



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB0156

Introduced 1/11/2005, by Rep. Donald L. Moffitt

SYNOPSIS AS INTRODUCED:

105 ILCS 5/10-20.12b

Amends the School Code. Provides that if a pupil's change of residence is due to the military service obligation of a person who has legal custody of the pupil, then, upon the written request of the person having legal custody of the pupil, the residence of the pupil is deemed for purposes of enrollment, for the duration of the custodian's military service obligation, to be the same as the residence of the pupil immediately before the change of residence caused by the military service obligation. Provides that a school district is not responsible for providing transportation to or from school for a pupil whose residence is determined under these provisions. Effective immediately.

LRB094 04188 LJB 34212 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

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 that
22 establishes a permanent guardianship and grants
23 custody to a person with whom the pupil resides for
24 reasons other than to have access to the educational
25 programs of the district.

26 (iv) Custody exercised by an adult caretaker
27 relative who is receiving aid under the Illinois Public
28 Aid Code for the pupil who resides with that adult
29 caretaker relative for purposes other than to have
30 access to the educational programs of the district.

31 (v) Custody exercised by an adult who demonstrates
32 that, in fact, he or she has assumed and exercises

1 legal responsibility for the pupil and provides the
2 pupil with a regular fixed night-time abode for
3 purposes other than to have access to the educational
4 programs of the district.

5 (a-5) If a pupil's change of residence is due to the
6 military service obligation of a person who has legal custody
7 of the pupil, then, upon the written request of the person
8 having legal custody of the pupil, the residence of the pupil
9 is deemed for all purposes relating to enrollment (including
10 tuition, fees, and costs), for the duration of the custodian's
11 military service obligation, to be the same as the residence of
12 the pupil immediately before the change of residence caused by
13 the military service obligation. A school district is not
14 responsible for providing transportation to or from school for
15 a pupil whose residence is determined under this subsection
16 (a-5). School districts shall facilitate re-enrollment when
17 necessary to comply with this subsection (a-5).

18 (b) Except as otherwise provided under Section 10-22.5a,
19 only resident pupils of a school district may attend the
20 schools of the district without payment of the tuition required
21 to be charged under Section 10-20.12a. However, children for
22 whom the Guardianship Administrator of the Department of
23 Children and Family Services has been appointed temporary
24 custodian or guardian of the person of a child shall not be
25 charged tuition as a nonresident pupil if the child was placed
26 by the Department of Children and Family Services with a foster
27 parent or placed in another type of child care facility and the
28 foster parent or child care facility is located in a school
29 district other than the child's former school district and it
30 is determined by the Department of Children and Family Services
31 to be in the child's best interest to maintain attendance at
32 his or her former school district.

33 (c) The provisions of this subsection do not apply in
34 school districts having a population of 500,000 or more. If a
35 school board in a school district with a population of less
36 than 500,000 determines that a pupil who is attending school in

1 the district on a tuition free basis is a nonresident of the
2 district for whom tuition is required to be charged under
3 Section 10-20.12a, the board shall notify the person who
4 enrolled the pupil of the amount of the tuition charged under
5 Section 10-20.12a that is due to the district for the
6 nonresident pupil's attendance in the district's schools. The
7 notice shall be given by certified mail, return receipt
8 requested. Within 10 days after receipt of the notice, the
9 person who enrolled the pupil may request a hearing to review
10 the determination of the school board. The request shall be
11 sent by certified mail, return receipt requested, to the
12 district superintendent. Within 10 days after receipt of the
13 request, the board shall notify, by certified mail, return
14 receipt requested, the person requesting the hearing of the
15 time and place of the hearing, which shall be held not less
16 than 10 nor more than 20 days after the notice of hearing is
17 given. The board or a hearing officer designated by the board
18 shall conduct the hearing. The board and the person who
19 enrolled the pupil may be represented at the hearing by
20 representatives of their choice. At the hearing, the person who
21 enrolled the pupil shall have the burden of going forward with
22 the evidence concerning the pupil's residency. If the hearing
23 is conducted by a hearing officer, the hearing officer, within
24 5 days after the conclusion of the hearing, shall send a
25 written report of his or her findings by certified mail, return
26 receipt requested, to the school board and to the person who
27 enrolled the pupil. The person who enrolled the pupil may,
28 within 5 days after receiving the findings, file written
29 objections to the findings with the school board by sending the
30 objections by certified mail, return receipt requested,
31 addressed to the district superintendent. Whether the hearing
32 is conducted by the school board or a hearing officer, the
33 school board shall, within 15 days after the conclusion of the
34 hearing, decide whether or not the pupil is a resident of the
35 district and the amount of any tuition required to be charged
36 under Section 10-20.12a as a result of the pupil's attendance

1 in the schools of the district. The school board shall send a
2 copy of its decision to the person who enrolled the pupil, and
3 the decision of the school board shall be final.

4 (c-5) The provisions of this subsection apply only in
5 school districts having a population of 500,000 or more. If the
6 board of education of a school district with a population of
7 500,000 or more determines that a pupil who is attending school
8 in the district on a tuition free basis is a nonresident of the
9 district for whom tuition is required to be charged under
10 Section 10-20.12a, the board shall notify the person who
11 enrolled the pupil of the amount of the tuition charged under
12 Section 10-20.12a that is due to the district for the
13 nonresident pupil's attendance in the district's schools. The
14 notice shall be given by certified mail, return receipt
15 requested. Within 10 days after receipt of the notice, the
16 person who enrolled the pupil may request a hearing to review
17 the determination of the school board. The request shall be
18 sent by certified mail, return receipt requested, to the
19 district superintendent. Within 30 days after receipt of the
20 request, the board shall notify, by certified mail, return
21 receipt requested, the person requesting the hearing of the
22 time and place of the hearing, which shall be held not less
23 than 10 nor more than 30 days after the notice of hearing is
24 given. The board or a hearing officer designated by the board
25 shall conduct the hearing. The board and the person who
26 enrolled the pupil may each be represented at the hearing by a
27 representative of their choice. At the hearing, the person who
28 enrolled the pupil shall have the burden of going forward with
29 the evidence concerning the pupil's residency. If the hearing
30 is conducted by a hearing officer, the hearing officer, within
31 20 days after the conclusion of the hearing, shall serve a
32 written report of his or her findings by personal service or by
33 certified mail, return receipt requested, to the school board
34 and to the person who enrolled the pupil. The person who
35 enrolled the pupil may, within 10 days after receiving the
36 findings, file written objections to the findings with the

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

19 (d) If a hearing is requested under subsection (c) or (c-5)
20 to review the determination of the school board or board of
21 education that a nonresident pupil is attending the schools of
22 the district without payment of the tuition required to be
23 charged under Section 10-20.12a, the pupil may, at the request
24 of a person who enrolled the pupil, continue attendance at the
25 schools of the district pending a final decision of the board
26 following the hearing. However, attendance of that pupil in the
27 schools of the district as authorized by this subsection (d)
28 shall not relieve any person who enrolled the pupil of the
29 obligation to pay the tuition charged for that attendance under
30 Section 10-20.12a if the final decision of the board is that
31 the pupil is a nonresident of the district. If a pupil is
32 determined to be a nonresident of the district for whom tuition
33 is required to be charged pursuant to this Section, the board
34 shall refuse to permit the pupil to continue attending the
35 schools of the district unless the required tuition is paid for
36 the pupil.

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

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

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

22 (Source: P.A. 89-480, eff. 1-1-97; 90-566, eff. 1-2-98.)

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