

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 87th General Assembly
3 Regular Session, 2009

A Bill

SENATE BILL 411

4
5 By: Senator Madison
6 By: Representative House

For An Act To Be Entitled

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9
10 TO ENACT THE ARKANSAS FOREIGN EXCHANGE STUDENT
11 PROGRAM ACT; AND FOR OTHER PURPOSES.

Subtitle

12
13
14 THE ARKANSAS FOREIGN EXCHANGE STUDENT
15 PROGRAM ACT.

16
17
18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

19
20 SECTION 1. Arkansas Code Title 6, Chapter 18, is amended to add an
21 additional subchapter to read as follows:

22 6-18-1701. Title.

23 This subchapter shall be known as the "Arkansas Foreign Exchange
24 Student Program Act".

25
26 6-18-1702. Legislative findings.

27 The General Assembly finds that:

28 (1) The State of Arkansas has the responsibility under the Arkansas
29 Constitution to provide a general, suitable, and efficient system of free
30 public schools so that all persons in the state between six (6) and twenty-
31 one (21) years of age may receive gratuitous instruction;

32 (2) The State of Arkansas has the right and the responsibility as
33 parens patriae to protect and educate a minor found within its jurisdiction;

34 (3) Many international student exchange visitor placement
35 organizations have been established to provide students from other countries
36 the opportunity to share their histories, languages, and cultures with their



1 counterparts in this state;

2 (4) These programs give the state's students and school faculty the
3 opportunity to share their histories, languages, and cultures with foreign
4 students;

5 (5) Arkansas's own former United States Senator James William
6 Fulbright championed efforts to establish international exchange programs,
7 the most famous of which bears his name, the "Fulbright Fellowships"; and

8 (6) This subchapter is necessary to improve the quality of these
9 exchanges, to protect foreign students and Arkansas students and schools, and
10 to promote friendship and understanding among the people of Arkansas and
11 people of other nations.

12
13 6-18-1703. Definitions.

14 As used in this subchapter:

15 (1) "Foreign exchange student" means a student who:

16 (A) Is not a United States citizen;

17 (B) Is at least fifteen (15) years of age but not eighteen
18 (18) years of age at the time of enrollment;

19 (C) Legally resides outside of the United States; and

20 (D) Is applying to enroll in a public or private high
21 school in Arkansas and is:

22 (i) Sponsored by an international student exchange
23 visitor placement organization that is a member of the Council on Standards
24 for International Educational Travel; or

25 (ii) Not sponsored by an officially recognized
26 international student exchange visitor placement organization but has
27 immigration status or a visa that allows enrollment in an Arkansas public or
28 private high school;

29 (2) "Host family" means a family with a home in Arkansas with at
30 least one (1) adult twenty-five (25) years of age or older regularly residing
31 in the home who has agreed to allow a foreign exchange student to be placed
32 in the home to provide the student an opportunity to attend a public or
33 private high school in Arkansas;

34 (3) "International student exchange visitor placement
35 organization" or "organization" means a person, partnership, corporation, or
36 other entity that regularly arranges the placement of international student

1 exchange visitors for the purpose, in whole or in part, of allowing the
2 student an opportunity to attend school in the United States; and

3 (4) "Representative" means a natural person who is responsible
4 on behalf of an international student exchange visitor placement organization
5 for:

6 (A) The selection of a suitable host family for the
7 placement of a foreign exchange student;

8 (B) The enrollment of a foreign exchange student in a
9 local public or private high school; and

10 (C) The periodic monitoring of the foreign exchange
11 student and his or her living conditions and educational progress.

12
13 6-18-1704. Compliance required.

14 (a) An international student exchange visitor placement organization
15 shall not place a foreign exchange student with a host family or in a public
16 or private school in this state without complying with this subchapter.

17 (b) A public or private school shall not enroll a foreign exchange
18 student whose placement does not comply with this subchapter.

19
20 6-18-1705. Rules.

21 (a) The State Board of Education shall adopt by rule necessary
22 standards and regulations for international student exchange visitor
23 placement organizations for the implementation of this subchapter.

24 (b) The state board shall require that all international student
25 exchange visitor placement organizations operating in this state subject all
26 members of a host family sixteen (16) years of age or older to:

27 (1) A criminal background check performed through the
28 Identification Bureau of the Department of Arkansas State Police and the
29 Federal Bureau of Investigation; and

30 (2) A statewide central registry check for cases involving
31 allegations of child maltreatment.

32
33 6-18-1706. International student exchange visitor placement
34 organization - Registration.

35 (a)(1) An international student exchange visitor placement
36 organization that proposes to place a foreign exchange student in a public or

1 private school in this state shall have a certificate of registration on file
2 with the Secretary of State by January 1 immediately preceding the next
3 regular school year in which the organization proposes to place a foreign
4 exchange student.

5 (2)(A) For the purpose of service of process and service of
6 notices, an international student exchange visitor placement organization
7 shall provide the name, address, and telephone number of an officer or
8 employee of the organization authorized to receive and accept service of
9 process and service of notices.

10 (B) If service of process and service of notices cannot be
11 reasonably given to the officer as provided by the organization, service of
12 process and service of notices shall be effected by service upon the
13 Secretary of State who shall make a reasonable effort to contact and provide
14 any process and notices to the organization.

15 (b) An application for registration as an international student
16 exchange visitor placement organization shall be submitted in the form
17 prescribed by the Secretary of State. The application shall include:

18 (1) Evidence that the organization meets the standards
19 established by the State Board of Education by rule;

20 (2)(A) The name, address, and telephone number of the
21 organization, its chief executive officer, and the person within the
22 organization who has primary responsibility for supervising placements within
23 the state.

24 (B)(i) The compensation, both monetary and nonmonetary, of
25 the persons within the organization who have primary responsibility for
26 supervising placements within the state shall be reported to and filed with
27 the Secretary of State annually.

28 (ii) The compensation information shall be
29 confidential and shall not be disclosed publicly;

30 (3) The organization's unified business identification number if
31 any;

32 (4) Evidence of Council on Standards for International
33 Educational Travel listing if any;

34 (5) The organization's federal income tax exemption status;

35 (6) A list of the organization's placements in Arkansas for the
36 previous academic year, including the number of students placed, their home

1 countries, the school districts in which they were placed, and the length of
2 time of their placements;

3 (7) The organization's most recent brochure describing its
4 programs;

5 (8) Evidence of the organization's health, accident, and bonding
6 insurance;

7 (9) The names, addresses, and telephone numbers of the
8 organization's local representatives for Arkansas; and

9 (10) Any other information the Secretary of State determines is
10 necessary for his or her examination of the request by the organization.

11 (c) The application must be signed by the chief executive officer of
12 the organization and the person within the organization who has primary
13 responsibility for supervising placements within Arkansas.

14 (d) Organizations that have registered shall inform the Secretary of
15 State of any changes in the information required under subsection (b) of this
16 section within thirty (30) days of the change.

17 (e)(1) Registration is valid for one (1) year and may be renewed
18 annually.

19 (2) Organizations registering for the first time in Arkansas
20 must pay an initial registration fee of one hundred fifty dollars (\$150).

21 (3) The fee to renew a registration is fifty dollars (\$50) per
22 year.

23 (f) Fees collected by the Secretary of State under this section shall
24 be deposited into the State Treasury and credited to the General Revenue
25 Fund.

26 (g) The information provided the Secretary of State under this
27 section, except compensation information under subdivision (b)(2)(B)(i) of
28 this section, is a public record and shall be open to inspection and copying
29 by any citizen of the State of Arkansas during the regular business hours of
30 the Secretary of State's office.

31 (h) Registration shall not be considered or be represented as an
32 endorsement of the organization by the Secretary of State or the State of
33 Arkansas.

34 (i)(1) Only an international student exchange visitor placement
35 organization for students from other countries to attend a public or private
36 high school approved by the United States Department of State may be

1 considered for approval.

2 (2) Only an international student exchange visitor placement
3 organization on the approved list of the Council on Standards for
4 International Educational Travel may be considered for approval.

5 (j) An international student exchange visitor placement organization
6 shall have a local representative who is a resident of Arkansas, lives within
7 one hundred twenty (120) miles of his or her assigned students, and who bears
8 responsibility for the organization and its participants in Arkansas.

9 (k)(1) An international student exchange visitor placement
10 organization shall not place a foreign exchange student in a home or seek
11 admission of a student in a public or private high school until the
12 international student exchange visitor placement organization has been
13 registered with the Secretary of State for that school year.

14 (2) Each year, the Secretary of State shall publish a list of
15 international student exchange visitor placement organizations registered to
16 place foreign exchange students in host homes.

17 (3) Unless the Secretary of State determines that an application
18 for registration does not comply with the filing requirements of this
19 chapter, the Secretary of State, upon payment of all filing fees, shall file
20 the application, prepare, sign, and file a certificate of registration, and
21 send a copy of the filed certificate with a receipt for the fees to the
22 organization.

23 (l) An international student exchange visitor placement organization
24 sponsoring a foreign exchange student who is determined by the high school to
25 be deficient in English language proficiency after enrollment will be
26 required to:

27 (1) Terminate the student's placement; or

28 (2) Provide, if available and at the student's expense, tutorial
29 help until the student reaches proficiency, as determined by the high school
30 in which the student is enrolled.

31 (m) Any special requirements for health, education, or welfare needed
32 by the foreign exchange student will be the responsibility of the
33 international student exchange visitor placement organization.

34 (n)(1) An international student exchange visitor placement
35 organization shall provide orientation, both before departure and upon
36 arrival in the United States, to each foreign exchange student.

1 (2) This orientation shall provide information to the foreign
2 exchange student concerning the United States and its people, family and
3 school life, and the nature of the program in which he or she is
4 participating.

5 (3) The organization shall provide orientation to the host
6 family, including information as to the host family's duties and
7 responsibilities and information concerning the foreign exchange student who
8 is to be placed in their care for the upcoming school year.

9
10 6-18-1707. Foreign exchange students.

11 (a) To be eligible to participate in the Arkansas Foreign Exchange
12 Student Program and to attend an Arkansas public or private high school, a
13 foreign exchange student shall:

14 (1)(A) Be a secondary student in his or her home country.

15 (B) Before enrollment in a public or private high school
16 in Arkansas, the foreign exchange student shall have completed the equivalent
17 of grade ten (10);

18 (2)(A) Have on file, with the public or private school district
19 he or she proposes to attend, an immunization record and a student health
20 report, both of which comply with Arkansas law, completed by a physician in
21 the foreign exchange student's home country.

22 (B) The immunization record and student health report
23 shall both be translated into English; and

24 (3) Have appropriate health, accident, and liability insurance.

25 (b)(1) A foreign exchange student sponsored by an international
26 student exchange visitor placement organization shall have a J-1 visa.

27 (2) A foreign exchange student with a J-1 visa shall:

28 (A)(i) Have sufficient command of the English language to
29 function successfully in a regular classroom.

30 (ii) A public or private high school shall not be
31 required to provide language acquisition or other student services to a
32 foreign exchange student;

33 (B) Have completed not more than eleven (11) years of
34 primary and secondary study, excluding kindergarten; and

35 (C) Be responsible for all regular school fees and
36 expenses.

1 (c)(1) A foreign exchange student who is not sponsored by an
2 international student exchange visitor placement organization shall have an
3 F-1 student status visa if the student does not have immigration status or a
4 visa that allows enrollment in a public high school in Arkansas as a resident
5 of the district and the United States.

6 (2)(A) Only a foreign exchange student of high school age may
7 qualify for an F-1 visa.

8 (B) A foreign student who has already received a diploma
9 is not eligible for F-1 status or for enrollment in a public high school.

10 (3)(A) A foreign exchange student with an F-1 visa must have
11 sufficient command of the English language to function successfully in a
12 regular classroom.

13 (B) Arkansas shall not be required to provide language
14 acquisition or other student services to a foreign exchange student with an
15 F-1 visa.

16 (4)(A) Because a foreign exchange student with an F-1 visa is
17 required by federal law to pay the full unsubsidized per capita cost for the
18 period of attendance and because Arkansas does not provide for payments to a
19 public school, a foreign exchange student with an F-1 visa may not enroll in
20 a public high school in Arkansas as a foreign exchange student.

21 (B) Nothing in subdivision (c)(4)(A) of this section
22 prohibits a foreign exchange student with an F-1 visa from enrolling in a
23 private high school in Arkansas as a foreign exchange student.

24 (d)(1)(A) A foreign exchange student who requests a high school
25 diploma shall furnish an official document to the Arkansas high school in
26 which he or she is enrolled from all academic institutions attended
27 equivalent to grade seven (7) through the most recent school year with an
28 accompanying English translation provided by an educational institution
29 indicating courses studied, grades received, and an explanation of the
30 grading system.

31 (B)(i) A high school diploma shall be awarded if the
32 foreign exchange student satisfies all requirements for receiving a high
33 school diploma from the high school in which he or she is enrolled.

34 (ii) As an alternative to a diploma and at the
35 discretion of the high school, a foreign exchange student may be awarded a
36 certificate of achievement or other suitable form of recognition.

1 (iii) The foreign exchange student may participate
2 in commencement exercises if he or she has successfully passed all courses
3 during the school year in which he or she was enrolled.

4 (2) A foreign exchange student enrolled in a public or private
5 high school is subject to the same state and federal laws and policies,
6 regulations, procedures, rules of conduct, attendance requirements, and
7 academic performance requirements as non-foreign exchange students.

8
9 6-18-1708. Informational document.

10 International student exchange visitor placement organizations that
11 have agreed to provide services to place students in this state shall provide
12 prior to enrollment to each student, host family, school principal, and
13 superintendent of the school district in which the student is being placed an
14 informational document in English that shall include the following:

15 (1) An explanation of the services to be performed by the
16 organization for the student, host family, and school district, which shall
17 include:

18 (A) The name, address, and telephone number of the local
19 representative of the placement organization and the local representative's
20 immediate superior; and

21 (B) The responsibilities and duties of the local
22 representative of the placement organization and the local representative's
23 immediate superior;

24 (2) A summary of this subchapter; and

25 (3)(A) Telephone numbers and email addresses that the student,
26 host family, and school district may use for assistance, which shall include
27 the telephone numbers and email addresses of the following organizations:

28 (i) The United States Department of State;

29 (ii) The Council on Standards for
30 International Educational Travel; and

31 (iii) The Committee for Safety of Foreign
32 Exchange Students.

33 (B) The telephone numbers shall include, at a minimum, an
34 in-state telephone number for the organization and the telephone numbers of
35 the organization's national headquarters if any.

36

1 6-18-1709. Rights of a foreign exchange student.

2 A foreign exchange student has the following rights:

3 (1) Before departing from his or her home country, to have:

4 (A) A properly screened host family awaiting the student's
5 arrival; and

6 (B) A public or private high school that has agreed in writing
7 to enroll the student for the next school year;

8 (2) To have the home in which the student is placed to:

9 (A) Not have any person who has plead guilty, nolo
10 contendere, or been found guilty of a felony offense residing within;

11 (B) Not be the home of a foreign exchange representative
12 for longer than two (2) weeks; and

13 (C) Meet basic standards of cleanliness and habitability
14 including, but not limited to:

15 (i) Connection to a sanitary sewer system that meets
16 local plumbing code requirements; and

17 (ii) Smoke alarms that are properly installed and
18 maintained;

19 (3) To have the reasonable opportunity to exercise his or her
20 religious freedom without coercion or threat of retaliation;

21 (4) To be provided by the international student exchange visitor
22 placement organization or, if there is no program involved, by the host
23 family, the telephone number of:

24 (A) The United States Department of State in case of
25 emergencies;

26 (B) The toll-free child abuse hotline; and

27 (C) Local law enforcement agencies;

28 (5) To be informed of his or her rights as a visitor to the
29 United States;

30 (6) To not be coerced to write letters or sign agreements that
31 the student does not fully understand;

32 (7) To not be sent back to his or her home country without a
33 prior review process as provided by the school he or she is attending; and

34 (8) To not be caused to fear being sent back to his or her home
35 country for any communication made or proposed to be made to:

36 (A) The United States Department of State;

- 1 (B) The Director of the Department of Human Services;
2 (C) An official of the school in which the student is
3 enrolled; or
4 (D) Any law enforcement agency.

5
6 6-18-1710. Host family.

7 (a) An agreement with a school or host family shall be in writing and
8 shall require notice and agreement by the school district and host family
9 that the Department of Human Services may conduct an inspection of the school
10 and the host family's home and interview any school official or employee, any
11 member of the host family, and any foreign exchange student, before or during
12 any placement of a foreign exchange student with a host family.

13 (b)(1) Before placement of a foreign exchange student with a host
14 family, an international student exchange visitor placement organization
15 shall conduct a home study, including the background and registry check of
16 all residents sixteen (16) years of age and older required under § 6-18-1705,
17 of each home where an exchange student is to reside.

18 (2) The study shall be of sufficient scope to provide reasonable
19 assurance that the student will receive proper care and supervision in a safe
20 environment.

21 (c)(1) A host family may not be selected based on race, creed, color,
22 or religion.

23 (2) The host family shall have received training appropriate to
24 the position.

25
26 6-18-1711. International student exchange visitor placement
27 organization representative.

28 (a)(1) The international student exchange visitor placement
29 organization representative shall provide active supervision and support to
30 his or her foreign exchange students, including responsibility for resolving
31 any problems.

32 (2) A problem may include the changing of host families and the
33 early return to the native home of the student because of personal or family
34 difficulties.

35 (b) The representative shall have complete responsibility for
36 monitoring the foreign student exchange experience and for notifying the

1 principal of the high school of changes in the student's host family
2 placement, withdrawal from school, or other significant changes in the
3 student's environment.

4 (c)(1) The representative shall provide to the host family and to the
5 high school in which the foreign exchange student is enrolled information
6 about the student's interests and general behavior.

7 (2) The representative shall provide the student's school record
8 from his or her home school district in English.

9 (d)(1)(A) The representative shall make an in-person visit to each
10 student's place of residence at least one (1) time each month during the
11 student's stay in Arkansas.

12 (B) The representative shall visit separately with the
13 student and the host family.

14 (2)(A) A report of the visit shall be sent to the State Board of
15 Education by the last day of the month immediately following the month the
16 visit occurred.

17 (B) The monthly reports shall be prepared on forms
18 established by the state board.

19 (e) A representative or a former representative who has voluntarily
20 resigned or been involuntarily separated or terminated from an international
21 student exchange visitor placement organization may not be employed by
22 another international student exchange visitor placement organization
23 operating in this state for a period of one (1) year.

24
25 6-18-1712. High schools.

26 (a)(1) A high school shall have the right to approve or refuse
27 admission of a foreign exchange student.

28 (2) Upon admission, a foreign exchange student may not be
29 removed by the school except in a manner authorized for the removal of a
30 regular student from the school.

31 (b) A high school may require an international student exchange
32 visitor placement organization to withdraw a foreign exchange student if that
33 student is not adjusting favorably and is not benefiting from the foreign
34 exchange experience.

35 (c) A high school shall report by the eleventh day of classes each
36 semester the enrollment numbers of foreign exchange students placed by

1 international student exchange visitor placement organizations to the State
2 Board of Education.

3
4 6-18-1713. Cooperation with authorities.

5 An international student exchange visitor placement organization shall
6 cooperate with state, school, and other public authorities to ensure that no
7 foreign exchange student becomes an unreasonable burden upon a school or
8 other public agency.

9
10 6-18-1714. Alternative placements.

11 (a) An alternate placement shall be readily available so that no
12 student remains in a home if conditions appear to exist that endanger the
13 student's welfare.

14 (b) Before the placement of a student is changed or the student is
15 sent back to his or her native home before the completion of the exchange
16 program, the Director of the Department of Human Services shall be notified
17 of the proposed action and the reasons for the proposed action.

18
19 6-18-1715. Information for contacting authorities.

20 (a) An approved international student exchange visitor placement
21 organization shall compile a list of names and telephone numbers of
22 individuals not associated with the organization who may be called by a
23 foreign exchange student if there is a serious problem.

24 (b) The organization shall make a copy of the list available to each
25 of its host families and to each of its foreign exchange students in the
26 exchange student's native language.

27 (c) An exchange student shall be provided in the exchange student's
28 native language names and telephone numbers of the organization
29 representatives and others who may be called at any time if a serious problem
30 occurs.

31
32 6-18-1716. Retaliation for contacting authorities prohibited.

33 (a) The host family and the student may contact the Department of
34 Human Services or any law enforcement agency without retaliation by the
35 organization.

36 (b)(1) Retaliation or threat of retaliation by the international

1 student exchange visitor placement organization or an international student
2 exchange visitor placement organization representative shall result in
3 disqualification from placement of any foreign exchange student in Arkansas.

4 (2) Foreign exchange students in host homes or enrolled in high
5 schools in Arkansas under the disqualified organization shall be removed from
6 the organization’s control and managed either by the Department of Human
7 Services or another international student exchange visitor placement
8 organization as determined by the Department of Human Services.

9 (3) All fees received by the disqualified organization shall be
10 forfeited, and the Attorney General may seek the forfeiture of all fees
11 earned or to be earned by the organization in any court of competent
12 jurisdiction.

13
14 6-18-1717. Complaints.

15 The State Board of Education, upon receipt of a complaint regarding an
16 international student exchange organization, shall report the matter to the
17 organization involved, to the Council on Standards for International
18 Educational Travel, and the United States Department of State, as the State
19 Board of Education considers appropriate.

20
21 6-18-1718. Violations.

22 A person who fails to register as required by this subchapter or who
23 willfully and knowingly gives false or incorrect information to the Secretary
24 of State in filing statements required by this subchapter, whether or not the
25 statement or report is verified, is guilty of a Class A misdemeanor.