



# Ohio Legislative Service Commission

## Bill Analysis

Hannah K. Wann and John Rau

### H.B. 139

128th General Assembly  
(As Introduced)

**Reps.** Dolan, Uecker, Sears, Zehringer, Combs, Grossman, Hagan, Lehner, Mecklenborg, Yuko, Winburn

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## BILL SUMMARY

- Prohibits disqualification of a student from interscholastic athletics solely because the parents do not reside in Ohio, if the student attends school in Ohio and lives in Ohio with a grandparent, uncle, aunt, or sibling who has temporary or legal custody or guardianship of the student.
- Permits international students attending school in Ohio to participate in interscholastic athletics on the same basis as students whose parents reside in Ohio, if either (1) the school accepts the role of the parent in loco parentis or (2) the student resides in a school-owned or -operated dormitory.

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## CONTENT AND OPERATION

### Background

While Ohio law authorizes school districts to implement athletic programs and addresses student eligibility in a few circumstances,<sup>1</sup> interscholastic athletics are regulated largely by the private Ohio High School Athletic Association (OHSAA). The OHSAA regulates and administers interscholastic athletic competition for grades 7 through 12. Founded in 1907, the OHSAA is a voluntary, unincorporated, not-for-profit association of public and private schools. The OHSAA is managed by a Board of Directors and governed by a constitution and bylaws, which must comply with Ohio law.

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<sup>1</sup> R.C. 3313.20, 3313.47, 3313.53, 3313.535, and 3313.537, none in the bill.

## The bill

### Domestic students

Under current OHSAA bylaw 4-6-3, "a student whose parents reside outside the state of Ohio but within the United States will be ineligible for interscholastic athletics in a member school." The bylaw emphasizes that the student's biological or adoptive parent must reside in Ohio, and that a change in custody or guardianship "does not satisfy the requirement" for parental residence. There are five exceptions to this rule, however.<sup>2</sup>

The bill overrides the OHSAA bylaw in some cases by prohibiting disqualification of certain students from interscholastic athletics solely because their parents do not reside in Ohio. Specifically, the bill allows a student who attends school in Ohio and lives in Ohio with the student's grandparent, uncle, aunt, or sibling who has legal or temporary custody of the student, or is the guardian of the student, to be eligible for interscholastic athletics. The student would remain subject to other eligibility requirements of the school and the OHSAA.

The bill applies definitions from R.C. 2151.011 (not in the bill) for the terms "legal custody," "temporary custody," and "guardian." A "guardian" is a person with authority granted by a probate court to exercise parental rights over a child subject to the court's order and the residual parental rights of the child's parents. "Legal custody" is "a legal status that vests in the custodian the right to have physical care and control of the child and to determine where and with whom the child shall live, and the right and duty to protect, train, and discipline the child and to provide the child with food, shelter, education, and medical care, all subject to any residual parental rights, privileges, and responsibilities." "Temporary custody" is legal custody that can be terminated at any time by the court or the person who executed the custody agreement.

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<sup>2</sup> The exceptions include: (1) "a student who has attended a minimum of 15 days in the eleventh grade when the parents move outside the state of Ohio" and maintains "continuous enrollment in the Ohio school," (2) a student who has been continuously enrolled since the first grade in a 1st through 12th-grade school, (3) "a student who resides within the boundaries of a parochial school system containing grades 1-12 and has multiple sites organized into elementary schools (1-8) and secondary schools (9-12), and who has enrolled by fourth grade level of an elementary school in that system and has maintained continuous enrollment in that school system," (4) a student who lives in a neighboring state but attends an Ohio school district "under an arrangement through which the entire grade of the out-of-state student attends the Ohio public school system..." whose tuition is paid for by the neighboring state's school district, and who will be eligible to receive a high school diploma from that Ohio school, and (5) students enrolled in an OHSAA member school that "provides housing for the student and accepts the role of the parent in loco parentis" (boarding school).

## International students

Under current OHSAA bylaw 4-8-1, "students from countries and provinces outside the United States are ineligible for interscholastic athletics." However, there are four exceptions to the rule. International students may participate in interscholastic athletics if any of the following apply and the OHSAA Commissioner's office declares the student eligible:

(1) The student's parents move into and are legal residents of the school district in which the student is enrolled and attending;

(2) The student is an exchange student in an approved program within the Advisory List of International Educational Travel and Exchange Programs published by the Council on Standards for International Education Travel. A student must submit an exchange student form and is eligible for no more than one school year under this exception.

(3) The student was adopted by a legal resident of the school district in which the student is attending. The student must provide appropriate court documents.

(4) The student's parents are citizens of the United States but reside outside of the United States. The student must provide appropriate documents.

The bill goes further than the current exceptions provided in the OHSAA bylaw. Under the bill, any student from a country or province outside the United States who either (1) attends an elementary school or secondary school in the state that accepts the role of the parent in loco parentis or (2) resides in a dormitory that is owned or operated by the school must be permitted to participate in interscholastic athletics on the same basis as a resident whose parents reside in the state.

## Rule override

The bill specifically prohibits any school district, school, interscholastic conference, or organization that regulates interscholastic conferences or events, which would include the OHSAA, from having a rule that conflicts with these provisions.

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## HISTORY

### ACTION

### DATE

Introduced

04-21-09

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