



## 99TH GENERAL ASSEMBLY

### State of Illinois

2015 and 2016

HB4606

by Rep. William Davis

#### SYNOPSIS AS INTRODUCED:

105 ILCS 5/10-20.12b

Amends a Section of School Code concerning pupil residency. Makes changes concerning the determination by a school board, in a school district with a population of less than 500,000, that a pupil who is attending school in the district on a tuition free basis is a nonresident for whom tuition is required to be charged, including the contents of the notice to the person who enrolled the pupil of the amount of the tuition charged that is due, the hearing to review the determination of the school board, the school board's decision after the conclusion of the hearing, petitioning the regional superintendent of schools to review the school board's decision, the regional superintendent of schools' review of the school board's decision, and the adjustment of State aid payments. Provides that references to days in the Section refer to calendar days. Makes other changes.

LRB099 17180 NHT 41538 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 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 a ~~the~~  
25 nonresident pupil's attendance in the district's schools. The  
26 notice shall detail the specific reasons why the board believes

1 that the pupil is a nonresident of the district and shall be  
2 given by certified mail, return receipt requested. Within 10  
3 calendar days after receipt of the notice, the person who  
4 enrolled the pupil may request a hearing to review the  
5 determination of the school board. The request shall be sent by  
6 certified mail, return receipt requested, to the district  
7 superintendent. Within 10 calendar days after receipt of the  
8 request, the board shall notify, by certified mail, return  
9 receipt requested, the person requesting the hearing of the  
10 time and place of the hearing, which shall be held not less  
11 than 10 nor more than 20 calendar days after the notice of  
12 hearing is given. At least 3 calendar days prior to the  
13 hearing, each party shall disclose to the other party all  
14 written evidence and testimony that it may submit during the  
15 hearing and a list of witnesses that it may call to testify  
16 during the hearing. The hearing notice shall notify the person  
17 requesting the hearing that any written evidence and testimony  
18 or witnesses not disclosed to the other party at least 3  
19 calendar days prior to the hearing are barred at the hearing  
20 without the consent of the other party. The board or a hearing  
21 officer designated by the board shall conduct the hearing. The  
22 board and the person who enrolled the pupil may be represented  
23 at the hearing by representatives of their choice. At the  
24 hearing, the person who enrolled the pupil shall have the  
25 burden of going forward with the evidence concerning the  
26 pupil's residency. If the hearing is conducted by a hearing

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

1 Code during the review period and become due upon a final  
2 determination of the regional superintendent of schools that  
3 the student is a nonresident, and the decision of the school  
4 board shall be final.

5 Within 5 calendar days after receipt of the decision of the  
6 board pursuant to this subsection (c) of this Section, the  
7 person who enrolled the pupil may petition the regional  
8 superintendent of schools who exercises supervision and  
9 control of the board to review the board's decision. The  
10 petition must include the basis for the request and be sent by  
11 certified mail, return receipt requested, to both the regional  
12 superintendent of schools and the district superintendent.

13 Within 5 calendar days after receipt of the petition, the  
14 board must deliver to the regional superintendent of schools  
15 the written decision of the board, any written evidence and  
16 testimony that was submitted by the parties during the hearing,  
17 a list of all witnesses that testified during the hearing, and  
18 any existing written minutes or transcript of the hearing or  
19 verbatim record of the hearing in the form of an audio or video  
20 recording documenting the hearing. The board may also provide  
21 the regional superintendent of schools and the petitioner with  
22 a written response to the petition. The regional superintendent  
23 of schools' review of the board's decision is limited to the  
24 documentation submitted to the regional superintendent of  
25 schools pursuant to this Section.

26 Within 10 calendar days after receipt of the documentation

1 provided by the school district pursuant to this Section, the  
2 regional superintendent of schools shall issue a written  
3 decision as to whether or not there is clear and convincing  
4 evidence that the pupil is a resident of the district pursuant  
5 to this Section and eligible to attend the district's schools  
6 on a tuition-free basis. The decision shall be transmitted to  
7 the board and the person who enrolled the pupil and shall, with  
8 specificity, detail the rationale behind the decision.

9 (c-5) The provisions of this subsection apply only in  
10 school districts having a population of 500,000 or more. If the  
11 board of education of a school district with a population of  
12 500,000 or more determines that a pupil who is attending school  
13 in the district on a tuition free basis is a nonresident of the  
14 district for whom tuition is required to be charged under  
15 Section 10-20.12a, the board shall notify the person who  
16 enrolled the pupil of the amount of the tuition charged under  
17 Section 10-20.12a that is due to the district for the  
18 nonresident pupil's attendance in the district's schools. The  
19 notice shall be given by certified mail, return receipt  
20 requested. Within 10 calendar days after receipt of the notice,  
21 the person who enrolled the pupil may request a hearing to  
22 review the determination of the school board. The request shall  
23 be sent by certified mail, return receipt requested, to the  
24 district superintendent. Within 30 calendar days after receipt  
25 of the request, the board shall notify, by certified mail,  
26 return receipt requested, the person requesting the hearing of



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

1 findings, 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 board of education shall  
5 send, by certified mail, return receipt requested, a copy of  
6 its decision to the person who enrolled the pupil, and the  
7 decision of the board shall be final.

8 (d) If a hearing is requested under subsection (c) of this  
9 Section ~~or (c-5)~~ to review the determination of the school  
10 board or board of education that a nonresident pupil is  
11 attending the schools of the district without payment of the  
12 tuition required to be charged under Section 10-20.12a, the  
13 pupil may, at the request of the ~~a~~ person who enrolled the  
14 pupil, continue attendance at the schools of the district  
15 pending the ~~a final~~ decision of the board or regional  
16 superintendent of schools, as applicable, and the school  
17 district's payments under Section 18-8.05 of this Code shall  
18 not be adjusted due to tuition collection under this Section.  
19 ~~of the board following the hearing.~~ However, attendance of that  
20 pupil in the schools of the district as authorized by this  
21 subsection (d) shall not relieve any person who enrolled the  
22 pupil of the obligation to pay the tuition charged for that  
23 attendance under Section 10-20.12a if the final decision of the  
24 board or regional superintendent of schools is that the pupil  
25 is a nonresident of the district. If a pupil is determined to  
26 be a nonresident of the district for whom tuition is required

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

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

22 (e) Except for a pupil referred to in subsection (b) of  
23 Section 10-22.5a, a pupil referred to in Section 10-20.12a, or  
24 a pupil referred to in subsection (b) of this Section, a person  
25 who knowingly enrolls or attempts to enroll in the schools of a  
26 school district on a tuition free basis a pupil known by that

1 person to be a nonresident of the district shall be guilty of a  
2 Class C misdemeanor.

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

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

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