

SB2389



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

SB2389

Introduced 2/15/2013, by Sen. Heather A. Steans

SYNOPSIS AS INTRODUCED:

105 ILCS 5/10-20.12b

Amends the School Code. Makes a technical change in a Section concerning pupil residency and the payment of tuition.

LRB098 10307 NHT 40492 b

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

16 (c) The provisions of this subsection do not apply in
17 school districts having a population of 500,000 or more. If a
18 school board in a school district with a population of less
19 than 500,000 determines that a pupil who is attending school in
20 the district on a tuition free basis is a nonresident of the
21 district for whom tuition is required to be charged under
22 Section 10-20.12a, the board shall notify the person who
23 enrolled the pupil of the amount of the tuition charged under
24 Section 10-20.12a that is due to the district for the
25 nonresident pupil's attendance in the district's schools. The
26 notice shall be given by certified mail, return receipt

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

1 hearing, decide whether or not the pupil is a resident of the
2 district and the amount of any tuition required to be charged
3 under Section 10-20.12a as a result of the pupil's attendance
4 in the schools of the district. The school board shall send a
5 copy of its decision to the person who enrolled the pupil, and
6 the decision of the school board shall be final.

7 (c-5) The provisions of this subsection apply only in
8 school districts having a population of 500,000 or more. If the
9 board of education of a school district with a population of
10 500,000 or more determines that a pupil who is attending school
11 in 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 30 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 30 days after the notice of hearing is

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

1 the pupil's attendance in the schools of the district. The
2 board of education shall send, by certified mail, return
3 receipt requested, a copy of its decision to the person who
4 enrolled the pupil, and the decision of the board shall be
5 final.

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

24 (e) Except for a pupil referred to in subsection (b) of
25 Section 10-22.5a, a pupil referred to in Section 10-20.12a, or
26 a pupil referred to in subsection (b) of this Section, a person

1 who knowingly enrolls or attempts to enroll in the schools of a
2 school district on a tuition free basis a pupil known by that
3 person to be a nonresident of the district shall be guilty of a
4 Class C misdemeanor.

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

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

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