

HOUSE BILL NO. 477

INTRODUCED BY H. RASER

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A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT WHEN A CHILD IN FOSTER CARE IS ENROLLED IN A SCHOOL, THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES IS REQUIRED TO DISCLOSE TO THE SCHOOL INFORMATION CONCERNING THE CHILD THAT COULD ASSIST THE SCHOOL IN PROVIDING FOR THE SAFETY OF PUPILS AND EMPLOYEES IN THE SCHOOL; REQUIRING THE SCHOOL TO KEEP THE INFORMATION CONFIDENTIAL; AMENDING SECTION 20-5-321, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 20-5-321, MCA, is amended to read:

**"20-5-321. Attendance with mandatory approval -- tuition and transportation.** (1) An out-of-district attendance agreement that allows a child to enroll in and attend a school in a Montana school district that is outside of the child's district of residence or in a public school district of a state or province that is adjacent to the county of the child's residence is mandatory whenever:

(a) the child resides closer to the school that the child wishes to attend and more than 3 miles from the school the child would attend in the resident district and the resident district does not provide transportation; or

(b) (i) the child resides in a location where, because of geographic conditions between the child's home and the school that the child would attend within the district of residence, it is impractical to attend school in the district of residence, as determined by the county transportation committee based on the following criteria:

(A) the length of time that is in excess of the 1-hour limit for each bus trip for an elementary child as authorized under 20-10-121;

(B) whether distance traveled is greater than 40 miles one way from the child's home to school on a dirt road or greater than a total of 60 miles one way from the child's home to school in the district of residence over the shortest passable route; or

(C) whether the condition of the road or existence of a geographic barrier, such as a river or mountain pass, causes a hazard that prohibits safe travel between the home and school.

(ii) The decision of the county transportation committee is subject to appeal to the superintendent of

1 public instruction, as provided in 20-3-107, but the decision must be considered as final for the purpose of the  
2 payment of tuition under 20-5-324(5)(a)(ii) until a decision is issued by the superintendent of public instruction.  
3 The superintendent of public instruction may review and rule upon a decision of the county transportation  
4 committee without an appeal being filed.

5 (c) the child is a member of a family that is required to send another child outside of the elementary  
6 district to attend high school and the child of elementary age may more conveniently attend an elementary school  
7 where the high school is located, provided that the child resides more than 3 miles from an elementary school  
8 in the resident district or that the parent is required to move to the elementary district where the high school is  
9 located to enroll another child in high school. A child enrolled in an elementary school pursuant to this subsection  
10 (1)(c) may continue to attend the elementary school after the other child has left the high school.

11 (d) the child is under the protective care of a state agency or has been adjudicated to be a youth in need  
12 of intervention or a delinquent youth, as defined in 41-5-103; or

13 (e) the child is required to attend school outside of the district of residence as the result of a placement  
14 in foster care or a group home licensed by the state. If a child is enrolled in a school pursuant to this subsection  
15 (1)(e), the department of public health and human services shall notify the person designated by the school of  
16 any information possessed by the department concerning the child that could assist the school in providing for  
17 the safety of pupils and employees in the school. A school receiving information pursuant to this subsection (1)(e)  
18 is required to keep the information confidential.

19 (2) (a) Whenever a parent or guardian of a child, an agency of the state, or a court wishes to have a child  
20 attend a school under the provisions of this section, the parent or guardian, agency, or court shall complete an  
21 out-of-district attendance agreement in consultation with an appropriate official of the district that the child will  
22 attend.

23 (b) The attendance agreement must set forth the financial obligations, if any, for costs incurred for tuition  
24 and transportation as provided in 20-5-323 and Title 20, chapter 10.

25 (c) (i) The trustees of the district of choice may waive any or all of the tuition rate. The trustees of the  
26 district of choice may waive the tuition for all students whose tuition is required to be paid by one type of entity  
27 and may charge tuition for all students whose tuition is required to be paid by another type of entity. However,  
28 any waiver of tuition must be applied equally to all students whose tuition is paid by the same type of entity.

29 (ii) As used in this subsection (2)(c), "entity" means a parent, a guardian, the trustees of the district of  
30 residence, or a state agency.

1           (3) Except as provided in subsection (4), the trustees of the resident district and the trustees of the  
2 district of attendance shall approve the out-of-district attendance agreement. The trustees of the district of  
3 attendance shall:

4           (a) notify the county superintendent of schools of the county of the child's residence of the approval of  
5 the agreement within 10 days; and

6           (b) submit the agreement for a student attending under the provisions of subsection (1)(d) or (1)(e) to  
7 the superintendent of public instruction for approval for payment under 20-5-324.

8           (4) Unless the child is a child with a disability who resides in the district, the trustees of the district where  
9 the school to be attended is located may disapprove an out-of-district attendance agreement whenever they find  
10 that, because of insufficient room and overcrowding, the accreditation of the school would be adversely affected  
11 by the acceptance of the child."

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13           NEW SECTION. **Section 2. Effective date.** [This act] is effective July 1, 2007.

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