

HOUSE BILL No. 2320

By Committee on K-12 Education Budget

Requested by Representative Goetz

2-6

1 AN ACT concerning education; relating to school districts; relating to
2 children in the custody of the secretary for children and families;
3 requiring transfer of a child's records when such child's placement is
4 changed by the secretary and establishing a deadline for the transfer of
5 such records; authorizing children in the custody of the secretary to
6 attend any school district; authorizing such children to remain enrolled
7 in and continue attending the school of origin; amending K.S.A. 38-
8 2218 and 72-3439 and K.S.A. 2024 Supp. 72-3122, 72-3123 and 72-
9 3124 and repealing the existing sections.

10
11 *Be it enacted by the Legislature of the State of Kansas:*

12 Section 1. K.S.A. 38-2218 is hereby amended to read as follows: 38-
13 2218. (a) When the court has granted legal custody of a child in a hearing
14 under the code to an agency, association or individual, the custodian or an
15 agent designated by the custodian shall have authority to make educational
16 decisions for the child if the parents of the child are unknown or
17 unavailable. When the custodian of the child is the secretary, ~~and~~ the
18 parents of the child are unknown or unavailable; and the child appears to
19 be an exceptional child who requires special education, the secretary shall
20 immediately notify the state board of education, or a designee of the state
21 board, and the school district in which the child is residing that the child is
22 in need of an education advocate. As used in this section, a parent is
23 unavailable if:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 (2) Subject to capacity, school districts shall give priority to any
7 nonresident student who is a military student as defined in K.S.A. 72-
8 5139, and amendments thereto. Priority shall be given when the military
9 student is first accepted and, if necessary, at any other time the school
10 district considers transfer applications. Any such military student shall not
11 be subject to the open seat lottery.

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

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

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

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

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

29 (e) A school district shall not:

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

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

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

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

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

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

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

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

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

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

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

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

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

7 (k) Each school district board of education shall submit annually to
 8 the state department of education the school district's policy adopted
 9 pursuant to K.S.A. 2024 Supp. 72-3126, and amendments thereto, the
 10 number of nonresident student transfers approved and denied by such
 11 board in each grade level and whether the denials were based on capacity
 12 or in accordance with the policy adopted pursuant to K.S.A. 2024 Supp.
 13 72-3126, and amendments thereto. The state department of education shall
 14 collect and report such data on such department's website and make such
 15 data available to the legislative division of post audit.

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

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

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

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

33 (1) School located on a military installation as defined in K.S.A. 72-
 34 8268, and amendments thereto; or

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

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

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

7 (b) Nonresident students shall be counted as regularly enrolled in and
8 attending school in the receiving school district for the purpose of
9 computations under the Kansas school equity and enhancement act, K.S.A.
10 72-5131 et seq., and amendments thereto, except computation of
11 transportation weighting under such act, and for the purposes of the
12 statutory provisions contained in article 64 of chapter 72 of the Kansas
13 Statutes Annotated, and amendments thereto. Such nonresident student
14 shall not be charged for the costs of attendance at school.

15 Sec. 5. K.S.A. 72-3439 is hereby amended to read as follows: 72-
16 3439. (a) All records of an exceptional child ~~who transfers, or who is~~
17 transferred; from one school district to another *school district or across a*
18 *school boundary within the same school district*, shall be transferred at the
19 same time that such child ~~transfers, or is transferred;~~ or as soon thereafter
20 as possible.

21 (b) If the transfer is a result of the change in placement by the
22 secretary for children and families, *secretary of corrections or*
23 *commissioner of juvenile justice*, it shall be the duty of the secretary or
24 *commissioner to notify the affected school district or districts that the*
25 *child's placement has changed and request that child's records be*
26 *transferred. It shall be the duty of the school district and school in*
27 *possession of any records pertaining to such child to cooperate with the*
28 *secretary or commissioner and transfer, or make provision for the transfer,*
29 ~~of all such records to the school district or school to which the~~ *where such*
30 *child is transferred. If the transfer is a result of the change in placement by*
31 ~~the commissioner of juvenile justice, it shall be the duty of the~~
32 ~~commissioner to transfer, or make provision for the transfer, of such~~
33 ~~records to the district or school to which the child is transferred. If the~~
34 ~~transfer is a result of the change in placement by the secretary of the~~
35 ~~department of corrections, it shall be the duty of the secretary to transfer,~~
36 ~~or make provision for the transfer, of such records to the district or school~~
37 ~~to which the child is transferred. Such records shall be transferred as soon~~
38 ~~as possible following receipt of such notice but not later than two business~~
39 ~~days following such receipt. A school district shall not deny or delay~~
40 ~~enrollment and attendance of any such child whose placement has~~
41 ~~changed on the basis that the school district or school is not in possession~~
42 ~~of such child's educational records.~~

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

1 72-3123 and 72-3124 are hereby repealed.

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