



## 99TH GENERAL ASSEMBLY

### State of Illinois

2015 and 2016

HB3190

by Rep. William Davis

#### SYNOPSIS AS INTRODUCED:

105 ILCS 5/10-20.12b

Amends a Section of School Code concerning pupil residency. Provides that, for school districts having a population of less than 500,000, if a person attempts to enroll a pupil in a school district and the school board finds that the pupil is a non-resident of that district, the board must provide certain information to the person attempting to enroll the pupil, including referrals to free or reduced-cost legal help. Provides that, at a hearing to decide the issue of residency, the board has the burden of going forward with the evidence concerning the pupil's residency. Provides that if the school board determines the pupil is a non-resident, the person attempting to enroll the pupil may petition the regional superintendent of schools to review the decision. Establishes the procedure and timeframe for the petition. Provides that, for school districts having a population of 500,000 or more, if the board of education finds that a pupil enrolled in the school district is a nonresident of that district and that decision is under appeal, the pupil may, at the request of the person who enrolled the pupil, enroll and attend school without payment of tuition pending a final decision of the board of education. Provides that if the board of education finds that the pupil is a non-resident of the district after the hearing, the board shall refuse to permit the pupil to continue attending the schools of the district unless the required tuition is paid. Provides that references to days in the Section refer to calendar days. Makes other changes.

LRB099 09427 NHT 29634 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.

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 or a pupil attempting to  
21 enroll in the district is a nonresident of the district for  
22 whom tuition is required to be charged under Section 10-20.12a,  
23 the board shall notify the person who enrolled or is attempting  
24 to enroll the pupil of the amount of the tuition charged or to  
25 be charged under Section 10-20.12a that is due or will be due  
26 to the district for a ~~the~~ nonresident pupil's attendance in the

1 district's schools. The notice shall detail the specific  
2 reasons why the board believes that the pupil or prospective  
3 pupil is a nonresident of the district and shall be given by  
4 certified mail, return receipt requested. Within 10 calendar  
5 days after receipt of the notice, the person who enrolled the  
6 pupil may request a hearing to review the determination of the  
7 school board. The request shall be sent by certified mail,  
8 return receipt requested, to the district superintendent.  
9 Within 10 calendar days after receipt of the request, the board  
10 shall notify, by certified mail, return receipt requested, the  
11 person requesting the hearing of the time and place of the  
12 hearing, which shall be held not less than 10 nor more than 20  
13 calendar days after the notice of hearing is given and must  
14 also include referrals to free or reduced-cost legal help. This  
15 notice must also include every form, log, and set of notes, as  
16 well as a list of witnesses and any other document or evidence  
17 that will be used by the board during the hearing to present  
18 its case. The board or a hearing officer designated by the  
19 board shall conduct the hearing. The board and the person who  
20 enrolled the pupil may be represented at the hearing by  
21 representatives of their choice. At the hearing, the board  
22 ~~person who enrolled the pupil~~ shall have the burden of going  
23 forward with the evidence concerning the pupil's residency. If  
24 the hearing is conducted by a hearing officer, the hearing  
25 officer, within 5 calendar days after the conclusion of the  
26 hearing, shall send a written report of his or her findings by

1 certified mail, return receipt requested, to the school board  
2 and to the person who enrolled the pupil. The person who  
3 enrolled the pupil may, within 5 calendar days after receiving  
4 the findings, file written objections to the findings with the  
5 school board by sending the objections by certified mail,  
6 return receipt requested, addressed to the district  
7 superintendent. Whether the hearing is conducted by the school  
8 board or a hearing officer, the school board shall, within 30  
9 calendar ~~15~~ days after the conclusion of the hearing, decide  
10 whether or not the pupil is a resident of the district and the  
11 amount of any tuition required to be charged under Section  
12 10-20.12a as a result of the pupil's attendance in the schools  
13 of the district. The school board shall send a copy of its  
14 decision within 5 calendar days of its decision to the person  
15 who enrolled the pupil by certified mail, return receipt  
16 requested. This decision must inform the person who enrolled  
17 the pupil that he or she may, within 10 calendar days after  
18 receipt of the decision of the board, petition the regional  
19 superintendent of schools to review the decision. The decision  
20 must also include notification that, at the request of the  
21 person who enrolled the pupil, the pupil may continue or begin  
22 attendance at the schools of the district pending the regional  
23 superintendent of schools' final decision, ~~and the decision of~~  
24 ~~the school board shall be final.~~

25 Within 10 calendar days after receipt of the decision of  
26 the board pursuant to this subsection (c) of this Section, the

1 person who enrolled the pupil may petition the regional  
2 superintendent of schools who exercises supervision and  
3 control of the board to review the board's decision. The  
4 request for review must be in writing and must include the  
5 basis for the request. The regional superintendent of schools  
6 shall promptly notify the board of the request for review.

7 Within 5 calendar days after being notified of a request  
8 for review, the board must deliver to the regional  
9 superintendent of schools any document or evidence that was  
10 used by the board during the hearing, as well as a list of all  
11 witnesses called during the hearing, including any transcripts  
12 or other written or recorded information documenting the  
13 hearing. After 5 calendar days from the district's receipt of  
14 notice, the regional superintendent of schools shall close the  
15 review from any additional documents or arguments from the  
16 parties.

17 Within 20 calendar days after receipt of the request for  
18 review by the person who enrolled the pupil, the regional  
19 superintendent of schools shall issue a written decision as to  
20 whether or not the pupil is a resident of the district pursuant  
21 to this Section and eligible to attend the district's schools  
22 on a tuition-free basis. The decision shall be transmitted to  
23 the board and the person who enrolled the pupil and shall, with  
24 specificity, detail the rationale behind the decision.

25 (c-5) The provisions of this subsection apply only in  
26 school districts having a population of 500,000 or more. If the

1 board of education of a school district with a population of  
2 500,000 or more determines that a pupil who is attending school  
3 in the district on a tuition free basis is a nonresident of the  
4 district for whom tuition is required to be charged under  
5 Section 10-20.12a, the board shall notify the person who  
6 enrolled the pupil of the amount of the tuition charged under  
7 Section 10-20.12a that is due to the district for the  
8 nonresident pupil's attendance in the district's schools. The  
9 notice shall be given by certified mail, return receipt  
10 requested. Within 10 calendar days after receipt of the notice,  
11 the person who enrolled the pupil may request a hearing to  
12 review the determination of the school board. The request shall  
13 be sent by certified mail, return receipt requested, to the  
14 district superintendent. Within 30 calendar days after receipt  
15 of the request, the board shall notify, by certified mail,  
16 return receipt requested, the person requesting the hearing of  
17 the time and place of the hearing, which shall be held not less  
18 than 10 calendar nor more than 30 calendar days after the  
19 notice of hearing is given. The board or a hearing officer  
20 designated by the board shall conduct the hearing. The board  
21 and the person who enrolled the pupil may each be represented  
22 at the hearing by a representative of their choice. At the  
23 hearing, the person who enrolled the pupil shall have the  
24 burden of going forward with the evidence concerning the  
25 pupil's residency. If the hearing is conducted by a hearing  
26 officer, the hearing officer, within 20 calendar days after the



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

24 (d) If a hearing is requested under subsection (c) of this  
25 Section ~~or (c-5)~~ to review the determination of the school  
26 board or board of education that a nonresident pupil is

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

18 (d-5) If a hearing is requested under subsection (c-5) of  
19 this Section to review the determination of the board of  
20 education that a nonresident pupil is attending the schools of  
21 the district without payment of the tuition required to be  
22 charged under Section 10-20.12a of this Code, the pupil may, at  
23 the request of the person who enrolled the pupil, continue  
24 attendance at the schools of the district pending a final  
25 decision of the board following the hearing. However,  
26 attendance of that pupil in the schools of the district as

1 authorized by this subsection (d-5) shall not relieve any  
2 person who enrolled the pupil of the obligation to pay the  
3 tuition charged for that attendance under Section 10-20.12a of  
4 this Code if the final decision of the board is that the pupil  
5 is a nonresident of the district. If a pupil is determined to  
6 be a nonresident of the district for whom tuition is required  
7 to be charged pursuant to this Section, the board shall refuse  
8 to permit the pupil to continue attending the schools of the  
9 district unless the required tuition is paid for the pupil.

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

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

22 (g) The provisions of this Section are subject to the  
23 provisions of the Education for Homeless Children Act. Nothing  
24 in this Section shall be construed to apply to or require the  
25 payment of tuition by a parent or guardian of a "homeless  
26 child" (as that term is defined in Section 1-5 of the Education

1 for Homeless Children Act) in connection with or as a result of  
2 the homeless child's continued education or enrollment in a  
3 school that is chosen in accordance with any of the options  
4 provided in Section 1-10 of that Act.

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