Session of 2025

HOUSE BILL No. 2320

By Committee on K-12 Education Budget

Requested by Representative Goetz

2-6

AN ACT concerning education; relating to school districts; relating to children in the custody of the secretary for children and families; requiring transfer of a child's records when such child's placement is changed by the secretary and establishing a deadline for the transfer of such records; authorizing children in the custody of the secretary to attend any school district; authorizing such children to remain enrolled in and continue attending the school of origin; amending K.S.A. 38-2218 and 72-3439 and K.S.A. 2024 Supp. 72-3122, 72-3123 and 72-3124 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 38-2218 is hereby amended to read as follows: 38-2218. (a) When the court has granted legal custody of a child in a hearing under the code to an agency, association or individual, the custodian or an agent designated by the custodian shall have authority to make educational decisions for the child if the parents of the child are unknown or unavailable. When the custodian of the child is the secretary, ~~and~~ the parents of the child are unknown or unavailable~~,~~ and the child appears to be an exceptional child who requires special education, the secretary shall immediately notify the state board of education, or a designee of the state board, and the school district in which the child is residing that the child is in need of an education advocate. As used in this section, a parent is unavailable if:

(1) Repeated attempts have been made to contact the parent to provide notice of an IEP meeting and secure the parent's participation and such attempts have been unsuccessful;

(2) having been provided actual notice of an IEP meeting, the parent has failed or refused to attend and participate in the meeting; or

(3) the parent's whereabouts are unknown so that notice of an IEP meeting cannot be given to the parent. As soon as possible after notification, the state board of education, or its designee, shall appoint an education advocate for the child.

(b) If the secretary changes the placement of a ~~pupil~~ *child* from one school district to another *school district* or ~~to another~~ *across a* school *boundary* within the same district, it shall be the duty of the secretary to

notify the affected school district or districts that the child's placement has changed and request such child's records be transferred. It shall be the duty of the school district and school in possession of any records pertaining to such child to cooperate with the secretary and transfer~~, or make provision for the transfer, of~~ all ~~school~~ *such* records ~~of such pupil~~ to the *school* district or school ~~to which the pupil~~ *where such child* is transferred. Such ~~school~~ records shall be transferred ~~at the same time that the pupil is transferred or~~ as soon as possible ~~thereafter~~ *following receipt of such notice but not later than two business days following such receipt. A school district shall not deny or delay enrollment and attendance of any such child whose placement has changed on the basis that the school district or school is not in possession of such child's educational records*.

(c) As used in this section, the terms "exceptional child," "special education," and "education advocate" ~~have the meanings respectively ascribed thereto~~ *mean the same as defined* in the special education for exceptional children act, K.S.A. 72-3403 et seq., and amendments thereto. ~~The term "pupil" means a child living in a school district as a result of a placement therein by the secretary pursuant to this code.~~

Sec. 2. K.S.A. 2024 Supp. 72-3122 is hereby amended to read as follows: 72-3122. (a) Any child who has attained the age of eligibility for school attendance may attend school in the district where ~~the child lives, if~~:

(1) The child lives *if the child lives* with a resident of the district and the resident is the parent, or a person acting as parent, of the child;

(2) ~~subject to the provisions of subsection (c),~~ the child lives ~~in the district~~*, resides or is staying* as a result of placement therein by a district court or ~~by~~ the secretary for children and families*. If the court or secretary changes the placement of a child across a school boundary within the same school district, such child shall be permitted to:*

(A) Enroll in and attend the school of the school district where such child is placed; or

(B) remain enrolled in and continue attending the child's school of origin; ~~or~~

(3) *the secretary for children and families determines that the child's enrollment and attendance is in the best interests of the child; or*

(4) the child resides or is staying if the child is a homeless child.

(b) Any child who has attained the age of eligibility for school attendance may attend school in a school district where the child is not a resident in accordance with K.S.A. 72-13,101, 72-3123 or 72-3125, and amendments thereto.

Sec. 3. K.S.A. 2024 Supp. 72-3123 is hereby amended to read as follows: 72-3123. (a) ~~Beginning in school year 2024-2025,~~ The board of education of any school district shall permit nonresident students to enroll

in and attend the schools of the district if such school district has open seats as determined pursuant to this section.

(b) Each school district shall determine capacity in each school of the school district for the following school year as follows:

(1) For kindergarten and grades one through eight, the classroom student-teacher ratio in each grade level; and

(2) for grades nine through 12, the student-teacher ratio for each school building or program in each school building, including, but not limited to, advanced placement or international baccalaureate programs.

(c) (1) On or before May 1 of each year, each school board shall determine for each grade level in each school building of the school district for the next succeeding school year the:

(A) Capacity as determined pursuant to subsection (b);

(B) number of students expected to attend school in the school district; and

(C) number of open seats available to nonresident students.

(2) On or before June 1 of each year, each school district shall publish on such school district's website the number of open seats available to nonresident students in each grade level for each school building of the school district for the next succeeding school year.

(3) From January 1 through June 15, each school district shall accept applications from nonresident students who are seeking to enroll in and attend the school district in the next succeeding school year. Applications shall be on a form and in a manner determined by the school district.

(4) If the number of applications for a grade level in a school building is less than the number of available seats for such grade level in such school building, the nonresident students shall be accepted for enrollment and attendance at such school district. If the number of applications for a grade level in a school building is greater than the number of available seats for such grade level in such school building, the school district shall randomly select nonresident students using a confidential lottery process. Such process shall be completed on or before July 15 of each year.

(5) The school district shall provide to the parent or person acting as parent of a nonresident student who was not accepted for or denied enrollment at such school district the reason for the nonacceptance or denial and an explanation of the nonresident student selection process on or before July 30 of each year.

(6) If a school district denies an application of a nonresident student due to the school district deeming the nonresident student as not in good standing, the parent or person acting as parent of such student may appeal such denial to the school district board of education.

(d) (1) Subject to capacity, school districts shall give priority to any sibling of a nonresident student who is enrolled in and attending such

school district or who is accepted to enroll in and attend such school district. Priority shall be given when the nonresident student is first accepted and, if necessary, at any other time the school district considers transfer applications. Any such sibling shall not be subject to the open seat lottery.

(2) Subject to capacity, school districts shall give priority to any nonresident student who is a military student as defined in K.S.A. 72-5139, and amendments thereto. Priority shall be given when the military student is first accepted and, if necessary, at any other time the school district considers transfer applications. Any such military student shall not be subject to the open seat lottery.

(3) Any child ~~who is~~ in the custody of the ~~department~~ *secretary* for children and families ~~and~~ who ~~is living in the home of a nonresident student who transfers may attend school in the receiving school district~~ *has attained the age of eligibility for school attendance shall be permitted to:*

(A) Enroll in and attend school in any school district of the state; or

(B) remain enrolled in and continue attending the child's school of origin.

(4) Any nonresident student who has a parent or person acting as parent employed by a school district shall be permitted to enroll in and attend such school district as if the student is a resident of the school district. Any such student shall not be subject to the open-seat lottery established pursuant to subsection (c) when enrolling in and attending the school district where the parent or person acting as parent is employed.

(5) Any child who is experiencing homelessness shall be permitted to enroll in and attend the school district of origin or the school district of residence.

(e) A school district shall not:

(1) Charge tuition or fees to any nonresident student who transfers to such school district pursuant to this section except fees that are otherwise charged to every student enrolled in and attending school in the district; or

(2) accept or deny a nonresident student transfer based on ethnicity, national origin, gender, income level, disabling condition, proficiency in the English language, measure of achievement, aptitude or athletic ability.

(f) (1) A nonresident student accepted for enrollment and attendance at a receiving school district on or after June 1, 2024, shall be permitted to continue such enrollment and attendance in such school district until such student graduates from high school, unless such student is deemed as no longer in good standing pursuant to subsection (g).

(2) A nonresident student who was enrolled in and attended a school district of nonresidence during school year 2023-2024 shall be permitted to continue such enrollment and attendance in such school district until

such student graduates from high school, unless such student is deemed as no longer in good standing pursuant to subsection (g).

(3) A nonresident student who was enrolled in and attended a school district of residence during school year 2023-2024 shall be permitted to continue such enrollment and attendance in such school district until such student graduates from high school, unless such student is deemed as no longer in good standing pursuant to subsection (g).

(g) A receiving school district may deem any nonresident student as not in good standing in accordance with such school district's nonresident transfer policy, including any nonresident student who has not previously attended or been enrolled in the receiving school district. If a school district deems a nonresident student as not in good standing, such school district may deny such student's enrollment or continued enrollment in the school district. Prior to making any determination to deem a nonresident student as not in good standing, a district shall consider a student's status as a homeless child and the resulting factors of homelessness on such student's standing.

(h) A student may always enroll at any time in the school district where such student resides.

(i) Except for a child in the custody of the ~~department~~ *secretary* for children and families or a child who is experiencing homelessness, a nonresident student shall not transfer more than once per school year to one or more receiving school districts pursuant to the provisions of this section.

(j) *(1)* Neither a resident school district nor a receiving school district shall be required to provide transportation to nonresident students unless otherwise required by applicable law. If space is available on school district transportation vehicles, a school district may provide nonresident students an in-district bus stop where transportation may be provided by such school district to and from such bus stop and the school for such nonresident students.

(2) A school district shall ensure that transportation for nonresident homeless students is provided comparably to that of housed students.

(3) If the secretary for children and families changes the placement of a child from one school district to another school district or across a school boundary within the same district, and determines that it is in the best interests of the child to remain enrolled in and attending the school of origin, the affected school district and the secretary shall coordinate to develop a transportation plan to get the child to and from such school of origin. Such plan shall address the availability and cost of such transportation, including how such costs shall be reimbursed by the secretary, paid by the school district or shared between both parties. When developing such transportation plan, consideration shall be given to the:

(A) Age, maturity and behavioral capacity of the child;
(B) type of transportation available;
(C) flexibility in the school schedule;
(D) the effect of extracurricular activities on transportation options;
(E) traffic routes and patterns; and
(F) individualized needs of the child.

(k) Each school district board of education shall submit annually to the state department of education the school district's policy adopted pursuant to K.S.A. 2024 Supp. 72-3126, and amendments thereto, the number of nonresident student transfers approved and denied by such board in each grade level and whether the denials were based on capacity or in accordance with the policy adopted pursuant to K.S.A. 2024 Supp. 72-3126, and amendments thereto. The state department of education shall collect and report such data on such department's website and make such data available to the legislative division of post audit.

(l) (1) Each year, the state department of education, as part of the department's enrollment audit, shall audit the nonresident student capacity and enrollment.

(2) In calendar year 2027, subject to a request made by the house standing committee on K-12 education budget or the senate standing committee on education, or any successor committees, the legislative post audit committee shall direct the legislative division of post audit to conduct an audit of nonresident student transfers pursuant to this section. If requested, such audit shall be reported to the legislative post audit committee on or before January 15, 2028, and subsequently presented to the house standing committee on K-12 education budget and the senate standing committee on education, or any successor committees.

(m) Nothing in this section shall be construed to exempt any nonresident student who transfers to a receiving school district pursuant to this section from the policies and requirements of the activities association referred to in K.S.A. 72-7114, and amendments thereto.

(n) The provisions of this section shall not apply to any:

(1) School located on a military installation as defined in K.S.A. 72-8268, and amendments thereto; or

(2) virtual school as defined in K.S.A. 72-3712, and amendments thereto.

Sec. 4. K.S.A. 2024 Supp. 72-3124 is hereby amended to read as follows: 72-3124. (a) The board of education of any school district shall allow any nonresident student to enroll in and attend school in such district pursuant to K.S.A. 72-3123, and amendments thereto. *Except as provided in K.S.A. 72-3123, and amendments thereto,* the board of education of such district may furnish or provide transportation to any nonresident student who is enrolled in and attending school in the district. If the district agrees

to furnish or provide transportation to a nonresident student, such transportation shall be furnished or provided until the end of the school year. Prior to providing or furnishing transportation to a nonresident student, the receiving school district shall notify the board of education of the sending school district that transportation will be furnished or provided for such student.

(b) Nonresident students shall be counted as regularly enrolled in and attending school in the receiving school district for the purpose of computations under the Kansas school equity and enhancement act, K.S.A. 72-5131 et seq., and amendments thereto, except computation of transportation weighting under such act, and for the purposes of the statutory provisions contained in article 64 of chapter 72 of the Kansas Statutes Annotated, and amendments thereto. Such nonresident student shall not be charged for the costs of attendance at school.

Sec. 5. K.S.A. 72-3439 is hereby amended to read as follows: 72-3439. *(a)* All records of an exceptional child ~~who transfers, or~~ who is transferred~~,~~ from one school district to another *school district or across a school boundary within the same school district,* shall be transferred at the same time that such child ~~transfers, or~~ is transferred~~,~~ or as soon thereafter as possible.

(b) If the transfer is a result of the change in placement by the secretary for children and families, *secretary of corrections or commissioner of juvenile justice,* it shall be the duty of the secretary *or commissioner* to *notify the affected school district or districts that the child's placement has changed and request that child's records be transferred. It shall be the duty of the school district and school in possession of any records pertaining to such child to cooperate with the secretary or commissioner and* transfer~~, or make provision for the transfer, of~~ *all* such records to the *school* district or school ~~to which the~~ *where such* child is transferred. ~~If the transfer is a result of the change in placement by the commissioner of juvenile justice, it shall be the duty of the commissioner to transfer, or make provision for the transfer, of such records to the district or school to which the child is transferred. If the transfer is a result of the change in placement by the secretary of the department of corrections, it shall be the duty of the secretary to transfer, or make provision for the transfer, of such records to the district or school to which the child is transferred.~~ *Such records shall be transferred as soon as possible following receipt of such notice but not later than two business days following such receipt. A school district shall not deny or delay enrollment and attendance of any such child whose placement has changed on the basis that the school district or school is not in possession of such child's educational records.*

Sec. 6. K.S.A. 38-2218 and 72-3439 and K.S.A. 2024 Supp. 72-3122,

72-3123 and 72-3124 are hereby repealed.

Sec. 7. This act shall take effect and be in force from and after its publication in the statute book.