



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

HB1473

Introduced 2/21/2007, by Rep. Rich Brauer

#### SYNOPSIS AS INTRODUCED:

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

Amends the School Code. Requires a school district to allow a child who is not a resident of the district to attend the schools of the district without payment of nonresident tuition if the child's parent or legal guardian is a certified employee of the district. Amends the State Mandates Act to require implementation without reimbursement.

LRB095 03548 NHT 23552 b

FISCAL NOTE ACT  
MAY APPLY

STATE MANDATES  
ACT MAY REQUIRE  
REIMBURSEMENT

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 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 the  
15 military service obligation of a person who has legal custody  
16 of the pupil, then, upon the written request of the person  
17 having legal custody of the pupil, the residence of the pupil  
18 is 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 is not  
23 responsible for providing transportation to or from school for  
24 a 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).

1           (b) Except as otherwise provided under this Section and  
2 Section 10-22.5a, only resident pupils of a school district may  
3 attend the schools of the district without payment of the  
4 tuition required to be charged under Section 10-20.12a.  
5 Children ~~However, children~~ for whom the Guardianship  
6 Administrator of the Department of Children and Family Services  
7 has been appointed temporary custodian or guardian of the  
8 person of a child shall not be charged tuition as a nonresident  
9 pupil if the child was placed by the Department of Children and  
10 Family Services with a foster parent or placed in another type  
11 of child care facility and the foster parent or child care  
12 facility is located in a school district other than the child's  
13 former school district and it is determined by the Department  
14 of Children and Family Services to be in the child's best  
15 interest to maintain attendance at his or her former school  
16 district. A school district shall allow a child who is not a  
17 resident of the district to attend the schools of the district  
18 without payment of the tuition required to be charged under  
19 Section 10-20.12a if the child's parent or legal guardian is a  
20 certified employee of the district.

21           (c) The provisions of this subsection do not apply in  
22 school districts having a population of 500,000 or more. If a  
23 school board in a school district with a population of less  
24 than 500,000 determines that a pupil who is attending school in  
25 the district on a tuition free basis is a nonresident of the  
26 district for whom tuition is required to be charged under

1 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 days after receipt of the notice, the  
7 person who enrolled the pupil may request a hearing to review  
8 the determination of the school board. The request shall be  
9 sent by certified mail, return receipt requested, to the  
10 district superintendent. Within 10 days after receipt of the  
11 request, the board shall notify, by certified mail, return  
12 receipt requested, the person requesting the hearing of the  
13 time and place of the hearing, which shall be held not less  
14 than 10 nor more than 20 days after the notice of hearing is  
15 given. The board or a hearing officer designated by the board  
16 shall conduct the hearing. The board and the person who  
17 enrolled the pupil may be represented at the hearing by  
18 representatives of their choice. At the hearing, the person who  
19 enrolled the pupil shall have the burden of going forward with  
20 the evidence concerning the pupil's residency. If the hearing  
21 is conducted by a hearing officer, the hearing officer, within  
22 5 days after the conclusion of the hearing, shall send a  
23 written report of his or her findings by certified mail, return  
24 receipt requested, to the school board and to the person who  
25 enrolled the pupil. The person who enrolled the pupil may,  
26 within 5 days after receiving the findings, file written

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

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

1 hearing is conducted by a hearing officer, the board of  
2 education shall, within 45 days after the receipt of the  
3 hearing officer's findings, decide whether or not the pupil is  
4 a resident of the district and the amount of any tuition  
5 required to be charged under Section 10-20.12a as a result of  
6 the pupil's attendance in the schools of the district. The  
7 board of education shall send, by certified mail, return  
8 receipt requested, a copy of its decision to the person who  
9 enrolled the pupil, and the decision of the board shall be  
10 final.

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



1 schools of the district unless the required tuition is paid for  
2 the pupil.

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

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

15 (g) The provisions of this Section are subject to the  
16 provisions of the Education for Homeless Children Act. Nothing  
17 in this Section shall be construed to apply to or require the  
18 payment of tuition by a parent or guardian of a "homeless  
19 child" (as that term is defined in Section 1-5 of the Education  
20 for Homeless Children Act) in connection with or as a result of  
21 the homeless child's continued education or enrollment in a  
22 school that is chosen in accordance with any of the options  
23 provided in Section 1-10 of that Act.

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

25 Section 90. The State Mandates Act is amended by adding

1 Section 8.31 as follows:

2 (30 ILCS 805/8.31 new)

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