



Sen. Steve McClure

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10300SB2824sam001

LRB103 36735 RJT 69876 a

1 AMENDMENT TO SENATE BILL 2824

2 AMENDMENT NO. _____. Amend Senate Bill 2824 by replacing
3 everything after the enacting clause with the following:

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

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

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

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

22 (a-5) If a pupil's change of residence is due to the
23 military service obligation of a person who has legal custody
24 of the pupil, then, upon the written request of the person
25 having legal custody of the pupil, the residence of the pupil
26 is deemed for all purposes relating to enrollment (including

1 tuition, fees, and costs), for the duration of the custodian's
2 military service obligation, to be the same as the residence
3 of the pupil immediately before the change of residence caused
4 by the military service obligation. A school district is not
5 responsible for providing transportation to or from school for
6 a pupil whose residence is determined under this subsection
7 (a-5). School districts shall facilitate re-enrollment when
8 necessary to comply with this subsection (a-5).

9 (b) Except as otherwise provided under Section 10-22.5a,
10 only resident pupils of a school district may attend the
11 schools of the district without payment of the tuition
12 required to be charged under Section 10-20.12a. However, (i) a
13 child ~~children~~ for whom the Guardianship Administrator of the
14 Department of Children and Family Services has been appointed
15 temporary custodian or guardian of the person of the ~~a~~ child
16 and who shall not be charged tuition as a nonresident pupil if
17 ~~the child~~ was placed by the Department of Children and Family
18 Services with a foster parent or placed in another type of
19 child care facility or (ii) a child who has been placed in the
20 temporary custody of the child's other custodial parent by the
21 Department of Children and Family Services shall not be
22 charged tuition as a nonresident pupil if ~~and~~ the foster
23 parent, ~~or~~ child care facility, or other custodial parent is
24 located in a school district other than the child's former
25 school district and it is determined by the Department of
26 Children and Family Services or the other custodial parent to

1 be in the child's best interest to maintain attendance at the
2 child's ~~his or her~~ former school district.

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

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

1 Section 10-20.12a as a result of the pupil's attendance in the
2 schools of the district. The school board shall send a copy of
3 its decision within 5 calendar days of its decision to the
4 person who enrolled the pupil by certified mail, return
5 receipt requested. This decision must inform the person who
6 enrolled the pupil that he or she may, within 5 calendar days
7 after receipt of the decision of the board, petition the
8 regional superintendent of schools to review the decision. The
9 decision must also include notification that, at the request
10 of the person who enrolled the pupil, the pupil may continue
11 attending the schools of the district pending the regional
12 superintendent of schools' review of the board's decision but
13 that tuition shall continue to be assessed under Section
14 10-20.12a of this Code during the review period and become due
15 upon a final determination of the regional superintendent of
16 schools that the student is a nonresident.

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

25 Within 5 calendar days after receipt of the petition, the
26 board must deliver to the regional superintendent of schools

1 the written decision of the board, any written evidence and
2 testimony that was submitted by the parties during the
3 hearing, a list of all witnesses that testified during the
4 hearing, and any existing written minutes or transcript of the
5 hearing or verbatim record of the hearing in the form of an
6 audio or video recording documenting the hearing. The board
7 may also provide the regional superintendent of schools and
8 the petitioner with a written response to the petition. The
9 regional superintendent of schools' review of the board's
10 decision is limited to the documentation submitted to the
11 regional superintendent of schools pursuant to this Section.

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

21 (c-5) The provisions of this subsection apply only in
22 school districts having a population of 500,000 or more. If
23 the board of education of a school district with a population
24 of 500,000 or more determines that a pupil who is attending
25 school in the district on a tuition free basis is a nonresident
26 of the district for whom tuition is required to be charged

1 under Section 10-20.12a, the board shall notify the person who
2 enrolled the pupil of the amount of the tuition charged under
3 Section 10-20.12a that is due to the district for the
4 nonresident pupil's attendance in the district's schools. The
5 notice shall be given by certified mail, return receipt
6 requested. Within 10 calendar days after receipt of the
7 notice, the person who enrolled the pupil may request a
8 hearing to review the determination of the school board. The
9 request shall be sent by certified mail, return receipt
10 requested, to the district superintendent. Within 30 calendar
11 days after receipt of the request, the board shall notify, by
12 certified mail, return receipt requested, the person
13 requesting the hearing of the time and place of the hearing,
14 which shall be held not less than 10 calendar nor more than 30
15 calendar days after the notice of hearing is given. The board
16 or a hearing officer designated by the board shall conduct the
17 hearing. The board and the person who enrolled the pupil may
18 each be represented at the hearing by a representative of
19 their choice. At the hearing, the person who enrolled the
20 pupil shall have the burden of going forward with the evidence
21 concerning the pupil's residency. If the hearing is conducted
22 by a hearing officer, the hearing officer, within 20 calendar
23 days after the conclusion of the hearing, shall serve a
24 written report of his or her findings by personal service or by
25 certified mail, return receipt requested, to the school board
26 and to the person who enrolled the pupil. The person who

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

21 (d) If a hearing is requested under subsection (c) of this
22 Section to review the determination of the school board or
23 board of education that a nonresident pupil is attending the
24 schools of the district without payment of the tuition
25 required to be charged under Section 10-20.12a, the pupil may,
26 at the request of the person who enrolled the pupil, continue

1 attendance at the schools of the district pending the decision
2 of the board or regional superintendent of schools, as
3 applicable, and the school district's payments under Section
4 18-8.05 of this Code shall not be adjusted due to tuition
5 collection under this Section. However, attendance of that
6 pupil in the schools of the district as authorized by this
7 subsection (d) shall not relieve any person who enrolled the
8 pupil of the obligation to pay the tuition charged for that
9 attendance under Section 10-20.12a if the final decision of
10 the board or regional superintendent of schools is that the
11 pupil is a nonresident of the district. If a pupil is
12 determined to be a nonresident of the district for whom
13 tuition is required to be charged pursuant to this Section,
14 the board shall refuse to permit the pupil to continue
15 attending the schools of the district unless the required
16 tuition is paid for the pupil.

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

1 person who enrolled the pupil of the obligation to pay the
2 tuition charged for that attendance under Section 10-20.12a of
3 this Code if the final decision of the board is that the pupil
4 is a nonresident of the district. If a pupil is determined to
5 be a nonresident of the district for whom tuition is required
6 to be charged pursuant to this Section, the board shall refuse
7 to permit the pupil to continue attending the schools of the
8 district unless the required tuition is paid for the pupil.

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

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

21 (g) The provisions of this Section are subject to the
22 provisions of the Education for Homeless Children Act. Nothing
23 in this Section shall be construed to apply to or require the
24 payment of tuition by a parent or guardian of a "homeless
25 child" (as that term is defined in Section 1-5 of the Education
26 for Homeless Children Act) in connection with or as a result of

1 the homeless child's continued education or enrollment in a
2 school that is chosen in accordance with any of the options
3 provided in Section 1-10 of that Act.
4 (Source: P.A. 99-670, eff. 1-1-17.)"