

CHAPTER 75

EDUCATION - PUBLIC SCHOOLS

HOUSE BILL 02-1181

BY REPRESENTATIVE(S) Romanoff, Stafford, Bacon, Boyd, Coleman, Garcia, Groff, Grossman, Hodge, Jahn, Jameson, Lawrence, Mace, Madden, Marshall, Miller, Plant, Ragsdale, Sanchez, Tapia, Tochtrop, Vigil, and Williams S.; also SENATOR(S) Thiebaut, Entz, Fitz-Gerald, Hanna, Hernandez, Isgar, Linkhart, Nichol, Pascoe, Tate, Tupa, and Windels.

AN ACT**CONCERNING STATUTORY MODIFICATIONS RELATED TO THE EDUCATION OF HOMELESS CHILDREN TO COMPLY WITH FEDERAL LAW.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 22-33-103.5, Colorado Revised Statutes, is amended to read:

22-33-103.5. Attendance of homeless children. (1) Equal access to school.

Nothing in this article shall be construed to prohibit a child from attending a public school without the payment of tuition solely because the child is homeless as defined in section 22-1-102.5.

~~(2) Place of residence of a homeless child. School district boards of education providing educational services to homeless children shall work in cooperation with any county, alternative or charter school, city and county, or district department of social services in the district in which a child is registered to attend school in order to jointly develop an educational program for such child if the child is receiving family reconciliation services pursuant to article 5.7 of title 26, C.R.S. A CHILD FOUND TO BE HOMELESS PURSUANT TO THE PROVISIONS OF SECTION 22-1-102.5 MAY BE DEEMED BY THE SCHOOL DISTRICTS DESCRIBED IN PARAGRAPHS (a) AND (b) OF THIS SUBSECTION (2), TAKING INTO CONSIDERATION THE BEST INTERESTS OF THE CHILD, TO RESIDE IN:~~

(a) THE SCHOOL DISTRICT WHERE THE CHILD PRESENTLY SEEKS SHELTER OR IS LOCATED; OR

(b) FOR SO LONG AS THE CHILD REMAINS HOMELESS, THE SCHOOL DISTRICT IN WHICH THE CHILD'S SCHOOL OF ORIGIN IS LOCATED; EXCEPT THAT A CHILD WHO,

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

SUBSEQUENT TO BECOMING HOMELESS, BECOMES PERMANENTLY HOUSED IN THE SAME SCHOOL YEAR MAY BE DEEMED TO RESIDE IN THE SCHOOL DISTRICT OF THE SCHOOL OF ORIGIN, BUT ONLY FOR THE REMAINDER OF THE SCHOOL YEAR.

(3) **Best interests of a homeless child.** IN DETERMINING THE BEST INTERESTS OF A HOMELESS CHILD FOR PURPOSES OF SUBSECTION (2) OF THIS SECTION, THE SCHOOL DISTRICTS DESCRIBED IN PARAGRAPHS (a) AND (b) OF SUBSECTION (2) OF THIS SECTION SHALL:

(a) TO THE EXTENT FEASIBLE AND EXCEPT WHEN IT IS AGAINST THE WISHES OF THE HOMELESS CHILD'S PARENT OR LEGAL GUARDIAN OR AGAINST THE WISHES OF AN UNACCOMPANIED HOMELESS CHILD, KEEP THE HOMELESS CHILD IN THE HOMELESS CHILD'S SCHOOL OF ORIGIN;

(b) PROVIDE A WRITTEN EXPLANATION, INCLUDING A STATEMENT REGARDING THE RIGHT TO APPEAL PURSUANT TO SUBSECTION (4) OF THIS SECTION, TO THE PARENT OR LEGAL GUARDIAN OF THE HOMELESS CHILD, IF THE SCHOOL DISTRICTS SEND THE HOMELESS CHILD TO A SCHOOL OTHER THAN THE CHILD'S SCHOOL OF ORIGIN OR TO A SCHOOL OTHER THAN THE SCHOOL REQUESTED BY THE PARENT OR LEGAL GUARDIAN;

(c) IN THE CASE OF AN UNACCOMPANIED HOMELESS CHILD, ASSURE THAT THE HOMELESS CHILD LIAISON DESIGNATED BY ONE OF THE SCHOOL DISTRICTS PURSUANT TO SUBSECTION (7) OF THIS SECTION ASSISTS IN THE PLACEMENT OR ENROLLMENT DECISIONS, CONSIDERS THE SCHOOL PREFERENCE OF THE UNACCOMPANIED HOMELESS CHILD, AND PROVIDES NOTICE OF THE RIGHT TO APPEAL PURSUANT TO SUBSECTION (4) OF THIS SECTION TO THE UNACCOMPANIED HOMELESS CHILD.

(4) **Disputes.** (a) IF A HOMELESS CHILD'S PARENT OR LEGAL GUARDIAN OR AN UNACCOMPANIED HOMELESS CHILD DISAGREES WITH THE DECISION OF THE SCHOOL DISTRICTS PURSUANT TO SUBSECTION (2) OF THIS SECTION, THE HOMELESS CHILD SHALL BE IMMEDIATELY ENROLLED IN THE SCHOOL SELECTED BY THE HOMELESS CHILD'S PARENT OR LEGAL GUARDIAN OR, IN THE CASE OF AN UNACCOMPANIED HOMELESS CHILD, BY THE CHILD, PENDING RESOLUTION OF THE DISPUTE THROUGH THE APPEAL PROCESS CREATED BY THE DEPARTMENT OF EDUCATION PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (4).

(b) CONSISTENT WITH FEDERAL REQUIREMENTS, THE DEPARTMENT OF EDUCATION SHALL CREATE AN APPEAL PROCESS FOR A PARENT OR LEGAL GUARDIAN OF A HOMELESS CHILD OR AN UNACCOMPANIED HOMELESS CHILD TO PURSUE IF THE PARENT OR LEGAL GUARDIAN OR THE UNACCOMPANIED HOMELESS CHILD DISAGREES WITH THE DECISION OF THE SCHOOL DISTRICTS PURSUANT TO SUBSECTION (2) OF THIS SECTION.

(5) **Enrollment.** (a) THE SCHOOL SELECTED FOR A HOMELESS CHILD PURSUANT TO THIS SECTION SHALL IMMEDIATELY ENROLL THE HOMELESS CHILD, EVEN IF THE CHILD LACKS RECORDS NORMALLY REQUIRED PRIOR TO ENROLLMENT.

(b) THE ENROLLING SCHOOL SHALL IMMEDIATELY CONTACT THE SCHOOL LAST ATTENDED BY THE HOMELESS CHILD TO OBTAIN ANY RECORDS NECESSARY FOR ENROLLMENT.

(c) IF THE HOMELESS CHILD'S IMMUNIZATIONS ARE INCOMPLETE OR IF THE

HOMELESS CHILD'S IMMUNIZATION RECORDS ARE UNAVAILABLE, THE ENROLLING SCHOOL SHALL ARRANGE FOR SUCH IMMUNIZATIONS AS MAY BE NECESSARY.

(6) **Transportation.** (a) IF IT IS DETERMINED PURSUANT TO SUBSECTION (2) OF THIS SECTION THAT THE BEST INTEREST OF A HOMELESS CHILD IS TO CONTINUE HIS OR HER EDUCATION AT THE SCHOOL OF ORIGIN AND THE HOMELESS CHILD PRESENTLY SEEKS SHELTER OR IS LOCATED IN ANOTHER SCHOOL DISTRICT, AND THE HOMELESS CHILD'S PARENT OR LEGAL GUARDIAN OR THE HOMELESS CHILD LIAISON, ON BEHALF OF AN UNACCOMPANIED HOMELESS CHILD, REQUESTS TRANSPORTATION TO AND FROM SCHOOL, THE SCHOOL DISTRICT WHERE THE HOMELESS CHILD PRESENTLY SEEKS SHELTER OR IS LOCATED AND THE SCHOOL DISTRICT IN WHICH THE SCHOOL OF ORIGIN IS LOCATED SHALL AGREE UPON A METHOD TO APPORTION COST AND RESPONSIBILITY FOR THE TRANSPORTATION OF THE HOMELESS CHILD TO THE SCHOOL DISTRICT WHERE THE HOMELESS CHILD IS ATTENDING, OR, IN THE ALTERNATIVE, EACH SCHOOL DISTRICT SHALL SHARE EQUALLY IN THE COST AND RESPONSIBILITY FOR TRANSPORTATION.

(b) IF A HOMELESS CHILD CONTINUES TO RESIDE IN THE SCHOOL DISTRICT IN WHICH THE SCHOOL OF ORIGIN IS LOCATED, SUCH SCHOOL DISTRICT, UPON REQUEST OF THE HOMELESS CHILD'S PARENT OR LEGAL GUARDIAN OR UPON REQUEST OF THE HOMELESS CHILD LIAISON, ON BEHALF OF AN UNACCOMPANIED HOMELESS CHILD, SHALL ARRANGE OR PROVIDE FOR TRANSPORTATION OF THE HOMELESS CHILD TO AND FROM SCHOOL.

(7) **Liaison.** THE BOARD OF EDUCATION OF EACH SCHOOL DISTRICT IN THE STATE SHALL DESIGNATE ONE OR MORE OF THE EMPLOYEES OF THE SCHOOL DISTRICT TO ACT AS A HOMELESS CHILD LIAISON. THE HOMELESS CHILD LIAISON SHALL FACILITATE A HOMELESS CHILD'S ACCESS TO AND SUCCESS IN SCHOOL. THE HOMELESS CHILD LIAISON SHALL ALSO ASSIST IN THE MEDIATION OF ANY DISPUTES CONCERNING SCHOOL ENROLLMENT, ASSIST IN MAKING ARRANGEMENTS FOR TRANSPORTATION OF THE HOMELESS CHILD TO AND FROM SCHOOL, ASSIST IN REQUESTING SCHOOL AND IMMUNIZATION RECORDS, AND ASSIST ANY UNACCOMPANIED HOMELESS CHILD IN MAKING ENROLLMENT DECISIONS. ON OR BEFORE OCTOBER 1, 2002, AND ON OR BEFORE OCTOBER 1 EACH YEAR THEREAFTER, THE HOMELESS CHILD LIAISON IN EACH SCHOOL DISTRICT SHALL REPORT TO THE DEPARTMENT OF EDUCATION THE NUMBER OF HOMELESS CHILDREN ENROLLED IN THE SCHOOL DISTRICT.

(8) **Definitions.** AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "SCHOOL OF ORIGIN" MEANS THE SCHOOL A CHILD ATTENDED AT THE TIME THE CHILD BECAME HOMELESS, OR, IF THE CHILD BECAME HOMELESS DURING A PERIOD THAT HE OR SHE WAS NOT ATTENDING SCHOOL, THE LAST SCHOOL THE CHILD ATTENDED PRIOR TO BECOMING HOMELESS.

(b) "UNACCOMPANIED HOMELESS CHILD" MEANS A CHILD WHO MEETS THE REQUIREMENTS OF SECTION 22-1-102.5 WHO IS NOT IN THE PHYSICAL CUSTODY OF A PARENT OR LEGAL GUARDIAN.

SECTION 2. 22-1-102 (2) (h), Colorado Revised Statutes, is amended, and the said 22-1-102 is further amended BY THE ADDITION OF A NEW PARAGRAPH,

to read:

22-1-102. Residence of child. (2) A child shall be deemed to reside in a school district if:

(h) The child is found to be homeless pursuant to the provisions of section 22-1-102.5 and the child presently seeks shelter or is located in the school district; except that a homeless child shall be deemed to reside in another school district if the child attended school in such school district at the time the child became homeless, THE CHILD REMAINS HOMELESS, THE AFFECTED SCHOOL DISTRICTS FIND THAT ATTENDANCE IN SUCH OTHER SCHOOL DISTRICT IS IN THE BEST INTERESTS OF THE CHILD PURSUANT TO SECTION 22-33-103.5, and the child chooses to continue attendance in such OTHER school district. ~~for the remainder of the school year.~~

(i) THE CHILD IS FOUND TO HAVE BECOME HOMELESS PURSUANT TO THE PROVISIONS OF SECTION 22-1-102.5 DURING A PERIOD THAT SCHOOL IS NOT IN SESSION, THE CHILD REMAINS HOMELESS, AND THE CHILD PRESENTLY SEEKS SHELTER OR IS LOCATED IN THE SCHOOL DISTRICT; EXCEPT THAT THE CHILD SHALL BE DEEMED TO RESIDE IN ANOTHER SCHOOL DISTRICT IF THE CHILD ATTENDED SCHOOL IN SUCH SCHOOL DISTRICT IMMEDIATELY PRIOR TO THE TIME THE CHILD BECAME HOMELESS, THE CHILD REMAINS HOMELESS, THE AFFECTED SCHOOL DISTRICTS FIND THAT ATTENDANCE IN SUCH OTHER SCHOOL DISTRICT IS IN THE BEST INTERESTS OF THE CHILD PURSUANT TO SECTION 22-33-103.5, AND THE CHILD CHOOSES TO CONTINUE ATTENDANCE IN SUCH OTHER SCHOOL DISTRICT.

SECTION 3. 22-1-102, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

22-1-102. Residence of child. (3) SCHOOL DISTRICTS SHALL FOLLOW THE PROCEDURES SPECIFIED IN SECTION 22-33-103.5 IN DETERMINING WHERE A HOMELESS CHILD SHALL ATTEND SCHOOL AND THE EDUCATIONAL SERVICES PROVIDED TO HOMELESS CHILDREN.

SECTION 4. 22-1-102.5 (2), Colorado Revised Statutes, is amended to read:

22-1-102.5. Definition of homeless child. (2) (a) As used in this article, unless the context otherwise requires, "homeless child" means:

(I) A SCHOOL-AGED child who lacks a fixed, regular, and adequate nighttime residence, INCLUDING BUT NOT LIMITED TO:

(A) A CHILD WHO IS LIVING IN A MOTEL, HOTEL, OR CAMPING GROUND DUE TO A LACK OF ALTERNATIVE ADEQUATE ACCOMMODATIONS;

(B) A CHILD WHO IS LIVING IN AN EMERGENCY OR TRANSITIONAL SHELTER;

(C) A CHILD WHO IS ABANDONED IN A HOSPITAL; AND

(D) A CHILD AWAITING FOSTER CARE PLACEMENT; or

(II) A SCHOOL-AGED child who has a primary nighttime residence ~~which~~ THAT is:

(A) A supervised, publicly or privately operated shelter designed to provide temporary living accommodations, including welfare hotels, congregate shelters, and transitional housing for the mentally ill;

(B) An institution that provides a temporary residence for individuals intended to be institutionalized; or

(C) A public or private place not designed for, nor ordinarily used as, a regular sleeping accommodation for human beings, INCLUDING BUT NOT LIMITED TO AN AUTOMOBILE, A PARK, AN ABANDONED BUILDING, A BUS OR TRAIN STATION, OR A SIMILAR SETTING.

(b) "Homeless child" shall not include any individual imprisoned or otherwise detained pursuant to an act of congress or a state law.

(c) "HOMELESS CHILD" SHALL INCLUDE A MIGRANT SCHOOL-AGED CHILD WHO MEETS THE REQUIREMENTS OF THIS SUBSECTION (2).

(d) "HOMELESS CHILD" SHALL INCLUDE A SCHOOL-AGED CHILD WHO MEETS THE REQUIREMENTS OF THIS SUBSECTION (2) WHO IS NOT IN THE PHYSICAL CUSTODY OF A PARENT OR LEGAL GUARDIAN.

SECTION 5. 22-32-116 (1), Colorado Revised Statutes, is amended to read:

22-32-116. Exclusion of nonresidents - exception. (1) Notwithstanding the provisions of section 22-36-101, AND EXCEPT AS OTHERWISE PROVIDED FOR HOMELESS CHILDREN PURSUANT TO SECTION 22-1-102, any pupil who is enrolled as a resident student shall be entitled to complete the semester or other term for credit if such pupil becomes a nonresident, or, if such pupil becomes a nonresident while enrolled in the twelfth grade, such pupil shall be entitled to finish that school year as a resident.

SECTION 6. 22-32-109 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

22-32-109. Board of education - specific duties - repeal. (1) In addition to any other duty required to be performed by law, each board of education shall have and perform the following specific duties:

(dd) TO ADOPT AND REVISE, AS NECESSARY, POLICIES TO REMOVE BARRIERS TO ACCESS AND SUCCESS IN SCHOOL FOR HOMELESS CHILDREN.

SECTION 7. Effective date. This act shall take effect July 1, 2002.

SECTION 8. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 3, 2002