

1 S.114

2 Introduced by Senator Hartwell

3 Referred to Committee on

4 Date:

5 Subject: Education; district of residence; custodial parent

6 Statement of purpose: This bill proposes to clarify the district of residence of a
7 student whose parents live in different districts from each other.

8 An act relating to clarifying the district of residence of a student whose
9 parents live in different districts from each other

10 It is hereby enacted by the General Assembly of the State of Vermont:

11 Sec. 1. 16 V.S.A. § 1075(a) is amended to read:

12 (a) For the purpose of this title, except as otherwise set forth herein, the
13 legal residence or residence of a pupil shall be as follows:

14 (1) ~~In~~ In the case of a minor, legal residence is where his or her parents
15 reside, except that:

16 (A) ~~if~~ If the parents live apart, ~~legal residence is where either parent~~
17 ~~resides, but if a parent with sole custody;~~

18 (i) The pupil's legal residence is with the parent, if any, who may
19 claim the pupil as a qualifying child for purposes of filing as head of household
20 on the parent's federal income tax return; provided that if that parent lives

1 outside the state of Vermont, the pupil does not have a legal residence in
2 Vermont.

3 (ii) If neither parent is able to claim the pupil as a qualifying child
4 for federal tax purposes under subdivision (i) of this subdivision (A), the
5 pupil's legal residence is with the parent with whom the pupil resides more
6 than 50 percent of the year pursuant to a court decree; provided that if the
7 parent with greater than 50 percent custody lives outside the state of Vermont,
8 the pupil does not have a legal residence in Vermont;

9 (iii) If legal custody is shared equally between the parents
10 pursuant to a court decree, then:

11 (I) If one parent continues to reside in the school district that
12 most recently provided for the education of the pupil, the pupil shall be
13 considered to be a legal resident of that district.

14 (II) If neither parent continues to reside in the school district
15 that most recently provided for the education of the pupil, the pupil's legal
16 residence for purposes of this section is where either parent resides, as
17 determined by the parents.

18 (III) The commissioner shall resolve any dispute concerning a
19 pupil's residence under this subdivision, and the commissioner's determination
20 shall be final.

1 (B) ~~if~~ If the minor is in the custody of a legal guardian appointed by a
2 Vermont court or a court of competent jurisdiction in another state, territory or
3 country, legal residence is where the guardian resides;

4 (2) ~~in~~ In the case of a student who has reached the age of majority, legal
5 residence is where the student resides;

6 (3) ~~for~~ For the purposes of this title, “resident” of the state and of a
7 school district means a natural person who is domiciled in the school district
8 and who, if temporarily absent, demonstrates an intent to maintain a principal
9 dwelling place in the school district indefinitely and to return there, coupled
10 with an act or acts consistent with that intent. The term “temporarily absent”
11 includes those special cases listed in 17 V.S.A. § 2122(a). The term
12 “residence” is synonymous with the term “domicile.” A married person may
13 have a domicile independent of the domicile of his or her spouse. If a person
14 removes to another town with the intention of remaining there indefinitely, that
15 person shall be considered to have lost residence in the town in which the
16 person originally resided even though the person intends to return at some
17 future time. A person may have only one residence at a given time.

18 Sec. 2. EFFECTIVE DATE

19 This act shall take effect on passage.