



Elementary Secondary Education Committee

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09500HB0693ham001

LRB095 04360 RAS 32486 a

1 AMENDMENT TO HOUSE BILL 693

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 693 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 that  
6           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 Public  
12          Aid Code for the pupil who resides with that adult  
13          caretaker relative for purposes other than to have  
14          access to the educational programs of the district.

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

23          (a-3) A school district must require an adult claiming  
24          custody under item (v) of subdivision (2) of subsection (a) of  
25          this Section to complete and sign an Attestation of Enrollment  
26          and Residency, developed by the State Board of Education, prior

1 to enrollment of the pupil.

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

15 (a-10) Nothing in this Section precludes a school district  
16 from conducting a reasonable and appropriate investigation and  
17 evaluation of facts relevant to the issue of residency of a  
18 pupil for school attendance purposes.

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 regional superintendent of  
4 schools shall compile and make available to the school board a  
5 list of hearing officers. The board and the person who enrolled  
6 the pupil may be represented at the hearing by representatives  
7 of their choice. At the hearing, the person who enrolled the  
8 pupil shall have the burden of going forward with the evidence  
9 concerning the pupil's residency. If the hearing is conducted  
10 by a hearing officer, the hearing officer, within 5 days after  
11 the conclusion of the hearing, shall send a written report of  
12 his or her findings by certified mail, return receipt  
13 requested, to the school board and to the person who enrolled  
14 the pupil. The person who enrolled the pupil may, within 5 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 15 days after the conclusion of the hearing, decide  
21 whether or not the pupil is a resident of the district and the  
22 amount of any tuition required to be charged under Section  
23 10-20.12a as a result of the pupil's attendance in the schools  
24 of the district. The school board shall send a copy of its  
25 decision to the person who enrolled the pupil, and the decision  
26 of the school board shall be final.

1 (c-5) The provisions of this subsection apply only in  
2 school districts having a population of 500,000 or more. If the  
3 board of education of a school district with a population of  
4 500,000 or more determines that a pupil who is attending school  
5 in the district on a tuition free basis is a nonresident of the  
6 district for whom tuition is required to be charged under  
7 Section 10-20.12a, the board shall notify the person who  
8 enrolled the pupil of the amount of the tuition charged under  
9 Section 10-20.12a that is due to the district for the  
10 nonresident pupil's attendance in the district's schools. The  
11 notice shall be given by certified mail, return receipt  
12 requested. Within 10 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 30 days after receipt of the  
17 request, the board shall notify, by certified mail, return  
18 receipt requested, the person requesting the hearing of the  
19 time and place of the hearing, which shall be held not less  
20 than 10 nor more than 30 days after the notice of hearing is  
21 given. The board or a hearing officer designated by the board  
22 shall conduct the hearing. The State Board of Education shall  
23 compile and make available to the school board a list of  
24 hearing officers. The board and the person who enrolled the  
25 pupil may each be represented at the hearing by a  
26 representative of their choice. At the hearing, the person who

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

1 final.

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

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



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

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

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

16 Section 90. The State Mandates Act is amended by adding  
17 Section 8.31 as follows:

18 (30 ILCS 805/8.31 new)

19 Sec. 8.31. Exempt mandate. Notwithstanding Sections 6 and 8  
20 of this Act, no reimbursement by the State is required for the  
21 implementation of any mandate created by this amendatory Act of  
22 the 95th General Assembly.

23 Section 99. Effective date. This Act takes effect upon

1 becoming law.".