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**STUDENT RESIDENCE AMENDMENTS**

2016 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Derrin Owens**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill amends provisions governing a student's school district of residence.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ enacts provisions governing the school district of residency for a child who is receiving services from a health care facility or human services program; and
- ▶ makes technical and conforming corrections.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**53A-2-201**, as last amended by Laws of Utah 1995, Chapter 282

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*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **53A-2-201** is amended to read:

**53A-2-201. Child's school district of residence -- Determination -- Responsibility for providing educational services.**



28 (1) As used in this section:

29 (a) "Health care facility" means the same as that term is defined in Section 26-21-2.

30 (b) "Human services program" means the same as that term is defined in Section  
31 62A-2-101.

32 [(+)] (2) The school district of residence of a minor child whose custodial parent or  
33 legal guardian resides within Utah is:

34 (a) the school district in which the custodial parent or legal guardian resides; or

35 (b) the school district in which the child resides:

36 (i) while in the custody or under the supervision of a Utah state agency;

37 (ii) while under the supervision of a private or public agency which is in compliance  
38 with Section 62A-4a-606 and is authorized to provide child placement services by the state;

39 (iii) while living with a responsible adult resident of the district, if a determination has  
40 been made in accordance with rules [~~of the district board of education~~] made by the State  
41 Board of Education in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking  
42 Act, that:

43 (A) the child's physical, mental, moral, or emotional health would best be served by  
44 considering the child to be a resident for school purposes;

45 (B) exigent circumstances exist which would not permit the case to be appropriately  
46 addressed under Section 53A-2-207; and

47 (C) considering the child to be a resident of the district under this [~~subsection~~]  
48 Subsection (2)(b)(iii) would not violate any other law or rule of the State Board of Education;  
49 [~~or~~]

50 (iv) while the child is receiving services from a health care facility or human services  
51 program, if a determination has been made in accordance with rules made by the State Board of  
52 Education in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

53 (A) the child's physical, mental, moral, or emotional health would best be served by  
54 considering the child to be a resident for school purposes;

55 (B) exigent circumstances exist, which would not permit the case to be appropriately  
56 addressed under Section 53A-2-207; and

57 (C) considering the child to be a resident of the district under this Subsection (2)(b)(iv)  
58 would not violate any other law or rule of the State Board of Education; or

59           ~~[(iv)]~~ (v) if the child is married or has been determined to be an emancipated minor by  
60 a court of law or by a state administrative agency authorized to make that determination.

61           ~~[(2)]~~ (3) A minor child whose custodial parent or legal guardian does not reside in the  
62 state is considered to be a resident of the district in which the child lives, unless that  
63 designation violates any other law or rule of the State Board of Education, if:

64           (a) the child is married or an emancipated minor under Subsection ~~[(1)]~~ (2)(b)(iv); ~~[or]~~

65           (b) the child lives with a resident of the district who is a responsible adult and whom  
66 the district agrees to designate as the child's legal guardian under Section 53A-2-202; or

67           (c) if permissible under policies adopted by ~~[the]~~ a local school board, it is established  
68 to the satisfaction of the local school board that:

69           (i) the child lives with a responsible adult who is a resident of the district and is the  
70 child's noncustodial parent, grandparent, brother, sister, uncle, or aunt;

71           (ii) the child's presence in the district is not for the primary purpose of attending the  
72 public schools;

73           (iii) the child's physical, mental, moral, or emotional health would best be served by  
74 considering the child to be a resident for school purposes; and

75           (iv) the child is prepared to abide by the rules and policies of the school and school  
76 district in which attendance is sought.

77           ~~[(3)]~~ (4) (a) If admission is sought under Subsection ~~[(1)]~~ (2)(b)(iii), or ~~[(2)]~~ (3)(c),  
78 then the district may require the person with whom the child lives to be designated as the  
79 child's custodian in a durable power of attorney, issued by the party who has legal custody of  
80 the child, granting the custodian full authority to take any appropriate action, including  
81 authorization for educational or medical services, in the interests of the child.

82           (b) Both the party granting and the party empowered by the power of attorney shall  
83 agree to:

84           (i) assume responsibility for any fees or other charges relating to the child's education  
85 in the district; and

86           (ii) if eligibility for fee waivers is claimed under Section 53A-12-103, provide the  
87 school district with all financial information requested by the district for purposes of  
88 determining eligibility for fee waivers.

89           (c) Notwithstanding Section 75-5-103, a power of attorney meeting the requirements of

90 this section and accepted by the school district shall remain in force until the earliest of the  
91 following occurs:

- 92 (i) the child reaches the age of 18, marries, or becomes emancipated;
- 93 (ii) the expiration date stated in the document; or
- 94 (iii) the power of attorney is revoked or rendered inoperative by the grantor or grantee,  
95 or by order of a court of competent jurisdiction.

96 [~~4~~] (5) A power of attorney does not confer legal guardianship.

97 [~~5~~] (6) Each school district is responsible for providing educational services for all  
98 children of school age who are residents of the district.

99 [~~6~~] ~~Students who were enrolled in a Utah public school by October 1, 1992, and~~  
100 ~~would, but for this part, have been allowed to attend public schools without payment of tuition~~  
101 ~~shall be permitted to continue their attendance until graduation or termination of enrollment on~~  
102 ~~the same basis as Utah resident students.]~~

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**Legislative Review Note**  
**Office of Legislative Research and General Counsel**