HB5432

102ND GENERAL ASSEMBLY
State of Illinois
2021 and 2022
HB5432

Introduced 1/31/2022, by Rep. Deanne M. Mazzochi

SYNOPSIS AS INTRODUCED:

105 ILCS 5/2-3.192 new
105 ILCS 5/10-20.12a from Ch. 122, par. 10-20.12a
105 ILCS 5/27-8.1 from Ch. 122, par. 27-8.1
410 ILCS 315/2f new

Amends the School Code and the Communicable Disease Prevention Act. Provides that, beginning with the 2022-2023 school year, in any school district in which students are required to receive an immunization against COVID-19 in order to attend the schools of the district and a student is prohibited from attending school for refusal to receive immunization against COVID-19, the student's parent or guardian may request an educational voucher to be used to cover the necessary costs and fees of education at a nonpublic school or to cover the cost of non-resident tuition at a school district in which the student's parent or guardian enrolls the student due to the school district not having a COVID-19 immunization requirement. Provides that the voucher shall be in the amount of $5,000 for the school year and may come from the school district's allotment of evidence-based funding or in a credit against residential property taxes imposed under the Property Tax Code. Includes procedures for requesting the voucher, using the voucher, and responsibilities of the parent of the student and school district accepting the transferring student, including charging no more than the $5,000 provided for from the voucher. Provides that, for the 10-year period following full approval of a COVID-19 immunization by the United States Food and Drug Administration, a school district may require the children attending the schools of the district to receive a COVID-19 immunization that has been fully approved by the United States Food and Drug Administration; however, the Department of Public Health may not adopt any rules to require children to receive an immunization against COVID-19 during that same 10-year period. Includes requirements for school districts which require immunization. Effective immediately.
AN ACT concerning education.

Be it enacted by the People of the State of Illinois, represented in the General Assembly:

Section 5. The School Code is amended by changing Sections 10-20.12a and 27-8.1 and by adding Section 2-3.192 as follows:

(105 ILCS 5/2-3.192 new)

Sec. 2-3.192. Educational vouchers; COVID-19 immunization.

(a) In this Section, "necessary costs and fees" includes the customary charge for instruction and use of facilities in general and the additional fixed fees charged for specified purposes that are required generally of students at nonpublic schools for each academic year, including costs associated with student assessments.

(b) Beginning with the 2022-2023 school year, in any school district in which students are required to receive an immunization against COVID-19 in order to attend the schools of the district, if a student is prohibited from attending school for refusal to receive immunization against COVID-19, then the student's parent or guardian may request an educational voucher to be used to cover the necessary costs and fees of education at a nonpublic school or to cover the cost of non-resident tuition established under Section 10-20.12a at a school district in which the student's parent
or guardian enrolls the student due to the school district not having a COVID-19 immunization requirement.

(c) A voucher issued under this Section shall be in the amount of $5,000 per student for the school year in which the COVID-19 immunization is required and the student is prohibited from attending the school. The parent or guardian may request the $5,000 voucher be expended from the school district's allotment of evidence-based funding under Section 18-8.15 of this Code or in a credit against residential property taxes imposed under the Property Tax Code for residential property owned by the parent or guardian and owed in the taxable year covering the school year in which the student is prohibited from attending the school. If the student's parent or guardian requests that the educational voucher be in the form of $5,000 from the school district's allotment of evidence-based funding, then the school district shall provide the voucher directly to the nonpublic school or other school district not requiring immunization against COVID-19 on behalf of the student. If the student's parent or guardian requests the educational voucher be in the form of a credit against the residential property taxes imposed on property owned by the parent or guardian, the parent or guardian shall inform the county collector as soon as practicable that the parent or guardian is requesting the credit be applied to their property tax bill in the taxable year in which they are requesting the credit.
(d) The State Board of Education and the Department of Revenue shall adopt rules necessary to implement the provisions of this Section.

(105 ILCS 5/10-20.12a) (from Ch. 122, par. 10-20.12a)
Sec. 10-20.12a. Tuition for non-resident pupils.

(a) To charge non-resident pupils who attend the schools of the district tuition in an amount not exceeding 110% of the per capita cost of maintaining the schools of the district for the preceding school year.

Such per capita cost shall be computed by dividing the total cost of conducting and maintaining the schools of the district by the average daily attendance, including tuition pupils. Depreciation on the buildings and equipment of the schools of the district, and the amount of annual depreciation on such buildings and equipment shall be dependent upon the useful life of such property.

The tuition charged shall in no case exceed 110% of the per capita cost of conducting and maintaining the schools of the district attended, as determined with reference to the most recent audit prepared under Section 3-7 which is available at the commencement of the current school year. Non-resident pupils attending the schools of the district for less than the school term shall have their tuition apportioned, however pupils who become non-resident during a school term shall not be charged tuition for the remainder of the school term in
which they became non-resident pupils.

(b) Unless otherwise agreed to by the parties involved and where the educational services are not otherwise provided for, educational services for an Illinois student under the age of 21 (and not eligible for services pursuant to Article 14 of this Code) in any residential program shall be provided by the district in which the facility is located and financed as follows. The cost of educational services shall be paid by the district in which the student resides in an amount equal to the cost of providing educational services in the residential facility. Payments shall be made by the district of the student's residence and shall be made to the district wherein the facility is located no less than once per month unless otherwise agreed to by the parties.

The funding provision of this subsection (b) applies to all Illinois students under the age of 21 (and not eligible for services pursuant to Article 14 of this Code) receiving educational services in residential facilities, irrespective of whether the student was placed therein pursuant to this Code or the Juvenile Court Act of 1987 or by an Illinois public agency or a court. The changes to this subsection (b) made by this amendatory Act of the 95th General Assembly apply to all placements in effect on July 1, 2007 and all placements thereafter. For purposes of this subsection (b), a student's district of residence shall be determined in accordance with subsection (a) of Section 10-20.12b of this Code. The
placement of a student in a residential facility shall not affect the residency of the student. When a dispute arises over the determination of the district of residence under this subsection (b), any person or entity, including without limitation a school district or residential facility, may make a written request for a residency decision to the State Superintendent of Education, who, upon review of materials submitted and any other items or information he or she may request for submission, shall issue his or her decision in writing. The decision of the State Superintendent of Education is final.

(c) If a non-resident pupil enrolls in a school district using an educational voucher established in Section 2-3.192, the school district may not charge the non-resident pupil more than the $5,000 provided for from the educational voucher, regardless of the per capita cost calculated in subsection (a) of this Section. If the per capita cost is less than $5,000, the school district in which the non-resident pupil is enrolling in shall retain the remainder of the educational voucher provided by the school district in which the pupil was previously enrolled in.

(Source: P.A. 95-844, eff. 8-15-08; 95-938, eff. 8-29-08.)
Department of Public Health shall promulgate, and except as hereinafter provided, all children in Illinois shall have a health examination as follows: within one year prior to entering kindergarten or the first grade of any public, private, or parochial elementary school; upon entering the sixth and ninth grades of any public, private, or parochial school; prior to entrance into any public, private, or parochial nursery school; and, irrespective of grade, immediately prior to or upon entrance into any public, private, or parochial school or nursery school, each child shall present proof of having been examined in accordance with this Section and the rules and regulations promulgated hereunder. Any child who received a health examination within one year prior to entering the fifth grade for the 2007-2008 school year is not required to receive an additional health examination in order to comply with the provisions of Public Act 95-422 when he or she attends school for the 2008-2009 school year, unless the child is attending school for the first time as provided in this paragraph.

A tuberculosis skin test screening shall be included as a required part of each health examination included under this Section if the child resides in an area designated by the Department of Public Health as having a high incidence of tuberculosis. Additional health examinations of pupils, including eye examinations, may be required when deemed necessary by school authorities. Parents are encouraged to
have their children undergo eye examinations at the same
points in time required for health examinations.

(1.5) In compliance with rules adopted by the Department
of Public Health and except as otherwise provided in this
Section, all children in kindergarten and the second, sixth,
and ninth grades of any public, private, or parochial school
shall have a dental examination. Each of these children shall
present proof of having been examined by a dentist in
accordance with this Section and rules adopted under this
Section before May 15th of the school year. If a child in the
second, sixth, or ninth grade fails to present proof by May
15th, the school may hold the child's report card until one of
the following occurs: (i) the child presents proof of a
completed dental examination or (ii) the child presents proof
that a dental examination will take place within 60 days after
May 15th. A school may not withhold a child's report card
during a school year in which the Governor has declared a
disaster due to a public health emergency pursuant to Section
7 of the Illinois Emergency Management Agency Act. The
Department of Public Health shall establish, by rule, a waiver
for children who show an undue burden or a lack of access to a
dentist. Each public, private, and parochial school must give
notice of this dental examination requirement to the parents
and guardians of students at least 60 days before May 15th of
each school year.

(1.10) Except as otherwise provided in this Section, all
children enrolling in kindergarten in a public, private, or parochial school on or after January 1, 2008 (the effective date of Public Act 95-671) and any student enrolling for the first time in a public, private, or parochial school on or after January 1, 2008 (the effective date of Public Act 95-671) shall have an eye examination. Each of these children shall present proof of having been examined by a physician licensed to practice medicine in all of its branches or a licensed optometrist within the previous year, in accordance with this Section and rules adopted under this Section, before October 15th of the school year. If the child fails to present proof by October 15th, the school may hold the child's report card until one of the following occurs: (i) the child presents proof of a completed eye examination or (ii) the child presents proof that an eye examination will take place within 60 days after October 15th. A school may not withhold a child's report card during a school year in which the Governor has declared a disaster due to a public health emergency pursuant to Section 7 of the Illinois Emergency Management Agency Act.

The Department of Public Health shall establish, by rule, a waiver for children who show an undue burden or a lack of access to a physician licensed to practice medicine in all of its branches who provides eye examinations or to a licensed optometrist. Each public, private, and parochial school must give notice of this eye examination requirement to the parents and guardians of students in compliance with rules of the
Department of Public Health. Nothing in this Section shall be construed to allow a school to exclude a child from attending because of a parent's or guardian's failure to obtain an eye examination for the child.

(2) The Department of Public Health shall promulgate rules and regulations specifying the examinations and procedures that constitute a health examination, which shall include an age-appropriate developmental screening, an age-appropriate social and emotional screening, and the collection of data relating to asthma and obesity (including at a minimum, date of birth, gender, height, weight, blood pressure, and date of exam), and a dental examination and may recommend by rule that certain additional examinations be performed. The rules and regulations of the Department of Public Health shall specify that a tuberculosis skin test screening shall be included as a required part of each health examination included under this Section if the child resides in an area designated by the Department of Public Health as having a high incidence of tuberculosis. With respect to the developmental screening and the social and emotional screening, the Department of Public Health must, no later than January 1, 2019, develop rules and appropriate revisions to the Child Health Examination form in conjunction with a statewide organization representing school boards; a statewide organization representing pediatricians; statewide organizations representing individuals holding Illinois educator licenses with school support personnel
endorsements, including school social workers, school psychologists, and school nurses; a statewide organization representing children's mental health experts; a statewide organization representing school principals; the Director of Healthcare and Family Services or his or her designee, the State Superintendent of Education or his or her designee; and representatives of other appropriate State agencies and, at a minimum, must recommend the use of validated screening tools appropriate to the child's age or grade, and, with regard to the social and emotional screening, require recording only whether or not the screening was completed. The rules shall take into consideration the screening recommendations of the American Academy of Pediatrics and must be consistent with the State Board of Education's social and emotional learning standards. The Department of Public Health shall specify that a diabetes screening as defined by rule shall be included as a required part of each health examination. Diabetes testing is not required.

Physicians licensed to practice medicine in all of its branches, licensed advanced practice registered nurses, or licensed physician assistants shall be responsible for the performance of the health examinations, other than dental examinations, eye examinations, and vision and hearing screening, and shall sign all report forms required by subsection (4) of this Section that pertain to those portions of the health examination for which the physician, advanced
practice registered nurse, or physician assistant is responsible. If a registered nurse performs any part of a health examination, then a physician licensed to practice medicine in all of its branches must review and sign all required report forms. Licensed dentists shall perform all dental examinations and shall sign all report forms required by subsection (4) of this Section that pertain to the dental examinations. Physicians licensed to practice medicine in all its branches or licensed optometrists shall perform all eye examinations required by this Section and shall sign all report forms required by subsection (4) of this Section that pertain to the eye examination. For purposes of this Section, an eye examination shall at a minimum include history, visual acuity, subjective refraction to best visual acuity near and far, internal and external examination, and a glaucoma evaluation, as well as any other tests or observations that in the professional judgment of the doctor are necessary. Vision and hearing screening tests, which shall not be considered examinations as that term is used in this Section, shall be conducted in accordance with rules and regulations of the Department of Public Health, and by individuals whom the Department of Public Health has certified. In these rules and regulations, the Department of Public Health shall require that individuals conducting vision screening tests give a child's parent or guardian written notification, before the vision screening is conducted, that states, "Vision screening
is not a substitute for a complete eye and vision evaluation by
an eye doctor. Your child is not required to undergo this
vision screening if an optometrist or ophthalmologist has
completed and signed a report form indicating that an
examination has been administered within the previous 12
months."

(2.5) With respect to the developmental screening and the
social and emotional screening portion of the health
examination, each child may present proof of having been
screened in accordance with this Section and the rules adopted
under this Section before October 15th of the school year.
With regard to the social and emotional screening only, the
examining health care provider shall only record whether or
not the screening was completed. If the child fails to present
proof of the developmental screening or the social and
emotional screening portions of the health examination by
October 15th of the school year, qualified school support
personnel may, with a parent's or guardian's consent, offer
the developmental screening or the social and emotional
screening to the child. Each public, private, and parochial
school must give notice of the developmental screening and
social and emotional screening requirements to the parents and
guardians of students in compliance with the rules of the
Department of Public Health. Nothing in this Section shall be
construed to allow a school to exclude a child from attending
because of a parent's or guardian's failure to obtain a
developmental screening or a social and emotional screening for the child. Once a developmental screening or a social and emotional screening is completed and proof has been presented to the school, the school may, with a parent's or guardian's consent, make available appropriate school personnel to work with the parent or guardian, the child, and the provider who signed the screening form to obtain any appropriate evaluations and services as indicated on the form and in other information and documentation provided by the parents, guardians, or provider.

(3) Every child shall, at or about the same time as he or she receives a health examination required by subsection (1) of this Section, present to the local school proof of having received such immunizations against preventable communicable diseases as the Department of Public Health shall require by rules and regulations promulgated pursuant to this Section and the Communicable Disease Prevention Act.

(3.5) For the 10-year period following full approval of a COVID-19 immunization by the United States Food and Drug Administration, a school district may require the children attending the schools of the district to receive a COVID-19 immunization that has been fully approved by the United States Food and Drug Administration; however, the Department of Public Health may not adopt any rules to require children to receive an immunization against COVID-19 during that same 10-year period. Prior to requiring any child enrolled in the
school district to receive an immunization against COVID-19, the school board of the school district shall confirm the findings of the United States Food and Drug Administration on the efficacy of the immunization that has been fully approved. If a school district does require immunization against COVID-19, the school district must consider a child's natural immunity against COVID-19 prior to requiring the child to receive an immunization. The child's parent or guardian may provide the school district with acceptable proof of natural immunity, including, but not limited to, laboratory evidence of immunity or proof of prior COVID-19 infection verified with date of illness signed by a physician licensed to practice medicine in all its branches in this State. If any child and his or her parent or guardian refuse to ensure the child is immunized against COVID-19, the school district shall provide appropriate accommodations to the child to ensure his or her education is not interrupted by the school district's requirement that the child be immunized against COVID-19. As used in this item (3.5), "appropriate accommodations" includes, but is not limited to, helping a parent or guardian receive an educational voucher established under Section 2-3.192 of this Code and working with the child and the child's parent or guardian to enroll in a school district that does not require immunization.

(4) The individuals conducting the health examination, dental examination, or eye examination shall record the fact
of having conducted the examination, and such additional
information as required, including for a health examination
data relating to asthma and obesity (including at a minimum,
date of birth, gender, height, weight, blood pressure, and
date of exam), on uniform forms which the Department of Public
Health and the State Board of Education shall prescribe for
statewide use. The examiner shall summarize on the report form
any condition that he or she suspects indicates a need for
special services, including for a health examination factors
relating to asthma or obesity. The duty to summarize on the
report form does not apply to social and emotional screenings.
The confidentiality of the information and records relating to
the developmental screening and the social and emotional
screening shall be determined by the statutes, rules, and
professional ethics governing the type of provider conducting
the screening. The individuals confirming the administration
of required immunizations shall record as indicated on the
form that the immunizations were administered.

(5) If a child does not submit proof of having had either
the health examination or the immunization as required, then
the child shall be examined or receive the immunization, as
the case may be, and present proof by October 15 of the current
school year, or by an earlier date of the current school year
established by a school district. To establish a date before
October 15 of the current school year for the health
examination or immunization as required, a school district
must give notice of the requirements of this Section 60 days prior to the earlier established date. If for medical reasons one or more of the required immunizations must be given after October 15 of the current school year, or after an earlier established date of the current school year, then the child shall present, by October 15, or by the earlier established date, a schedule for the administration of the immunizations and a statement of the medical reasons causing the delay, both the schedule and the statement being issued by the physician, advanced practice registered nurse, physician assistant, registered nurse, or local health department that will be responsible for administration of the remaining required immunizations. If a child does not comply by October 15, or by the earlier established date of the current school year, with the requirements of this subsection, then the local school authority shall exclude that child from school until such time as the child presents proof of having had the health examination as required and presents proof of having received those required immunizations which are medically possible to receive immediately. During a child's exclusion from school for noncompliance with this subsection, the child's parents or legal guardian shall be considered in violation of Section 26-1 and subject to any penalty imposed by Section 26-10. This subsection (5) does not apply to dental examinations, eye examinations, and the developmental screening and the social and emotional screening portions of the health examination. If
the student is an out-of-state transfer student and does not have the proof required under this subsection (5) before October 15 of the current year or whatever date is set by the school district, then he or she may only attend classes (i) if he or she has proof that an appointment for the required vaccinations has been scheduled with a party authorized to submit proof of the required vaccinations. If the proof of vaccination required under this subsection (5) is not submitted within 30 days after the student is permitted to attend classes, then the student is not to be permitted to attend classes until proof of the vaccinations has been properly submitted. No school district or employee of a school district shall be held liable for any injury or illness to another person that results from admitting an out-of-state transfer student to class that has an appointment scheduled pursuant to this subsection (5).

(6) Every school shall report to the State Board of Education by November 15, in the manner which that agency shall require, the number of children who have received the necessary immunizations and the health examination (other than a dental examination or eye examination) as required, indicating, of those who have not received the immunizations and examination as required, the number of children who are exempt from health examination and immunization requirements on religious or medical grounds as provided in subsection (8). On or before December 1 of each year, every public school
district and registered nonpublic school shall make publicly available the immunization data they are required to submit to the State Board of Education by November 15. The immunization data made publicly available must be identical to the data the school district or school has reported to the State Board of Education.

Every school shall report to the State Board of Education by June 30, in the manner that the State Board requires, the number of children who have received the required dental examination, indicating, of those who have not received the required dental examination, the number of children who are exempt from the dental examination on religious grounds as provided in subsection (8) of this Section and the number of children who have received a waiver under subsection (1.5) of this Section.

Every school shall report to the State Board of Education by June 30, in the manner that the State Board requires, the number of children who have received the required eye examination, indicating, of those who have not received the required eye examination, the number of children who are exempt from the eye examination as provided in subsection (8) of this Section, the number of children who have received a waiver under subsection (1.10) of this Section, and the total number of children in noncompliance with the eye examination requirement.

The reported information under this subsection (6) shall
be provided to the Department of Public Health by the State Board of Education.

(7) Upon determining that the number of pupils who are required to be in compliance with subsection (5) of this Section is below 90% of the number of pupils enrolled in the school district, 10% of each State aid payment made pursuant to Section 18-8.05 or 18-8.15 to the school district for such year may be withheld by the State Board of Education until the number of students in compliance with subsection (5) is the applicable specified percentage or higher.

(8) Children of parents or legal guardians who object to health, dental, or eye examinations or any part thereof, to immunizations, or to vision and hearing screening tests on religious grounds shall not be required to undergo the examinations, tests, or immunizations to which they so object if such parents or legal guardians present to the appropriate local school authority a signed Certificate of Religious Exemption detailing the grounds for objection and the specific immunizations, tests, or examinations to which they object. The grounds for objection must set forth the specific religious belief that conflicts with the examination, test, immunization, or other medical intervention. The signed certificate shall also reflect the parent's or legal guardian's understanding of the school's exclusion policies in the case of a vaccine-preventable disease outbreak or exposure. The certificate must also be signed by the
authorized examining health care provider responsible for the performance of the child's health examination confirming that the provider provided education to the parent or legal guardian on the benefits of immunization and the health risks to the student and to the community of the communicable diseases for which immunization is required in this State. However, the health care provider's signature on the certificate reflects only that education was provided and does not allow a health care provider grounds to determine a religious exemption. Those receiving immunizations required under this Code shall be provided with the relevant vaccine information statements that are required to be disseminated by the federal National Childhood Vaccine Injury Act of 1986, which may contain information on circumstances when a vaccine should not be administered, prior to administering a vaccine. A healthcare provider may consider including without limitation the nationally accepted recommendations from federal agencies such as the Advisory Committee on Immunization Practices, the information outlined in the relevant vaccine information statement, and vaccine package inserts, along with the healthcare provider's clinical judgment, to determine whether any child may be more susceptible to experiencing an adverse vaccine reaction than the general population, and, if so, the healthcare provider may exempt the child from an immunization or adopt an individualized immunization schedule. The Certificate of
Religious Exemption shall be created by the Department of Public Health and shall be made available and used by parents and legal guardians by the beginning of the 2015-2016 school year. Parents or legal guardians must submit the Certificate of Religious Exemption to their local school authority prior to entering kindergarten, sixth grade, and ninth grade for each child for which they are requesting an exemption. The religious objection stated need not be directed by the tenets of an established religious organization. However, general philosophical or moral reluctance to allow physical examinations, eye examinations, immunizations, vision and hearing screenings, or dental examinations does not provide a sufficient basis for an exception to statutory requirements. The local school authority is responsible for determining if the content of the Certificate of Religious Exemption constitutes a valid religious objection. The local school authority shall inform the parent or legal guardian of exclusion procedures, in accordance with the Department's rules under Part 690 of Title 77 of the Illinois Administrative Code, at the time the objection is presented.

If the physical condition of the child is such that any one or more of the immunizing agents should not be administered, the examining physician, advanced practice registered nurse, or physician assistant responsible for the performance of the health examination shall endorse that fact upon the health examination form.
Exempting a child from the health, dental, or eye examination does not exempt the child from participation in the program of physical education training provided in Sections 27-5 through 27-7 of this Code.

(8.5) The school board of a school district shall include informational materials regarding influenza and influenza vaccinations and meningococcal disease and meningococcal vaccinations developed, provided, or approved by the Department of Public Health under Section 2310-700 of the Department of Public Health Powers and Duties Law of the Civil Administrative Code of Illinois when the board provides information on immunizations, infectious diseases, medications, or other school health issues to the parents or guardians of students.

(9) For the purposes of this Section, "nursery schools" means those nursery schools operated by elementary school systems or secondary level school units or institutions of higher learning.

(Source: P.A. 100-238, eff. 1-1-18; 100-465, eff. 8-31-17; 100-513, eff. 1-1-18; 100-829, eff. 1-1-19; 100-863, eff. 8-14-18; 100-977, eff. 1-1-19; 100-1011, eff. 8-21-18; 101-81, eff. 7-12-19; 101-643, eff. 6-18-20.)

Section 10. The Communicable Disease Prevention Act is amended by adding Section 2f as follows:
Sec. 2f. COVID-19 vaccine. Notwithstanding Section 2 of this Act, for the 10-year period following full approval of a COVID-19 immunization by the United States Food and Drug Administration, a school district may require the children attending the schools of the district to receive a COVID-19 immunization that has been fully approved by the United States Food and Drug Administration; however, the Department of Public Health may not adopt any rules to require children to receive an immunization against COVID-19 during that same 10-year period.

Section 99. Effective date. This Act takes effect upon becoming law.