

SB0671



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB0671

Introduced 2/8/2007, by Sen. Edward D. Maloney

SYNOPSIS AS INTRODUCED:

105 ILCS 5/10-20.12b

Amends the School Code. In a provision concerning legal custody as it relates to district residency, sets forth a definition for legal responsibility.

LRB095 10744 RAS 30986 b

FISCAL NOTE ACT
MAY APPLY

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 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. For purposes of this item
14 (v), "legal responsibility" includes without
15 limitation the provision of medical or other insurance
16 for the pupil, the payment of medical bills or other
17 necessary expenses for the pupil, the assumption of
18 liability for damages caused by the pupil, and the
19 declaration of the pupil as a dependent for income tax
20 purposes.

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

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

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

23 (c) The provisions of this subsection do not apply in
24 school districts having a population of 500,000 or more. If a
25 school board in a school district with a population of less
26 than 500,000 determines that a pupil who is attending school in

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

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

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

1 the determination of the school board. The request shall be
2 sent by certified mail, return receipt requested, to the
3 district superintendent. Within 30 days after receipt of the
4 request, the board shall notify, by certified mail, return
5 receipt requested, the person requesting the hearing of the
6 time and place of the hearing, which shall be held not less
7 than 10 nor more than 30 days after the notice of hearing is
8 given. The board or a hearing officer designated by the board
9 shall conduct the hearing. The board and the person who
10 enrolled the 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. If the hearing
14 is conducted by a hearing officer, the hearing officer, within
15 20 days after the conclusion of the hearing, shall serve a
16 written report of his or her findings by personal service or by
17 certified mail, return receipt requested, to the school board
18 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. 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.

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

1 is required to be charged pursuant to this Section, the board
2 shall refuse to permit the pupil to continue attending the
3 schools of the district unless the required tuition is paid for
4 the pupil.

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

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

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

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