

HOUSE BILL No. 1812

DIGEST OF INTRODUCED BILL

Citations Affected: IC 20-8.1-6.1-1.

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.

Lehe, Ayres

January 19, 2005, read first time and referred to Committee on Education.

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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



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



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:

12 (A) are able to support the student but have placed ~~him~~ **the**
13 **student** in the home of another person; or

14 (B) permitted the student to live with another person. ~~primarily~~
15 ~~for the purpose of attending school in the attendance area~~
16 ~~where the other person resides.~~

17 The school may, if the facts are in dispute, condition acceptance
18 of the student's legal settlement on the appointment of that person
19 as legal guardian or custodian of the student. ~~and~~ The date of
20 legal settlement will be fixed to coincide with the commencement
21 of the proceedings for the appointment of a guardian or custodian.
22 However, if a student does not reside with the student's parents
23 because the student's parents are unable to support the child and
24 **a contributing reason in placing or permitting** the child is ~~not~~
25 ~~residing to reside~~ with a person other than a parent ~~primarily for~~
26 **was not** the purpose of attending a particular school, the student's
27 legal settlement is where the student resides, and the
28 establishment of a legal guardianship may not be required by the
29 school. ~~In addition;~~ **If a contributing reason for the**
30 **establishment of** a legal guardianship or custodianship
31 ~~established solely for was~~ the purpose of attending school in a
32 particular school corporation, **the legal guardianship or**
33 **custodianship** does not affect the determination of the legal
34 settlement of the student under this chapter.

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

39 (5) Where the student's parents:

40 (A) are living outside the United States due to educational
41 pursuits or a job assignment;

42 (B) maintain no permanent home in any school corporation in

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

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1 executed by any person with whom the student is living under
2 subsection (a)(2), (a)(3), or (a)(5). The:

3 (1) execution of the latter form by the person and its continuance
4 in force; ~~is a condition;~~ and

5 (2) **submission to the school corporation in which legal**
6 **settlement is sought of sufficient additional information for**
7 **the school corporation to determine that subsection (a)(2),**
8 **(a)(3), or (a)(5) applies to the affected student;**

9 **are conditions** to the application of subsection (a)(2), (a)(3), or (a)(5).
10 The form must contain an agreement of the person that the person
11 shall, with respect to dealing with the school corporation and for all
12 other purposes under this article, assume all the duties and be subject
13 to all the liabilities of a parent of the student in the same manner as if
14 the person were the student's parent. On the execution of that form and
15 for as long as it remains in force, the person shall have these duties and
16 liabilities.

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

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

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