

MINUTES OF THE HOUSE EDUCATION COMMITTEE

The meeting was called to order by Chairperson Kathe Decker at 9:00 a.m. on January 22, 2004 in Room 313-S of the Capitol.

All members were present.

Committee staff present:

Kathie Sparks Legislative Research Department
Carolyn Rampey Legislative Research Department
Art Griggs, Office of the Revisor of Statues
Ann Deitcher, Secretary

Conferees appearing before the committee:

Representative Cynthia Neighbor
Stuart J. Little, Ph.D., Little Government Relations
Diane Gjerstad , Wichita Public School
Mark Tallman, KASB

HB 2504 - An act concerning school districts; relating to residency.

Representative Neighbor appeared before the Committee in support of **HB 2504**. (Attachment 1).

Stuart Little spoke in favor of **HB 2504**. (Attachment 2).

Appearing next as a proponent of **HB 2504** was Diane Gjerstad. (Attachment 3).

Written testimony in support of **HB 2504** was offered by Denise L. Everhart, Commissioner of the Juvenile Justice Authority. (Attachment 4).

Mark Tallman spoke in opposition of **HB 2504**. (Attachment 5).

Following a period of questions and answers, the hearing on **HB 2504** was closed.

The meeting was adjourned at 10:25 a.m. No date was set for the next meeting.

Introduction to Bill 2504

January 22, 2004

Cynthia Neighbor

Madam Chair and members of the Education Committee. Thank you for allowing me the opportunity to bring HB 2504 before you today. HB 2504 is a bill relating to residency and amends K.S.A. 72-1046. The purpose of this bill is to tighten language that currently is very broad and allows for abuse of the system.

The statute, as it currently exists, addresses only the circumstances under which a student has a **legal right to attend school in a particular district**. In other words, 72-1046 does not even address a student's rights to a public education; clearly every student has that right. My proposed amendment to K.S.A 72-1046 addresses only a student's **right to choose a district other than the one where his parents or legal guardian resides**. This bill does not, in any way, place the student's right to a public education in jeopardy.

My amendment is only attempting to address the situation in which a student has a parent or legal guardian but, for whatever reason, wants to attend school elsewhere. The problems which school districts have right now is that a student can simply claim to be covered by the existing language of the statute and demand enrollment in a district to which he or she may have little, if any, real connection. For example, parents can simply sign a written consent to have their child live with an acquaintance who takes little, if any, responsibility for the child. Under the current statute, the district is required to enroll the child, even though the person "acting as a parent" may take no responsibility for the student's performance, attendance, or discipline. This is a real problem and the district should have the right to say "no", particularly where the child and parent have perfectly viable options. In reality, the district will usually say "yes" most of the time, but districts also need the ability to say "no".

In my district, students cross over county lines and it is possible to cross over state lines because of our location. Many times, this is to avoid out-of-district tuition and opens the door to more discipline problems and special education needs that require a higher level of funding. Our district does not take out-of-state students and all students have the ability to apply for a transfer to our district, as is liberally accepted in virtually all districts.

As I have met with other school district personnel around the state, this is a concern for many districts because of the broad language as it currently stands. Again, this is not to deny any student a public education, but instead addresses circumstances under which a student has a legal right to attend a school in a particular district.

Thank you for your time today, and I would ask for your indulgence. I have a bill in the Utilities Committee for which I need to give testimony and would ask that questions from the Education Committee be directed to Dr. Stuart Little. Thank you.

House Education Committee
Date: 1/22/04
Attachment # 1

STUART J. LITTLE, Ph.D.
Little Government Relations

January 22, 2004

Testimony on HB 2504
House Education Committee

Madame Chair and Members of the Committee,

Thank you for the opportunity to appear and testify in support of HB 2504. I am Stuart Little representing the Shawnee Mission School District #512 and I urge your support for HB 2504. The 2004 Shawnee Mission School District legislative platform includes a request for consideration of revision of the residency requirements in order to clarify the standards by which students are granted residency in a school district. This statute only concerns a student's right to choose a district other than the one in which their parents or legal guardian resides.

We believe the language in lines 38-42 is vague and overbroad, allowing many loopholes for students who live outside the district to find avenues to enroll in a school district. The bill narrows the language of how a student may qualify as a school district resident and limits such qualifications of "person acting as a parent" to a legal guardian or a person granted custody by a court of competent jurisdiction. Currently, a student can simply assert they are covered under the existing language and attend any school. Simply claiming authority based on an assertion of or actual control of a child, or some immeasurable contribution to the cost of support, offers insufficient safeguards for a school district.

The language in HB 2504 would allow Shawnee Mission and other school districts to police issues as they arise and stop abuse while continuing to permit enrollment of students from outside the district where circumstances allow. Additionally, we believe local school boards and superintendents have the authority to address unique circumstances as they arise. This bill, we believe, does not affect a student's right to a public education.

Thank you for your time and I would be happy to stand for questions.



House Education Committee Representative Decker, Chair

H.B. 2504 --Residency

*Submitted by: Diane Gjerstad
Wichita Public Schools*

January 22, 2004

Madame Chair, members of the committee:

The Wichita district rises in support of House Bill 2504. This bill addresses a confusing and convoluted part of statute by making it clear who is a parent.

The current language is so vague that districts are literally powerless to deny admission to a student whose parents are residents of another district. I would refer to this as "district shopping." And in Wichita, when the shopping is after September 20th, we would like to have the ability to deny entrance.

Wichita had a special education case a few years ago, where the parent (a resident of a neighboring district) tried to force the district pay for residential placement of the student at an out of state facility. The parent's attorney attempted to argue residency, after September 20, by claiming the student lived with a sister who resided within USD 259. The district prevailed at both the district court level and the 10th Circuit Court of Appeals.

The Wichita district does has open enrollment prior to September 20. Several years ago, the Board was questioning the policy, especially in light of our growing special education population. At that time we had roughly 1000 non-resident students, of which the great majority were regular education students coming into the district for our outstanding programs. And we were pleasantly surprised when the special education in-coming students were disaggregated by exceptionality, the largest percentage were coming into the Wichita district for gifted services.

The current language is confusing and difficult to read with our constituents. We would like to clarify that the school district can determine which non-residents are admitted. The decision of which non-resident students attend should be a local decision.

Amending this statute would help clarify that the decision to educate a non-resident student is a local decision.

Thank you, Madame Chair and members of the committee for considering our concerns.

House Education Committee
Date: 1/22/04
Attachment # 3



KANSAS

JUVENILE JUSTICE AUTHORITY
DENISE L. EVERHART, COMMISSIONER

KATHLEEN SEBELIUS, GOVERNOR

HOUSE EDUCATION COMMITTEE January 22, 2004

Testimony on House Bill 2504

House Bill 2504 concerns eligibility for school attendance for children in a school district in which the child is not a resident.

In addition to the changes proposed in the initial version of HB2504, the following change is respectfully requested:

Page 1, lines 19 and 28: between the words "court or," insert the words and punctuation, "commissioner of the juvenile justice authority,".

Currently, the Commissioner of Juvenile Justice is responsible for school age juveniles in placements throughout the state, similar to that of the Secretary of Social and Rehabilitation Services. The change proposed simply clarifies that a juvenile in the care, custody and control of the Commissioner may attend school in the district in which the juvenile is residing while in placement directed by the Commissioner. There would be no fiscal impact on the Juvenile Justice Authority.

Your consideration of this amendment is appreciated.

Denise L. Everhart
Commissioner

House Education Committee
Date: 1/22/04
Attachment # 4



Testimony on **HB 2504 – Student Residency**
before the
House Committee on Education

by

Mark Tallman, Assistant Executive Director/for Advocacy
Kansas Association of School Boards

January 22, 2004

Madam Chair, Members of the Committee

We appreciate the opportunity to comment on HB 2504. This bill would respond to concerns that have been voiced by our members about current state law regarding student residency for school attendance. However, we believe this bill would have the consequence of creating circumstances in which some students would not have legal residence in any school district. Because our Delegate Assembly and Board of Directors have adopted a clear position in support of universal public education, we cannot support this bill.

Current law, which was enacted approximately 10 years ago, is based on a simple principle: that a school district is obligated to provide an education to any child who is actually residing in that district. This includes a child living with someone other than a parent who has actual care and control of the child and is providing major financial support. This bill would remove that standard. Unless a child was living with a parent or a person who had been granted legal custody of the child, the child would not be entitled to attend in that district. However, if the child were NOT living with a parent or legal guardian, he or she would not be entitled to attend school in any OTHER district.

Unfortunately, all too many children do not live with their parents for a number of reasons. A family may be in crisis. The parents may be unable, or unwilling, to care for the child. The parents may have left the state, or even the country. The child may be living with grandparents, siblings, or other relatives, even with friends. In many cases, no one goes through the legal process of changing custody. Our concern is that children in these circumstances would no longer be entitled to attend school.

In fact, we believe that students in these circumstances would simply fall under the definition of “homeless” in federal law. In that case, the districts where they are living would be still be required to provide education to that child; in fact, districts in some cases are required to provide a higher level of services than to children considered “homeless.” Therefore, this bill would not eliminate the responsibility of the district to serve children who would fall outside the residency definition. Even under the federal law, however, the students affected by this bill would be placed in a legal “limbo” until that law was triggered.

Finally, we believe this change would further complicate enforcement of the state’s compulsory attendance law. If the child is not a resident of any school district, which district is responsible for reporting the child’s absences?

For these reasons, KASB opposes H.B. 2504. Thank you for your consideration.

House Education Committee
Date: 1/22/04
Attachment # 5