



February 9, 2005

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## HOUSE BILL No. 1812

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DIGEST OF HB 1812 (Updated February 2, 2005 9:56 am - DI 109)

**Citations Affected:** IC 20-8.1; noncode.

**Synopsis:** Legal settlement. Changes the standard for determining when a student who resides with a person other than the student's parents will be treated as having a legal settlement in the school corporation attendance area where the child resides rather than the school corporation attendance area where a parent resides in cases in which the child is relocated for the purpose of attending a particular school. Requires in certain circumstances the submission of sufficient information for the school corporation to determine whether a child who does not live with a parent has legal settlement in the school corporation.

**Effective:** July 1, 2005.

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**Lehe, Ayres, Cheney, Lawson L**

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January 19, 2005, read first time and referred to Committee on Education.  
February 8, 2005, amended, reported — Do Pass.

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HB 1812—LS 7059/DI 51+



February 9, 2005

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

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## HOUSE BILL No. 1812

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A BILL FOR AN ACT to amend the Indiana Code concerning education finance.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 20-8.1-6.1-1 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) The legal  
3 settlement of a student shall be governed by the following provisions:  
4 (1) If the student is under eighteen (18) years of age, or is over  
5 that age but is not emancipated, the legal settlement of the student  
6 is in the attendance area of the school corporation where the  
7 student's parents reside.  
8 (2) Where the student's mother and father, in a situation otherwise  
9 covered in subdivision (1), are divorced or separated, the legal  
10 settlement of the student is the school corporation whose  
11 attendance area contains the residence of the parent with whom  
12 the student is living, in the following situations:  
13 (A) Where no court order has been made establishing the  
14 custody of the student.  
15 (B) Where both parents have agreed on the parent or person  
16 with whom the student will live.  
17 (C) Where the parent granted custody of the student has

HB 1812—LS 7059/DI 51+



1 abandoned the student. In the event of a dispute between the  
2 parents of the student, or between the parents and any student  
3 over eighteen (18) years of age, the legal settlement of the  
4 student shall be determined as otherwise provided in this  
5 section.

6 (3) ~~Where the legal settlement of a student, in a situation to which~~  
7 ~~subdivision (1) otherwise applies, cannot reasonably be~~  
8 ~~determined and the student is being supported by, cared for by,~~  
9 ~~and living with some other person, the legal settlement of the~~  
10 ~~student shall be in the attendance area of that person's residence,~~  
11 ~~except where the parents of the student: are able to support the~~  
12 ~~student but have placed him in the home of another person; or~~  
13 ~~permitted the student to live with another person: primarily for the~~  
14 ~~purpose of attending school in the attendance area where the other~~  
15 ~~person resides. The school may, if the facts are in dispute,~~  
16 ~~condition acceptance of the student's legal settlement on the~~  
17 ~~appointment of that person as legal guardian or custodian of the~~  
18 ~~student. and The date of legal settlement will be fixed to coincide~~  
19 ~~with the commencement of the proceedings for the appointment~~  
20 ~~of a guardian or custodian. However, if a student does not reside~~  
21 ~~with the student's parents because the student's parents are unable~~  
22 ~~to support the child and the child is not residing with a person~~  
23 ~~other than a parent primarily for the purpose of attending a~~  
24 ~~particular school, the student's legal settlement is where the~~  
25 ~~student resides, and the establishment of a legal guardianship may~~  
26 ~~not be required by the school. In addition, **if a contributing**~~  
27 ~~**reason for the establishment of** a legal guardianship or~~  
28 ~~custodianship **established solely for was** the purpose of attending~~  
29 ~~school in a particular school corporation, **the legal guardianship**~~  
30 ~~**or custodianship** does not affect the determination of the legal~~  
31 ~~settlement of the student under this chapter.~~

32 (4) Where a student, to which subdivision (1) would otherwise  
33 apply, is married and living with a spouse, the legal settlement of  
34 that student is in the attendance area of the school corporation  
35 where the student and the student's spouse reside.

36 (5) Where the student's parents:  
37 (A) are living outside the United States due to educational  
38 pursuits or a job assignment;  
39 (B) maintain no permanent home in any school corporation in  
40 the United States; and  
41 (C) have placed the student in the home of another person;  
42 the legal settlement of the student is in the attendance area where

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1 the other person resides.  
 2 (6) Where the student is emancipated, the legal settlement is the  
 3 attendance area of the school corporation of the student's  
 4 residence.  
 5 (7) Where a student's legal settlement is changed after the student  
 6 has begun attending school in a school corporation in any school  
 7 year, the effective date of change may:  
 8 (A) at the election of:  
 9 (i) the parent;  
 10 (ii) the student if the student is eighteen (18) years of age or  
 11 older; or  
 12 (iii) a juvenile court conducting a proceeding under  
 13 IC 31-34-20-5, IC 31-34-21-10, IC 31-37-19-26, or  
 14 IC 31-37-20-6 (or IC 31-6-4-18.5 before its repeal);  
 15 be extended until the end of that semester; or  
 16 (B) at the discretion of the school, until the end of that school  
 17 year.  
 18 However, that election, where a student has completed grade 11  
 19 in any school year, shall extend to the end of the following school  
 20 year in grade 12.  
 21 (8) If a juvenile court has:  
 22 (A) made findings of fact concerning the legal settlement of a  
 23 student under IC 31-34-20-5, IC 31-34-21-10, IC 31-37-19-26,  
 24 or IC 31-37-20-6 (or IC 31-6-4-18.5 before its repeal); and  
 25 (B) jurisdiction over the student under IC 31-34 or IC 31-37;  
 26 the legal settlement of the student is the attendance area specified  
 27 as the legal settlement in the latest findings of fact issued by the  
 28 juvenile court.  
 29 (b) The words "residence", "resides", or other comparable language  
 30 when used in this chapter with respect to legal settlement, transfers,  
 31 and the payment of tuition, means a permanent and principal habitation  
 32 which a person uses for a home for a fixed or indefinite period, at  
 33 which the person remains when not called elsewhere for work, studies,  
 34 recreation, or other temporary or special purpose. These terms are not  
 35 synonymous with legal domicile. Where a court order grants a person  
 36 custody of a student, the residence of the student is where that person  
 37 resides.  
 38 (c) The superintendent of public instruction shall prepare the form  
 39 of agreement to be used under subsection (a)(2) and a form to be  
 40 executed by any person with whom the student is living under  
 41 subsection (a)(2), (a)(3), or (a)(5). The execution of the latter form by  
 42 the person and its continuance in force, is a condition, to the

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1 application of subsection (a)(2), (a)(3), or (a)(5). The form must  
 2 contain an agreement of the person that the person shall, with respect  
 3 to dealing with the school corporation and for all other purposes under  
 4 this article; assume all the duties and be subject to all the liabilities of  
 5 a parent of the student in the same manner as if the person were the  
 6 student's parent. On the execution of that form and for as long as it  
 7 remains in force, the person shall have these duties and liabilities: a  
 8 **manual designed for assisting persons needing legal guardianship**  
 9 **over an abandoned student under subsection (a)(3) to locate**  
 10 **available legal aid services for assistance and to introduce methods**  
 11 **and forms for proceeding through a local court with proper**  
 12 **jurisdiction without legal representation.**

- 13 (d) A student is emancipated when the student:  
 14 (1) furnishes the student's support from the student's own  
 15 resources;  
 16 (2) is not dependent in any material way on the student's parents  
 17 for support;  
 18 (3) files or is required by applicable law to file a separate tax  
 19 return; and  
 20 (4) maintains a residence separate from that of the student's  
 21 parents.

22 SECTION 2. [EFFECTIVE JULY 1, 2005] **IC 20-8.1-6.1-1, as**  
 23 **amended by this act, applies only to attendance in a school year**  
 24 **beginning after June 30, 2005.**

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Education, to which was referred House Bill 1812, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 6, strike "Where the legal settlement of a student, in a situation to which".

Page 2, strike lines 7 through 11.

Page 2, line 12, delete "(A)".

Page 2, line 12, strike "are able to support the student but have placed".

Page 2, line 12, after "him" delete "the".

Page 2, line 13, delete "student".

Page 2, line 13, strike "in the home of another person; or".

Page 2, line 14, delete "(B)".

Page 2, line 14, strike "permitted the student to live with another person."

Page 2, run in lines 6 through 17.

Page 2, strike lines 22 through 23.

Page 2, line 24, delete "a contributing reason in placing or permitting".

Page 2, line 24, strike "the child".

Page 2, line 25, delete "to reside".

Page 2, line 25, strike "with a person other than a parent".

Page 2, lines 26, delete "was not".

Page 2, line 26, strike "the purpose of attending a particular school, the student's".

Page 2, delete lines 27 through 28.

Page 2, line 29, strike "school."

Page 3, line 41, strike "the form".

Page 3, strike line 42.

Page 4, strike lines 1 through 2.

Page 4, line 3, delete "(1)".

Page 4, line 3, strike "execution of the latter form by the person and its continuance".

Page 4, line 4, strike "in force;".

Page 4, line 4, delete "and".

Page 4, delete lines 5 through 8.

Page 4, line 9, delete "are conditions".

Page 4, line 9, strike "to the application of subsection (a)(2), (a)(3), or (a)(5)."

Page 4, run in lines 2 through 9.

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Page 4, strike lines 10 through 16 and insert "**a manual designed for assisting persons needing legal guardianship over an abandoned student under subsection (a)(3) to locate available legal aid services for assistance and to introduce methods and forms for proceeding through a local court with proper jurisdiction without legal representation.**".

and when so amended that said bill do pass.

(Reference is to HB 1812 as introduced.)

BEHNING, Chair

Committee Vote: yeas 12, nays 0.

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