



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB0693

Introduced 2/6/2007, by Rep. Jim Sacia

SYNOPSIS AS INTRODUCED:

105 ILCS 5/10-20.12b
30 ILCS 805/8.31 new

Amends the Section of the School Code concerning district residency. Makes a change to a provision defining legal custody with respect to an adult who demonstrates that he or she has assumed and exercises legal responsibility for the pupil. Provides that a school district must require an adult claiming this type of custody to complete and sign an Attestation of Enrollment and Residency. Provides that a person who establishes custody is authorized and agrees to act in the place of the parent of the pupil with respect to the pupil's education decisions and to be the person the school contacts for certain reasons. Provides that once custody is established, a school district shall make a reasonable attempt to communicate with the pupil's parents. Provides that a hearing regarding residency must be conducted by a hearing officer appointed by the regional superintendent of schools or, in Chicago, the State Superintendent of Education (now, the school board or a hearing officer designated by the board conducts the hearing); makes related changes. Provides that a decision of the school board may be appealed to the State Superintendent of Education (now, the board's decision is final); makes related changes. Amends the State Mandates Act to require implementation without reimbursement. Effective immediately.

LRB095 04360 NHT 24403 b

FISCAL NOTE ACT
MAY APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

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

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. For the purposes of
11 this item (v), "legal responsibility" is defined as
12 providing and provides the pupil with a regular fixed
13 night-time abode for purposes other than to have access
14 to the educational programs of the district.

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

1 necessary to comply with this subsection (a-5).

2 (a-10) A school district must require an adult claiming
3 custody under item (v) of subdivision (2) of subsection (a) of
4 this Section to complete and sign an Attestation of Enrollment
5 and Residency, developed by the State Board of Education, prior
6 to enrollment of the pupil. An adult who establishes custody
7 under item (ii), (iii), (iv), or (v) of subdivision (2) of
8 subsection (a) of this Section is authorized and agrees to act
9 in the place of the parent of the pupil with respect to the
10 pupil's education decisions and to be the person the school
11 contacts regarding truancy, discipline, and school-based
12 medical care. Once custody is established under item (ii),
13 (iii), (iv), or (v) of subdivision (2) of subsection (a) of
14 this Section, a school district shall make a reasonable attempt
15 to communicate with the parent or parents of the pupil, unless
16 the school district has knowledge of an order of a court to not
17 communicate with a parent or parents of the pupil.

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

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

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

1 given. An impartial hearing officer appointed by the regional
2 superintendent of schools shall conduct the hearing. ~~The board~~
3 ~~or a hearing officer designated by the board shall conduct the~~
4 ~~hearing.~~ The board and the person who enrolled the pupil may be
5 represented at the hearing by representatives of their choice.
6 At the hearing, the person who enrolled the pupil shall have
7 the burden of going forward with the evidence concerning the
8 pupil's residency. ~~The If the hearing is conducted by a hearing~~
9 ~~officer, the~~ hearing officer, within 5 days after the
10 conclusion of the hearing, shall send a written report of his
11 or her findings by certified mail, return receipt requested, to
12 the school board and to the person who enrolled the pupil. The
13 person who enrolled the pupil may, within 5 days after
14 receiving the findings, file written objections to the findings
15 with the school board by sending the objections by certified
16 mail, return receipt requested, addressed to the district
17 superintendent. ~~The Whether the hearing is conducted by the~~
18 ~~school board or a hearing officer, the~~ school board shall,
19 within 15 days after the conclusion of the hearing, decide
20 whether or not the pupil is a resident of the district and the
21 amount of any tuition required to be charged under Section
22 10-20.12a as a result of the pupil's attendance in the schools
23 of the district. The school board shall send a copy of its
24 decision to the person who enrolled the pupil, ~~and the decision~~
25 ~~of the school board shall be final.~~ After the school board has
26 made its decision, any party to the hearing may appeal the

1 decision in writing by certified mail, return receipt
2 requested, to the State Superintendent of Education. The State
3 Superintendent of Education or his or her designee shall review
4 the record and determine whether the proper procedures were
5 followed and whether the conclusion at the district level was
6 against the manifest weight of the evidence or contrary to law.
7 The decision of the State Superintendent of Education is final
8 and subject to judicial review under the Administrative Review
9 Law. The State Board of Education may adopt and enforce any
10 rules that are necessary to implement and administer this
11 subsection (c).

12 (c-5) The provisions of this subsection apply only in
13 school districts having a population of 500,000 or more. If the
14 board of education of a school district with a population of
15 500,000 or more determines that a pupil who is attending school
16 in the district on a tuition free basis is a nonresident of the
17 district for whom tuition is required to be charged under
18 Section 10-20.12a, the board shall notify the person who
19 enrolled the pupil of the amount of the tuition charged under
20 Section 10-20.12a that is due to the district for the
21 nonresident pupil's attendance in the district's schools. The
22 notice shall be given by certified mail, return receipt
23 requested. Within 10 days after receipt of the notice, the
24 person who enrolled the pupil may request a hearing to review
25 the determination of the school board. The request shall be
26 sent by certified mail, return receipt requested, to the

1 district superintendent. Within 30 days after receipt of the
2 request, the board shall notify, by certified mail, return
3 receipt requested, the person requesting the hearing of the
4 time and place of the hearing, which shall be held not less
5 than 10 nor more than 30 days after the notice of hearing is
6 given. An impartial hearing officer appointed by the State
7 Superintendent of Education shall conduct the hearing. ~~The~~
8 ~~board or a hearing officer designated by the board shall~~
9 ~~conduct the hearing.~~ The board and the person who enrolled the
10 pupil may each be represented at the hearing by a
11 representative of their choice. At the hearing, the person who
12 enrolled the pupil shall have the burden of going forward with
13 the evidence concerning the pupil's residency. The ~~If the~~
14 ~~hearing is conducted by a hearing officer, the hearing officer,~~
15 within 20 days after the conclusion of the hearing, shall serve
16 a written report of his or her findings by personal service or
17 by certified mail, return receipt requested, to the school
18 board and to the person who enrolled the pupil. The person who
19 enrolled the pupil may, within 10 days after receiving the
20 findings, file written objections to the findings with the
21 board of education by sending the objections by certified mail,
22 return receipt requested, addressed to the general
23 superintendent of schools. ~~If the hearing is conducted by the~~
24 ~~board of education, the board shall, within 45 days after the~~
25 ~~conclusion of the hearing, decide whether or not the pupil is a~~
26 ~~resident of the district and the amount of any tuition required~~

1 ~~to be charged under Section 10-20.12a as a result of the~~
2 ~~pupil's attendance in the schools of the district. The ~~If the~~
3 ~~hearing is conducted by a hearing officer, the board of~~
4 education shall, within 45 days after the receipt of the
5 hearing officer's findings, decide whether or not the pupil is
6 a resident of the district and the amount of any tuition
7 required to be charged under Section 10-20.12a as a result of
8 the pupil's attendance in the schools of the district. The
9 board of education shall send, by certified mail, return
10 receipt requested, a copy of its decision to the person who
11 enrolled the pupil, ~~and the decision of the board shall be~~
12 ~~final.~~ After the board of education has made its decision, any
13 party to the hearing may appeal the decision in writing by
14 certified mail, return receipt requested, to the State
15 Superintendent of Education. The State Superintendent of
16 Education or his or her designee shall review the record and
17 determine whether the proper procedures were followed and
18 whether the conclusion at the district level was against the
19 manifest weight of the evidence or contrary to law. The
20 decision of the State Superintendent of Education is final and
21 subject to judicial review under the Administrative Review Law.
22 The State Board of Education may adopt and enforce any rules
23 that are necessary to implement and administer this subsection
24 (c-5).~~

25 (d) If a hearing is requested under subsection (c) or (c-5)
26 to review the determination of the school board or board of

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

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

26 (f) A person who knowingly or wilfully presents to any

1 school district any false information regarding the residency
2 of a pupil for the purpose of enabling that pupil to attend any
3 school in that district without the payment of a nonresident
4 tuition charge shall be guilty of a Class C misdemeanor.

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

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

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

17 (30 ILCS 805/8.31 new)

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

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