



Rep. Elizabeth Coulson

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LRB095 04360 RAS 34696 a

1 AMENDMENT TO HOUSE BILL 693

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 693, AS AMENDED, by  
3 replacing everything after the enacting clause with the  
4 following:

5 "Section 5. The School Code is amended by changing Section  
6 10-20.12b as follows:

7 (105 ILCS 5/10-20.12b)

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

10 (a) For purposes of this Section:

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

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

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

16 (ii) Custody granted by order of a court of

1           competent jurisdiction to a person with whom the pupil  
2           resides for reasons other than to have access to the  
3           educational programs of the district.

4           (iii) Custody exercised under a statutory  
5           short-term guardianship, provided that within 60 days  
6           of the pupil's enrollment a court order is entered that  
7           establishes a permanent guardianship and grants  
8           custody to a person with whom the pupil resides for  
9           reasons other than to have access to the educational  
10          programs of the district.

11          (iv) Custody exercised by an adult caretaker  
12          relative who is receiving aid under the Illinois Public  
13          Aid Code for the pupil who resides with that adult  
14          caretaker relative for purposes other than to have  
15          access to the educational programs of the district.

16          (v) Custody exercised by an adult who demonstrates  
17          that, in fact, he or she has assumed and exercises  
18          legal responsibility for the pupil and provides the  
19          pupil with a regular fixed night-time abode for  
20          purposes other than to have access to the educational  
21          programs of the district. A court order of guardianship  
22          is not required to establish legal custody under this  
23          item (v).

24          (a-3) A school district must require an adult claiming  
25          custody under item (v) of subdivision (2) of subsection (a) of  
26          this Section to complete and sign an Attestation of Enrollment

1 and Residency, developed by the State Board of Education, prior  
2 to enrollment of the pupil. Nothing in this subsection (a-3)  
3 shall be construed to preclude a school district from  
4 investigating, in appropriate cases, all facts pertinent to the  
5 residency status of a pupil for school attendance purposes.

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

19 (b) Except as otherwise provided under Section 10-22.5a,  
20 only resident pupils of a school district may attend the  
21 schools of the district without payment of the tuition required  
22 to be charged under Section 10-20.12a. However, children for  
23 whom the Guardianship Administrator of the Department of  
24 Children and Family Services has been appointed temporary  
25 custodian or guardian of the person of a child shall not be  
26 charged tuition as a nonresident pupil if the child was placed

1 by the Department of Children and Family Services with a foster  
2 parent or placed in another type of child care facility and the  
3 foster parent or child care facility is located in a school  
4 district other than the child's former school district and it  
5 is determined by the Department of Children and Family Services  
6 to be in the child's best interest to maintain attendance at  
7 his or her former school district.

8 (c) The provisions of this subsection do not apply in  
9 school districts having a population of 500,000 or more. If a  
10 school board in a school district with a population of less  
11 than 500,000 determines that a pupil who is attending school in  
12 the district on a tuition free basis is a nonresident of the  
13 district for whom tuition is required to be charged under  
14 Section 10-20.12a, the board shall notify the person who  
15 enrolled the pupil of the amount of the tuition charged under  
16 Section 10-20.12a that is due to the district for the  
17 nonresident pupil's attendance in the district's schools. The  
18 notice shall be given by certified mail, return receipt  
19 requested. Within 10 days after receipt of the notice, the  
20 person who enrolled the pupil may request a hearing to review  
21 the determination of the school board. The request shall be  
22 sent by certified mail, return receipt requested, to the  
23 district superintendent. Within 10 days after receipt of the  
24 request, the board shall notify, by certified mail, return  
25 receipt requested, the person requesting the hearing of the  
26 time and place of the hearing, which shall be held not less

1 than 10 nor more than 20 days after the notice of hearing is  
2 given. The board or a hearing officer designated by the board  
3 shall conduct the hearing. The board and the person who  
4 enrolled the pupil may be represented at the hearing by  
5 representatives of their choice. At the hearing, the person who  
6 enrolled the pupil shall have the burden of going forward with  
7 the evidence concerning the pupil's residency. If the hearing  
8 is conducted by a hearing officer, the hearing officer, within  
9 5 days after the conclusion of the hearing, shall send a  
10 written report of his or her findings by certified mail, return  
11 receipt requested, to the school board and to the person who  
12 enrolled the pupil. The person who enrolled the pupil may,  
13 within 5 days after receiving the findings, file written  
14 objections to the findings with the school board by sending the  
15 objections by certified mail, return receipt requested,  
16 addressed to the district superintendent. Whether the hearing  
17 is conducted by the school board or a hearing officer, the  
18 school board shall, within 15 days after the conclusion of the  
19 hearing, decide whether or not the pupil is a resident of the  
20 district and the amount of any tuition required to be charged  
21 under Section 10-20.12a as a result of the pupil's attendance  
22 in the schools of the district. The school board shall send a  
23 copy of its decision to the person who enrolled the pupil, and  
24 the decision of the school board shall be final.

25 (c-5) The provisions of this subsection apply only in  
26 school districts having a population of 500,000 or more. If the

1 board of education of a school district with a population of  
2 500,000 or more 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 the  
8 nonresident pupil's attendance in the district's schools. The  
9 notice shall be given by certified mail, return receipt  
10 requested. Within 10 days after receipt of the notice, the  
11 person who enrolled the pupil may request a hearing to review  
12 the determination of the school board. The request shall be  
13 sent by certified mail, return receipt requested, to the  
14 district superintendent. Within 30 days after receipt of the  
15 request, the board shall notify, by certified mail, return  
16 receipt requested, the person requesting the hearing of the  
17 time and place of the hearing, which shall be held not less  
18 than 10 nor more than 30 days after the notice of hearing is  
19 given. The board or a hearing officer designated by the board  
20 shall conduct the hearing. The board and the person who  
21 enrolled the pupil may each be represented at the hearing by a  
22 representative of their choice. At the hearing, the person who  
23 enrolled the pupil shall have the burden of going forward with  
24 the evidence concerning the pupil's residency. If the hearing  
25 is conducted by a hearing officer, the hearing officer, within  
26 20 days after the conclusion of the hearing, shall serve a

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

24 (d) If a hearing is requested under subsection (c) or (c-5)  
25 to review the determination of the school board or board of  
26 education that a nonresident pupil is attending the schools of

1 the district without payment of the tuition required to be  
2 charged under Section 10-20.12a, the pupil may, at the request  
3 of a person who enrolled the pupil, continue attendance at the  
4 schools of the district pending a final decision of the board  
5 following the hearing. However, attendance of that pupil in the  
6 schools of the district as authorized by this subsection (d)  
7 shall not relieve any person who enrolled the pupil of the  
8 obligation to pay the tuition charged for that attendance under  
9 Section 10-20.12a if the final decision of the board is that  
10 the pupil is a nonresident of the district. If a pupil is  
11 determined to be a nonresident of the district for whom tuition  
12 is required to be charged pursuant to this Section, the board  
13 shall refuse to permit the pupil to continue attending the  
14 schools of the district unless the required tuition is paid for  
15 the pupil.

16 (e) Except for a pupil referred to in subsection (b) of  
17 Section 10-22.5a, a pupil referred to in Section 10-20.12a, or  
18 a pupil referred to in subsection (b) of this Section, a person  
19 who knowingly enrolls or attempts to enroll in the schools of a  
20 school district on a tuition free basis a pupil known by that  
21 person to be a nonresident of the district shall be guilty of a  
22 Class C misdemeanor.

23 (f) A person who knowingly or wilfully presents to any  
24 school district any false information regarding the residency  
25 of a pupil for the purpose of enabling that pupil to attend any  
26 school in that district without the payment of a nonresident



1 tuition charge shall be guilty of a Class C misdemeanor.

2 (g) The provisions of this Section are subject to the  
3 provisions of the Education for Homeless Children Act. Nothing  
4 in this Section shall be construed to apply to or require the  
5 payment of tuition by a parent or guardian of a "homeless  
6 child" (as that term is defined in Section 1-5 of the Education  
7 for Homeless Children Act) in connection with or as a result of  
8 the homeless child's continued education or enrollment in a  
9 school that is chosen in accordance with any of the options  
10 provided in Section 1-10 of that Act.

11 (Source: P.A. 94-309, eff. 7-25-05.)

12 Section 90. The State Mandates Act is amended by adding  
13 Section 8.31 as follows:

14 (30 ILCS 805/8.31 new)

15 Sec. 8.31. Exempt mandate. Notwithstanding Sections 6 and 8  
16 of this Act, no reimbursement by the State is required for the  
17 implementation of any mandate created by this amendatory Act of  
18 the 95th General Assembly.

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