

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. Acts tending to show that a
14 person exercises legal responsibility for the pupil
15 include, but are not limited to, providing public or
16 private insurance for the pupil, paying for the pupil's
17 necessary expenses, assuming liability for damages
18 caused by the pupil, or declaring the pupil as a
19 dependent for income tax purposes.

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

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

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

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

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

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

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

1 sent by certified mail, return receipt requested, to the
2 district superintendent. Within 30 days after receipt of the
3 request, the board shall notify, by certified mail, return
4 receipt requested, the person requesting the hearing of the
5 time and place of the hearing, which shall be held not less
6 than 10 nor more than 30 days after the notice of hearing is
7 given. The board or a hearing officer designated by the board
8 shall conduct the hearing. The board and the person who
9 enrolled the pupil may each be represented at the hearing by a
10 representative of their choice. At the hearing, the person who
11 enrolled the pupil shall have the burden of going forward with
12 the evidence concerning the pupil's residency. If the hearing
13 is conducted by a hearing officer, the hearing officer, within
14 20 days after the conclusion of the hearing, shall serve a
15 written report of his or her findings by personal service or by
16 certified mail, return receipt requested, to the school board
17 and to the person who enrolled the pupil. The person who
18 enrolled the pupil may, within 10 days after receiving the
19 findings, file written objections to the findings with the
20 board of education by sending the objections by certified mail,
21 return receipt requested, addressed to the general
22 superintendent of schools. If the hearing is conducted by the
23 board of education, the board shall, within 45 days after the
24 conclusion of the hearing, decide whether or not the pupil is a
25 resident of the district and the amount of any tuition required
26 to be charged under Section 10-20.12a as a result of the

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

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

1 shall refuse to permit the pupil to continue attending the
2 schools of the district unless the required tuition is paid for
3 the pupil.

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

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

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

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