

Second Regular Session of the 121st General Assembly (2020)

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 2019 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1091

AN ACT to amend the Indiana Code concerning education.

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

SECTION 1. IC 20-19-9-6, AS ADDED BY P.L.211-2019, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 6. **Except as provided under IC 20-26-19**, a school corporation that operates a virtual education program may not enroll a student unless the student is an Indiana resident. If the school corporation that operates a virtual education program is unable to verify that a student who attends the school corporation's virtual education program is an Indiana resident, the school corporation must pay back to the department the state tuition support distribution in an amount determined by the department that the school corporation received for that student.

SECTION 2. IC 20-24-5-4.5, AS ADDED BY P.L.159-2019, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 4.5. (a) A virtual charter school shall establish and implement an annual onboarding process and orientation for virtual charter school students and the students' parents. As part of the annual onboarding process and orientation, the virtual charter school must provide to a parent of a student:

- (1) the student engagement and attendance requirements or policies of the virtual charter school; and
- (2) notice that a person who knowingly or intentionally deprives a dependent of education commits a violation under IC 35-46-1-4.

HEA 1091 — Concur



(b) A student who is not enrolled in a virtual charter school before July 1, 2020, must complete the annual onboarding process and orientation established by the virtual charter school under subsection (a) with the student's parent before the student may enroll in the virtual charter school. If a student or student's parent does not participate in the virtual charter school's annual onboarding process and orientation established under subsection (a), the student may not enroll in the virtual charter school.

(c) An authorizer shall review and monitor whether a virtual charter school that is authorized by the authorizer complies with the requirements under this section.

(d) An individual who is employed as a licensed teacher at a virtual charter school must comply with any mandatory licensed teacher training that is required under this title.

(e) A virtual charter school must require that if a student who attends a virtual charter school accumulates the number of unexcused absences sufficient to result in the student's classification as a habitual truant (as described in IC 20-20-8-8(a)(17)), the student must be withdrawn from enrollment in the virtual charter school.

(f) **Except as provided in IC 20-26-19**, a virtual charter school may not enroll a student unless the student is an Indiana resident. If the virtual charter school is unable to verify that a student who attends the virtual charter school is an Indiana resident, the virtual charter school must pay back to the department the state tuition support distribution in an amount determined by the department that the virtual charter school received for that student.

SECTION 3. IC 20-24-8-2, AS ADDED BY P.L.169-2005, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 2. (a) A charter school may not do the following:

- (1) Operate at a site or for grades other than as specified in the charter.
- (2) Charge tuition to any student residing within the school corporation's geographic boundaries. However, a charter school may charge tuition for:
 - (A) a preschool program, unless charging tuition for the preschool program is barred under federal law; or
 - (B) a latch key program;
 if the charter school provides those programs.
- (3) **Except as provided under IC 20-26-19 and except** for a foreign exchange student who is not a United States citizen, enroll a student who is not a resident of Indiana.
- (4) Be located in a private residence.



(5) Provide solely home based instruction.

(b) A charter school is not prohibited from delivering instructional services:

- (1) through the Internet or another online arrangement; or
- (2) in any manner by computer;

if the instructional services are provided to students enrolled in the charter school in a manner that complies with any procedures adopted by the department concerning online and computer instruction in public schools.

SECTION 4. IC 20-25.7-4-9, AS ADDED BY P.L.214-2015, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 9. (a) Any student who lives in the attendance area served by a school that is operated as an innovation network school under this chapter may attend the innovation network school. The innovation network school may not refuse enrollment to a student who lives in the attendance area **or a student described in IC 20-26-19-5.**

(b) This subsection applies if the number of applications for a program, class, grade level, or building exceeds the capacity of the program, class, grade level, or building. If an innovation network school receives a greater number of applications than there are spaces for students, each timely applicant must be given an equal chance of admission.

SECTION 5. IC 20-26-11-1, AS AMENDED BY P.L.13-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 1. As used in this chapter with respect to legal settlement, transfers, and the payment of tuition, the words "residence", "resides", or other comparable language means a permanent and principal habitation that an individual uses for a home for a fixed or indefinite period, at which the individual remains when not called elsewhere for work, studies, recreation, or other temporary or special purpose. These terms are not synonymous with legal domicile. Except as provided in section ~~2(3)~~ **2(a)(3)** of this chapter, where a court order grants an individual custody of a student, the residence of the student is where that individual resides.

SECTION 6. IC 20-26-11-2, AS AMENDED BY P.L.13-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 2. **(a) Except as provided in subsection (b),** the legal settlement of a student is governed by the following provisions:

- (1) If the student:
 - (A) is less than eighteen (18) years of age; or
 - (B) is at least eighteen (18) years of age but is not emancipated;



the legal settlement of the student is in the attendance area of the school corporation where the student's parents reside.

(2) If the student's mother and father, in a situation to which subdivision (1) otherwise applies, are divorced or separated, the legal settlement of the student is the school corporation whose attendance area contains the residence of the parent with whom the student is living, in the following situations:

(A) If a court order has not been made establishing the custody of the student.

(B) Except as provided in subdivision (3), if both parents have agreed on the parent or person with whom the student will live.

(C) If the parent granted custody of the student has abandoned the student.

In the event of a dispute between the parents of the student, or between the parents and a student at least eighteen (18) years of age, the legal settlement of the student shall be determined as otherwise provided in this section.

(3) If, in a situation in which subdivision (1) otherwise applies, the student's mother and father are divorced or separated, and if a court order grants the student's:

(A) mother;

(B) father; or

(C) both mother and father;

custody of the student, the legal settlement of the student is the school corporation whose attendance area contains the residence of the mother or father, as elected under section 2.5(a) of this chapter. If the custodial parent (or the student, if at least eighteen (18) years of age) does not make an election under section 2.5(a) of this chapter, the legal settlement of the student is the school corporation whose attendance area contains the residence of the parent granted physical custody by the court order.

(4) If the legal settlement of a student, in a situation to which subdivision (1) otherwise applies, cannot reasonably be determined and the student is being supported by, cared for by, and living with some other individual, the legal settlement of the student is in the attendance area of that individual's residence, except where the parents of the student are able to support the student but have placed the student in the home of another individual, or allowed the student to live with another individual, primarily for the purpose of attending school in the attendance area where the other individual resides. The school may, if the



facts are in dispute, condition acceptance of the student's legal settlement on the appointment of that individual as legal guardian or custodian of the student, and the date of legal settlement will be fixed to coincide with the commencement of the proceedings for the appointment of a guardian or custodian. However, if a student does not reside with the student's parents because the student's parents are unable to support the child and the child is not residing with an individual other than a parent primarily to attend a particular school, the student's legal settlement is where the student resides, and the establishment of a legal guardianship may not be required by the school. In addition, a legal guardianship or custodianship established solely to attend school in a particular school corporation does not affect the determination of the legal settlement of the student under this chapter.

(5) If a student, to whom subdivision (1) would otherwise apply, is married and living with a spouse, the legal settlement of that student is in the attendance area of the school corporation where the student and the student's spouse reside.

(6) If the student's parents:

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

(B) do not maintain a permanent home in any school corporation in the United States; and

(C) have placed the student in the home of another individual; the legal settlement of the student is in the attendance area where the other individual resides.

(7) If the student is emancipated, the legal settlement is the attendance area of the school corporation of the student's residence.

(8) If a student's legal settlement is changed after the student has begun attending school in a school corporation in any school year, the effective date of change may:

(A) at the election of:

(i) the parent;

(ii) the student, if the student is at least eighteen (18) years of age; or

(iii) a juvenile court conducting a proceeding under IC 31-34-20-5, IC 31-34-21-10, IC 31-37-19-26, or IC 31-37-20-6 (or IC 31-6-4-18.5 before its repeal);

be extended until the end of that semester; or

(B) at the discretion of the school, until the end of that school



year.

However, that election, where a student has completed grade 11 in any school year, shall extend to the end of the following school year in grade 12.

(9) If a juvenile court has:

(A) made findings of fact concerning the legal settlement of a student under IC 31-34-20-5, IC 31-34-21-10, IC 31-37-19-26, or IC 31-37-20-6 (or IC 31-6-4-18.5 before its repeal); and

(B) jurisdiction over the student under IC 31-34 or IC 31-37; the legal settlement of the student is the attendance area specified as the legal settlement in the latest findings of fact issued by the juvenile court.

(b) This subsection applies to a student described in IC 20-26-19-5. A student is considered, from the date that the parent (as defined in IC 20-26-19-3) of the student submits the application and documentation required under IC 20-26-19-5(2) until the date that the parent provides proof of residence by the date required under IC 20-26-19-7, to have legal settlement in the attendance area of the school corporation in which the parent:

(1) has submitted the application and documentation required under IC 20-26-19-5(2); and

(2) intends to reside.

SECTION 7. IC 20-26-11-2.5, AS AMENDED BY P.L.219-2015, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 2.5. (a) In the case of a student described in section ~~2(3)~~ **2(a)(3)** of this chapter, the:

(1) parent granted physical custody by a court; or

(2) student, if the student is at least eighteen (18) years of age; may elect for the student to have legal settlement in the school corporation whose attendance area contains the residence of the student's mother or the school corporation whose attendance area contains the residence of the student's father.

(b) An election under subsection (a) shall be made on a yearly basis and applies throughout the school year unless the student's parent no longer resides within the attendance area of the school corporation.

(c) The parent or student who makes an election under subsection (a) is not required to pay transfer tuition.

SECTION 8. IC 20-26-11-3, AS AMENDED BY P.L.13-2006, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 3. The state superintendent shall prepare the form of agreement to be used under section ~~2(2)~~ **2(a)(2)** of this chapter and a form to be executed by any individual with whom the student is living



under section ~~2(2)~~, **2(a)(2)**, ~~2(3)~~, **2(a)(3)**, ~~2(4)~~, **2(a)(4)**, or ~~2(6)~~ **2(a)(6)** of this chapter. The execution of the form by the individual and its continuance in force is a condition to the application of section ~~2(2)~~, **2(a)(2)**, ~~2(3)~~, **2(a)(3)**, ~~2(4)~~, **2(a)(4)**, or ~~2(6)~~ **2(a)(6)** of this chapter. The form must contain an agreement of the individual that the individual shall, with respect to dealing with the school corporation and for all other purposes under this article, assume all the duties and be subject to all the liabilities of a parent of the student in the same manner as if the individual were the student's parent. On the execution of that form and for as long as it remains in force, the individual has these duties and liabilities.

SECTION 9. IC 20-26-19 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]:

Chapter 19. Temporary Exception to Residency Requirements

Sec. 1. As used in this chapter, "active duty" means full-time service in:

- (1) the armed forces of the United States; or
- (2) the national guard;

for a period that exceeds thirty (30) consecutive days in a calendar year.

Sec. 2. As used in this chapter, "military installation" means a base, camp, post, station, yard, center, homeport facility for any ship, or other installation under the jurisdiction of the United States Department of Defense or the United States Coast Guard.

Sec. 3. As used in this chapter, "parent" means the following:

- (1) A parent (as defined in IC 20-18-2-13).
- (2) A stepparent of a child with whom a parent (as defined in IC 20-18-2-13) resides.

Sec. 4. As used in this chapter, "public school" means a:

- (1) school maintained by a school corporation; or
- (2) charter school.

Sec. 5. Notwithstanding any other law, a student meets the residency requirements for enrollment at a public school in Indiana if the parent of the student meets the following:

- (1) The parent is transferred to or is pending transfer to a military installation within Indiana while on active duty pursuant to an official military order.
- (2) The parent submits to the public school:
 - (A) an application, as determined by the public school, for enrollment in the public school; and
 - (B) documentation, as determined by the state board,



regarding the transfer or pending transfer.

(3) If the parent is submitting an application described in subdivision (2)(A) to a public school maintained by a school corporation, the parent intends to reside in the attendance area of the school corporation.

Sec. 6. In addition to any other means by which a public school accepts an application for enrollment of a student or registration in a course by a student, a public school shall accept an application for enrollment and course registration, as applicable, by electronic means for a student described in section 5 of this chapter.

Sec. 7. (a) A parent of a student described in section 5 of this chapter shall provide proof of residence to the public school not later than ten (10) instructional days after the arrival date provided on the documentation described in section 5(2)(B) of this chapter.

(b) A parent may use the address of any of the following as proof of residence for purposes of this section:

- (1) A temporary on base billeting facility.
- (2) A purchased or leased home or apartment.
- (3) Any federal government housing or off base military housing, including off base military housing that is provided through a public-private venture.

(c) If a parent of a student fails to provide proof of residence to a public school in accordance with subsection (a), the public school may exclude the student from attendance pending an expulsion proceeding.

Sec. 8. The state board:

- (1) shall adopt rules under IC 4-22-2 regarding the documentation required under section 5(2)(B) of this chapter; and
- (2) may adopt rules under IC 4-22-2 to otherwise implement this chapter.

SECTION 10. IC 21-14-9-0.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: **Sec. 0.3.** As used in this chapter, "dependent" means:

- (1) a biological child, adopted child, or stepchild of a person described in section 1 of this chapter; or
- (2) an individual whose legal guardian is a person described in section 1 of this chapter.

SECTION 11. IC 21-14-9-0.5, AS ADDED BY P.L.11-2015, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



JULY 1, 2020]: Sec. 0.5. As used in this chapter, "qualified course" includes a course prescribed by a state educational institution to obtain a graduate degree: **means a course prescribed by a state educational institution to obtain an undergraduate degree or graduate degree.**

SECTION 12. IC 21-14-9-2, AS ADDED BY P.L.144-2007, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 2. **(a) If a spouse or dependent of a person described in section 1 of this chapter is accepted for enrollment by a state educational institution, the spouse or dependent is eligible, from the date that the spouse or dependent is accepted for enrollment in the state educational institution, to pay the resident tuition rate determined by the state educational institution if the spouse or dependent enrolls in the state educational institution by the earlier of the following:**

- (1) The deadline for enrollment by the spouse or dependent as established by the state educational institution.**
- (2) Twelve (12) months after the date that the state educational institution accepts the spouse or dependent for enrollment.**

(b) A spouse or dependent described in subsection (a) is eligible to pay the resident tuition rate determined by the state educational institution for qualified courses taken by the spouse or dependent for the duration of the spouse's or dependent's continuous enrollment at the state educational institution, as determined by the state educational institution, regardless of whether the person described in section 1 of this chapter continues, after the spouse or dependent is accepted for enrollment as described in subsection (a), to satisfy the criteria set forth in section 1 of this chapter.

SECTION 13. IC 31-34-20-5, AS AMENDED BY P.L.160-2012, SECTION 57, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 5. (a) This section applies if the department or a juvenile court:

- (1) places a child;
- (2) changes the placement of a child; or
- (3) reviews the implementation of a decree under IC 31-34-21 of a child placed;

in a state licensed private or public health care facility, child care facility, foster family home, or the home of a relative or other unlicensed caretaker.

(b) The juvenile court shall do the following:

- (1) Make findings of fact concerning the legal settlement of the child.



(2) Apply ~~IC 20-26-11-2(1)~~ **IC 20-26-11-2(a)(1)** through ~~IC 20-26-11-2(8)~~ **IC 20-26-11-2(a)(8)** to determine where the child has legal settlement.

(3) Include the findings of fact required by this section in:

- (A) the dispositional order;
- (B) the modification order; or
- (C) the other decree;

making or changing the placement of the child.

(c) The juvenile court may determine that the legal settlement of the child is in the school corporation in which the child will attend school under IC 20-26-11-8(d).

(d) The juvenile court shall comply with the reporting requirements under IC 20-26-11-9 concerning the legal settlement of the child.

(e) The department or a juvenile court may place a child in a public school, regardless of whether the public school has a waiting list for admissions, if the department or juvenile court determines that the school's program meets the child's educational needs and the school agrees to the placement. A placement under this subsection does not affect the legal settlement of the child.

SECTION 14. IC 31-37-19-26, AS AMENDED BY P.L.160-2012, SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 26. (a) This section applies if a juvenile court:

- (1) places a child;
- (2) changes the placement of a child; or
- (3) reviews the implementation of a decree under IC 31-37-20 (or IC 31-6-4-19 before its repeal) of a child placed;

in a state licensed private or public health care facility, child care facility, foster family home, or the home of a relative or other unlicensed caretaker.

(b) The juvenile court shall do the following:

(1) Make findings of fact concerning the legal settlement of the child.

(2) Apply ~~IC 20-26-11-2(1)~~ **IC 20-26-11-2(a)(1)** through ~~IC 20-26-11-2(8)~~ **IC 20-26-11-2(a)(8)** to determine where the child has legal settlement.

(3) Include the findings of fact required by this section in the:

- (A) dispositional order;
- (B) modification order; or
- (C) other decree;

making or changing the placement of the child.

(c) The juvenile court may determine that the legal settlement of the child is in the school corporation in which the child will attend school



under IC 20-26-11-8(d).

(d) The juvenile court shall comply with the reporting requirements under IC 20-26-11-9 concerning the legal settlement of the child.

(e) The juvenile court may place a child in a public school, regardless of whether the public school has a waiting list for admissions, if the court determines that the school's program meets the child's educational needs and the school agrees to the placement. A placement under this subsection does not affect the legal settlement of the child.



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

HEA 1091 — Concur

