

1 AN ACT respecting schools.

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
5 Section 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
11 of a pupil is deemed to be the residence of that the
12 pupil.

13 (2) "Legal custody" means one of the following:

14 (i) Custody exercised by a natural or adoptive
15 parent with whom the pupil resides.

16 (ii) Custody granted by order of a court of
17 competent jurisdiction to a person with whom the
18 pupil resides for reasons other than to have access
19 to the educational programs of the district.

20 (iii) Custody exercised under a statutory
21 short-term guardianship, provided that within 60
22 days of the pupil's enrollment a court order is
23 entered that establishes a permanent guardianship
24 and grants custody to a person with whom the pupil
25 resides for reasons other than to have access to the
26 educational programs of the district.

27 (iv) Custody exercised by an adult caretaker
28 relative who is receiving aid under the Illinois
29 Public Aid Code for the pupil who resides with that
30 adult caretaker relative for purposes other than to
31 have access to the educational programs of the

1 district.

2 (v) Custody exercised by an adult who
3 demonstrates that, in fact, he or she has assumed
4 and exercises legal responsibility for the pupil and
5 provides the pupil with a regular fixed night-time
6 abode for purposes other than to have access to the
7 educational programs of the district.

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
11 required to be charged under Section 10-20.12a. However,
12 children for whom the Guardianship Administrator of the
13 Department of Children and Family Services has been appointed
14 temporary custodian or guardian of the person of a child
15 shall not be charged tuition as a nonresident pupil if the
16 child was placed by the Department of Children and Family
17 Services with a foster parent or placed in another type of
18 child care facility and the foster parent or child care
19 facility is located in a school district other than the
20 child's former school district and it is determined by the
21 Department of Children and Family Services to be in the
22 child's best interest to maintain attendance at his or her
23 former school district.

24 (c) The provisions of this subsection do not apply in
25 school districts having a population of 500,000 or more. If a
26 school board in a school district with a population of less
27 than 500,000 determines that a pupil who is attending school
28 in the district on a tuition free basis is a nonresident of
29 the district for whom tuition is required to be charged under
30 Section 10-20.12a, the board shall notify the person who
31 enrolled the pupil of the amount of the tuition charged under
32 Section 10-20.12a that is due to the district for the
33 nonresident pupil's attendance in the district's schools.
34 The 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
11 board shall conduct the hearing. The board and the person
12 who enrolled the pupil may be represented at the hearing by
13 representatives of their choice. At the hearing, the person
14 who enrolled the pupil shall have the burden of going forward
15 with the evidence concerning the pupil's residency. If the
16 hearing is conducted by a hearing officer, the hearing
17 officer, within 5 days after the conclusion of the hearing,
18 shall send a written report of his or her findings by
19 certified mail, return receipt requested, to the school board
20 and to the person who enrolled the pupil. The person who
21 enrolled the pupil may, within 5 days after receiving the
22 findings, file written objections to the findings with the
23 school board by sending the objections by certified mail,
24 return receipt requested, addressed to the district
25 superintendent. Whether the hearing is conducted by the
26 school board or a hearing officer, the school board shall,
27 within 15 days after the conclusion of the hearing, decide
28 whether or not the pupil is a resident of the district and
29 the amount of any tuition required to be charged under
30 Section 10-20.12a as a result of the pupil's attendance in
31 the schools of the district. The school board shall send a
32 copy of its decision to the person who enrolled the pupil,
33 and the decision of the school board shall be final.

34 (c-5) The provisions of this subsection apply only in

1 school districts having a population of 500,000 or more. If
2 the board of education of a school district with a population
3 of 500,000 or more determines that a pupil who is attending
4 school in the district on a tuition free basis is a
5 nonresident of the district for whom tuition is required to
6 be charged under Section 10-20.12a, the board shall notify
7 the person who enrolled the pupil of the amount of the
8 tuition charged under Section 10-20.12a that is due to the
9 district for the nonresident pupil's attendance in the
10 district's schools. The notice shall be given by certified
11 mail, return receipt requested. Within 10 days after receipt
12 of the notice, the person who enrolled the pupil may request
13 a hearing to review the determination of the school board.
14 The request shall be sent by certified mail, return receipt
15 requested, to the district superintendent. Within 30 days
16 after receipt of the request, the board shall notify, by
17 certified mail, return receipt requested, the person
18 requesting the hearing of the time and place of the hearing,
19 which shall be held not less than 10 nor more than 30 days
20 after the notice of hearing is given. The board or a hearing
21 officer designated by the board shall conduct the hearing.
22 The board and the person who enrolled the pupil may each be
23 represented at the hearing by a representative of their
24 choice. At the hearing, the person who enrolled the pupil
25 shall have the burden of going forward with the evidence
26 concerning the pupil's residency. If the hearing is
27 conducted by a hearing officer, the hearing officer, within
28 20 days after the conclusion of the hearing, shall serve a
29 written report of his or her findings by personal service or
30 by certified mail, return receipt requested, to the school
31 board and to the person who enrolled the pupil. The person
32 who enrolled the pupil may, within 10 days after receiving
33 the findings, file written objections to the findings with
34 the board of education by sending the objections by certified

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

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

1 district unless the required tuition is paid for the pupil.

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

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

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

24 (Source: P.A. 89-480, eff. 1-1-97; 90-566, eff. 1-2-98.)