

1 AN ACT concerning education.

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

4 Section 5. The School Code is amended by changing Section  
5 10-20.12b as follows:

6 (105 ILCS 5/10-20.12b)

7 Sec. 10-20.12b. Residency; payment of tuition; hearing;  
8 criminal penalty.

9 (a) For purposes of this Section:

10 (1) The residence of a person who has legal custody of  
11 a pupil is deemed to be the residence of the pupil.

12 (2) "Legal custody" means one of the following:

13 (i) Custody exercised by a natural or adoptive  
14 parent with whom the pupil resides.

15 (ii) Custody granted by order of a court of  
16 competent jurisdiction to a person with whom the pupil  
17 resides for reasons other than to have access to the  
18 educational programs of the district.

19 (iii) Custody exercised under a statutory  
20 short-term guardianship, provided that within 60 days  
21 of the pupil's enrollment a court order is entered  
22 that establishes a permanent guardianship and grants  
23 custody to a person with whom the pupil resides for

1 reasons other than to have access to the educational  
2 programs of the district.

3 (iv) Custody exercised by an adult caretaker  
4 relative who is receiving aid under the Illinois  
5 Public Aid Code for the pupil who resides with that  
6 adult caretaker relative for purposes other than to  
7 have access to the educational programs of the  
8 district.

9 (v) Custody exercised by an adult who demonstrates  
10 that, in fact, he or she has assumed and exercises  
11 legal responsibility for the pupil and provides the  
12 pupil with a regular fixed night-time abode for  
13 purposes other than to have access to the educational  
14 programs of the district.

15 (a-5) If a pupil's change of residence is due to the  
16 military service obligation of a person who has legal custody  
17 of the pupil, then, upon the written request of the person  
18 having legal custody of the pupil, the residence of the pupil  
19 is deemed for all purposes relating to enrollment (including  
20 tuition, fees, and costs), for the duration of the custodian's  
21 military service obligation, to be the same as the residence  
22 of the pupil immediately before the change of residence caused  
23 by the military service obligation. A school district is not  
24 responsible for providing transportation to or from school for  
25 a pupil whose residence is determined under this subsection  
26 (a-5). School districts shall facilitate re-enrollment when

1 necessary to comply with this subsection (a-5).

2 (b) Except as otherwise provided under Section 10-22.5a,  
3 only resident pupils of a school district may attend the  
4 schools of the district without payment of the tuition  
5 required to be charged under Section 10-20.12a. However, (i) a  
6 child ~~children~~ for whom the Guardianship Administrator of the  
7 Department of Children and Family Services has been appointed  
8 temporary custodian or guardian of the person of the ~~a~~ child  
9 and who shall not be charged tuition as a nonresident pupil if  
10 the child was placed by the Department of Children and Family  
11 Services with a foster parent or placed in another type of  
12 child care facility or (ii) a child who has been removed from  
13 the child's parent or guardian by the Department of Children  
14 and Family Services as part of a safety plan shall not be  
15 charged tuition as a nonresident pupil if ~~and~~ the foster  
16 parent, ~~or~~ child care facility, relative caregiver, or  
17 non-custodial parent is located in a school district other  
18 than the child's former school district and it is determined  
19 by the Department of Children and Family Services to be in the  
20 child's best interest to maintain attendance at the child's  
21 his or her former school district or at a school district the  
22 child would have attended if the child was not removed from the  
23 child's parent or guardian by the Department of Children and  
24 Family Services.

25 (c) The provisions of this subsection do not apply in  
26 school districts having a population of 500,000 or more. If a

1 school board in a school district with a population of less  
2 than 500,000 determines that a pupil who is attending school  
3 in the district on a tuition free basis is a nonresident of the  
4 district for whom tuition is required to be charged under  
5 Section 10-20.12a, the board shall notify the person who  
6 enrolled the pupil of the amount of the tuition charged under  
7 Section 10-20.12a that is due to the district for a  
8 nonresident pupil's attendance in the district's schools. The  
9 notice shall detail the specific reasons why the board  
10 believes that the pupil is a nonresident of the district and  
11 shall be given by certified mail, return receipt requested.  
12 Within 10 calendar days after receipt of the notice, the  
13 person who enrolled the pupil may request a hearing to review  
14 the determination of the school board. The request shall be  
15 sent by certified mail, return receipt requested, to the  
16 district superintendent. Within 10 calendar days after receipt  
17 of the request, the board shall notify, by certified mail,  
18 return receipt requested, the person requesting the hearing of  
19 the time and place of the hearing, which shall be held not less  
20 than 10 nor more than 20 calendar days after the notice of  
21 hearing is given. At least 3 calendar days prior to the  
22 hearing, each party shall disclose to the other party all  
23 written evidence and testimony that it may submit during the  
24 hearing and a list of witnesses that it may call to testify  
25 during the hearing. The hearing notice shall notify the person  
26 requesting the hearing that any written evidence and testimony

1 or witnesses not disclosed to the other party at least 3  
2 calendar days prior to the hearing are barred at the hearing  
3 without the consent of the other party. The board or a hearing  
4 officer designated by the board shall conduct the hearing. The  
5 board and the person who enrolled the pupil may be represented  
6 at the hearing by representatives of their choice. At the  
7 hearing, the person who enrolled the pupil shall have the  
8 burden of going forward with the evidence concerning the  
9 pupil's residency. If the hearing is conducted by a hearing  
10 officer, the hearing officer, within 5 calendar days after the  
11 conclusion of the hearing, shall send a written report of his  
12 or her findings by certified mail, return receipt requested,  
13 to the school board and to the person who enrolled the pupil.  
14 The person who enrolled the pupil may, within 5 calendar days  
15 after receiving the findings, file written objections to the  
16 findings with the school board by sending the objections by  
17 certified mail, return receipt requested, addressed to the  
18 district superintendent. Whether the hearing is conducted by  
19 the school board or a hearing officer, the school board shall,  
20 within 30 calendar days after the conclusion of the hearing,  
21 decide whether or not the pupil is a resident of the district  
22 and the amount of any tuition required to be charged under  
23 Section 10-20.12a as a result of the pupil's attendance in the  
24 schools of the district. The school board shall send a copy of  
25 its decision within 5 calendar days of its decision to the  
26 person who enrolled the pupil by certified mail, return

1 receipt requested. This decision must inform the person who  
2 enrolled the pupil that he or she may, within 5 calendar days  
3 after receipt of the decision of the board, petition the  
4 regional superintendent of schools to review the decision. The  
5 decision must also include notification that, at the request  
6 of the person who enrolled the pupil, the pupil may continue  
7 attending the schools of the district pending the regional  
8 superintendent of schools' review of the board's decision but  
9 that tuition shall continue to be assessed under Section  
10 10-20.12a of this Code during the review period and become due  
11 upon a final determination of the regional superintendent of  
12 schools that the student is a nonresident.

13 Within 5 calendar days after receipt of the decision of  
14 the board pursuant to this subsection (c) of this Section, the  
15 person who enrolled the pupil may petition the regional  
16 superintendent of schools who exercises supervision and  
17 control of the board to review the board's decision. The  
18 petition must include the basis for the request and be sent by  
19 certified mail, return receipt requested, to both the regional  
20 superintendent of schools and the district superintendent.

21 Within 5 calendar days after receipt of the petition, the  
22 board must deliver to the regional superintendent of schools  
23 the written decision of the board, any written evidence and  
24 testimony that was submitted by the parties during the  
25 hearing, a list of all witnesses that testified during the  
26 hearing, and any existing written minutes or transcript of the

1 hearing or verbatim record of the hearing in the form of an  
2 audio or video recording documenting the hearing. The board  
3 may also provide the regional superintendent of schools and  
4 the petitioner with a written response to the petition. The  
5 regional superintendent of schools' review of the board's  
6 decision is limited to the documentation submitted to the  
7 regional superintendent of schools pursuant to this Section.

8 Within 10 calendar days after receipt of the documentation  
9 provided by the school district pursuant to this Section, the  
10 regional superintendent of schools shall issue a written  
11 decision as to whether or not there is clear and convincing  
12 evidence that the pupil is a resident of the district pursuant  
13 to this Section and eligible to attend the district's schools  
14 on a tuition-free basis. The decision shall be transmitted to  
15 the board and the person who enrolled the pupil and shall, with  
16 specificity, detail the rationale behind the decision.

17 (c-5) The provisions of this subsection apply only in  
18 school districts having a population of 500,000 or more. If  
19 the board of education of a school district with a population  
20 of 500,000 or more determines that a pupil who is attending  
21 school in the district on a tuition free basis is a nonresident  
22 of the district for whom tuition is required to be charged  
23 under Section 10-20.12a, the board shall notify the person who  
24 enrolled the pupil of the amount of the tuition charged under  
25 Section 10-20.12a that is due to the district for the  
26 nonresident pupil's attendance in the district's schools. The

1 notice shall be given by certified mail, return receipt  
2 requested. Within 10 calendar days after receipt of the  
3 notice, the person who enrolled the pupil may request a  
4 hearing to review the determination of the school board. The  
5 request shall be sent by certified mail, return receipt  
6 requested, to the district superintendent. Within 30 calendar  
7 days after receipt of the request, the board shall notify, by  
8 certified mail, return receipt requested, the person  
9 requesting the hearing of the time and place of the hearing,  
10 which shall be held not less than 10 calendar nor more than 30  
11 calendar days after the notice of hearing is given. The board  
12 or a hearing officer designated by the board shall conduct the  
13 hearing. The board and the person who enrolled the pupil may  
14 each be represented at the hearing by a representative of  
15 their choice. At the hearing, the person who enrolled the  
16 pupil shall have the burden of going forward with the evidence  
17 concerning the pupil's residency. If the hearing is conducted  
18 by a hearing officer, the hearing officer, within 20 calendar  
19 days after the conclusion of the hearing, shall serve a  
20 written report of his or her findings by personal service or by  
21 certified mail, return receipt requested, to the school board  
22 and to the person who enrolled the pupil. The person who  
23 enrolled the pupil may, within 10 calendar days after  
24 receiving the findings, file written objections to the  
25 findings with the board of education by sending the objections  
26 by certified mail, return receipt requested, addressed to the



1 general superintendent of schools. If the hearing is conducted  
2 by the board of education, the board shall, within 45 calendar  
3 days after the conclusion of the hearing, decide whether or  
4 not the pupil is a resident of the district and the amount of  
5 any tuition required to be charged under Section 10-20.12a as  
6 a result of the pupil's attendance in the schools of the  
7 district. If the hearing is conducted by a hearing officer,  
8 the board of education shall, within 45 days after the receipt  
9 of the hearing officer's findings, decide whether or not the  
10 pupil is a resident of the district and the amount of any  
11 tuition required to be charged under Section 10-20.12a as a  
12 result of the pupil's attendance in the schools of the  
13 district. The board of education shall send, by certified  
14 mail, return receipt requested, a copy of its decision to the  
15 person who enrolled the pupil, and the decision of the board  
16 shall be final.

17 (d) If a hearing is requested under subsection (c) of this  
18 Section to review the determination of the school board or  
19 board of education that a nonresident pupil is attending the  
20 schools of the district without payment of the tuition  
21 required to be charged under Section 10-20.12a, the pupil may,  
22 at the request of the person who enrolled the pupil, continue  
23 attendance at the schools of the district pending the decision  
24 of the board or regional superintendent of schools, as  
25 applicable, and the school district's payments under Section  
26 18-8.05 of this Code shall not be adjusted due to tuition

1 collection under this Section. However, attendance of that  
2 pupil in the schools of the district as authorized by this  
3 subsection (d) shall not relieve any person who enrolled the  
4 pupil of the obligation to pay the tuition charged for that  
5 attendance under Section 10-20.12a if the final decision of  
6 the board or regional superintendent of schools is that the  
7 pupil is a nonresident of the district. If a pupil is  
8 determined to be a nonresident of the district for whom  
9 tuition is required to be charged pursuant to this Section,  
10 the board shall refuse to permit the pupil to continue  
11 attending the schools of the district unless the required  
12 tuition is paid for the pupil.

13 (d-5) If a hearing is requested under subsection (c-5) of  
14 this Section to review the determination of the board of  
15 education that a nonresident pupil is attending the schools of  
16 the district without payment of the tuition required to be  
17 charged under Section 10-20.12a of this Code, the pupil may,  
18 at the request of the person who enrolled the pupil, continue  
19 attendance at the schools of the district pending a final  
20 decision of the board following the hearing. However,  
21 attendance of that pupil in the schools of the district as  
22 authorized by this subsection (d-5) shall not relieve any  
23 person who enrolled the pupil of the obligation to pay the  
24 tuition charged for that attendance under Section 10-20.12a of  
25 this Code if the final decision of the board is that the pupil  
26 is a nonresident of the district. If a pupil is determined to

1 be a nonresident of the district for whom tuition is required  
2 to be charged pursuant to this Section, the board shall refuse  
3 to permit the pupil to continue attending the schools of the  
4 district unless the required tuition is paid for the pupil.

5 (e) Except for a pupil referred to in subsection (b) of  
6 Section 10-22.5a, a pupil referred to in Section 10-20.12a, or  
7 a pupil referred to in subsection (b) of this Section, a person  
8 who knowingly enrolls or attempts to enroll in the schools of a  
9 school district on a tuition free basis a pupil known by that  
10 person to be a nonresident of the district shall be guilty of a  
11 Class C misdemeanor.

12 (f) A person who knowingly or wilfully presents to any  
13 school district any false information regarding the residency  
14 of a pupil for the purpose of enabling that pupil to attend any  
15 school in that district without the payment of a nonresident  
16 tuition charge shall be guilty of a Class C misdemeanor.

17 (g) The provisions of this Section are subject to the  
18 provisions of the Education for Homeless Children Act. Nothing  
19 in this Section shall be construed to apply to or require the  
20 payment of tuition by a parent or guardian of a "homeless  
21 child" (as that term is defined in Section 1-5 of the Education  
22 for Homeless Children Act) in connection with or as a result of  
23 the homeless child's continued education or enrollment in a  
24 school that is chosen in accordance with any of the options  
25 provided in Section 1-10 of that Act.

26 (Source: P.A. 99-670, eff. 1-1-17.)