



Rep. Michael J. Madigan

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LRB093 08906 LRD 52622 a

1 AMENDMENT TO SENATE BILL 1955

2 AMENDMENT NO. _____. Amend Senate Bill 1955, AS AMENDED,
3 by 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
17 competent jurisdiction to a person with whom the pupil
18 resides for reasons other than to have access to the
19 educational programs of the district.

20 (iii) Custody exercised under a statutory
21 short-term guardianship, provided that within 60 days
22 of the pupil's enrollment a court order is entered that
23 establishes a permanent guardianship and grants
24 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 Public
5 Aid Code for the pupil who resides with that adult
6 caretaker relative for purposes other than to have
7 access to the educational programs of the district.

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

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

27 (b) Except as otherwise provided under Section 10-22.5a,
28 only resident pupils of a school district may attend the
29 schools of the district without payment of the tuition required
30 to be charged under Section 10-20.12a. However, children for
31 whom the Guardianship Administrator of the Department of
32 Children and Family Services has been appointed temporary
33 custodian or guardian of the person of a child shall not be
34 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
27 than 10 nor more than 20 days after the notice of hearing is
28 given. The board or a hearing officer designated by the board
29 shall conduct the hearing. The board and the person who
30 enrolled the pupil may be represented at the hearing by
31 representatives of their choice. At the hearing, the person who
32 enrolled the pupil shall have the burden of going forward with
33 the evidence concerning the pupil's residency. If the hearing
34 is conducted by a hearing officer, the hearing officer, within

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

17 (c-5) The provisions of this subsection apply only in
18 school districts having a population of 500,000 or more. If the
19 board of education of a school district with a population of
20 500,000 or more determines that a pupil who is attending school
21 in the district on a tuition free basis is a nonresident of the
22 district for whom tuition is required to be charged under
23 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
27 notice shall be given by certified mail, return receipt
28 requested. Within 10 days after receipt of the notice, the
29 person who enrolled the pupil may request a hearing to review
30 the determination of the school board. The request shall be
31 sent by certified mail, return receipt requested, to the
32 district superintendent. Within 30 days after receipt of the
33 request, the board shall notify, by certified mail, return
34 receipt requested, the person requesting the hearing of the

1 time and place of the hearing, which shall be held not less
2 than 10 nor more than 30 days after the notice of hearing is
3 given. The board or a hearing officer designated by the board
4 shall conduct the hearing. The board and the person who
5 enrolled the pupil may each be represented at the hearing by a
6 representative of their choice. At the hearing, the person who
7 enrolled the pupil shall have the burden of going forward with
8 the evidence concerning the pupil's residency. If the hearing
9 is conducted by a hearing officer, the hearing officer, within
10 20 days after the conclusion of the hearing, shall serve a
11 written report of his or her findings by personal service or by
12 certified mail, return receipt requested, to the school board
13 and to the person who enrolled the pupil. The person who
14 enrolled the pupil may, within 10 days after receiving the
15 findings, file written objections to the findings with the
16 board of education by sending the objections by certified mail,
17 return receipt requested, addressed to the general
18 superintendent of schools. If the hearing is conducted by the
19 board of education, the board shall, within 45 days after the
20 conclusion of the hearing, decide whether or not the pupil is a
21 resident of the district and the amount of any tuition required
22 to be charged under Section 10-20.12a as a result of the
23 pupil's attendance in the schools of the district. If the
24 hearing is conducted by a hearing officer, the board of
25 education shall, within 45 days after the receipt of the
26 hearing officer's findings, decide whether or not the pupil is
27 a resident of the district and the amount of any tuition
28 required to be charged under Section 10-20.12a as a result of
29 the pupil's attendance in the schools of the district. The
30 board of education shall send, by certified mail, return
31 receipt requested, a copy of its decision to the person who
32 enrolled the pupil, and the decision of the board shall be
33 final.

34 (d) If a hearing is requested under subsection (c) or (c-5)

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

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

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

30 (g) The provisions of this Section are subject to the
31 provisions of the Education for Homeless Children Act. Nothing
32 in this Section shall be construed to apply to or require the
33 payment of tuition by a parent or guardian of a "homeless
34 child" (as that term is defined in Section 1-5 of the Education

1 for Homeless Children Act) in connection with or as a result of
2 the homeless child's continued education or enrollment in a
3 school that is chosen in accordance with any of the options
4 provided in Section 1-10 of that Act.

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

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