15 in the child's best interest. Nothing contained in this section shall be construed to prohibit a city
16 or town in its own discretion from enrolling a child within its school system before a child has
17 established technical residency within the city or town. The commissioner of elementary and
18 secondary education shall promulgate any rules that may be needed to implement the educational
19 provisions of the Stewart B. McKinney Homeless Assistance Act (P.L. 105-220), 42 U.S.C.
20 section 11431 et seq., and of the Fostering Connections to Success and Increasing Adoptions Act
21 of 2008 (P.L. 110-351, 42 USC section 1305 et seq.

22 ~~**16-64-5. Children under care and control of state agency.** -- **Children under care**
23 **and control of state agency – Right to a stable education.** -- ~~In cases where the director of a
24 Rhode Island state agency considers it likely that a child under his or her care and control will be
25 subject to a short term placement or series of short term placements, the director may petition the
26 commissioner of elementary and secondary education to designate the child's original city or
27 town of residence as having continuing responsibility for the child's education. This designation
28 shall be effective for period not greater than two (2) months unless an extension is granted by the
29 commissioner. Nothing contained in this section shall be construed to prohibit any school system
30 from providing transportation for the child without charge. Disputes under this section including
31 disputes relating to transportation shall be resolved in accordance with section 16-64-6.~~~~

32 (a) Rhode Island licensed child placing agencies and Rhode Island governmental
33 agencies shall promote the educational stability of children in foster care by considering the
34 child's school attendance area when making placement decisions. The foster care pupil shall have

1 [the right to remain enrolled in and attend school in a district where they have previously resided,](#)
2 [if such placement is deemed by the family court in the pupil's best interest for so long as the child](#)
3 [remains in the care of the state, notwithstanding the provisions of 16-64-8.](#)

4 [\(b\) School districts shall ensure that if a pupil in foster care is absent from school due to a](#)
5 [decision to change the placement of a pupil made by the family court or child placing agency, or](#)
6 [due to a verified court appearance or related court-ordered activity, the grades and credits of the](#)
7 [pupil shall be calculated as of the date the pupil left school, and no lowering of his or her grades](#)
8 [shall occur as a result of the absence of the pupil under these circumstances.](#)

9 [\(c\) Notwithstanding any state or federal law to the contrary, school districts shall be](#)
10 [authorized to permit access of pupil school records to any child placing agency for the purpose of](#)
11 [fulfilling educational case management responsibilities and assisting with the school or placement](#)
12 [of a pupil.](#)

13 **16-64-8. Completion of semester of school year. --** When a student changes his or her
14 residence during the course of a semester the student shall be allowed to complete the semester in
15 his or her original city or town of residence. If the student is a senior or about to enter his or her
16 senior year the student shall be allowed to complete his or her senior year in his or her original
17 city or town of residence. No school district shall be required to provide transportation to a
18 student exercising the option permitted by this section. No school district shall require a student
19 to exercise the option allowed in this section. No school district shall be required to pay tuition
20 for a student who exercises the option allowed in this section. Nothing in this section shall be
21 construed to diminish the rights of any person covered by the McKinney Homeless Assistance
22 Act (P.L. 105-220), 42 U.S.C. section 11431 et seq., [or any person covered by the provisions of](#)
23 [Fostering Connections to Success and Increasing Adoptions Act of 2008 \(P.L. 110-351\), 42 USC](#)
24 [section 1305 et seq.](#)

25 SECTION 3. This act shall take effect upon passage.

=====
LC01882
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO EDUCATION - RESIDENCE OF CHILDREN FOR SCHOOL PURPOSES

1 This act would provide that Rhode Island licensed child placing agencies and Rhode
2 Island governmental agencies would promote the educational stability of children in foster care
3 by considering the child's school attendance area when making placement decisions. More
4 specifically, the act would provide that a student who is in foster care would have the right to
5 remain enrolled in and attend school in a district where the student previously resided, if such
6 placement were deemed by the family court to be in the pupil's best interest.

7 This act would take effect upon passage.

=====
LC01882
=====