

# HOUSE BILL No. 1122

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 20-19-9-6; IC 20-24; IC 20-25.7-4-9; IC 20-26; IC 31-34-20-5; IC 31-37-19-26.

**Synopsis:** Temporary exception to residency requirements. Provides that a student meets the residency requirements for enrollment at a public school if the parent of the student: (1) is transferred to or is pending transfer to a military installation within Indiana while on active duty pursuant to an official military order; and (2) submits to the public school certain information, including official documentation, as determined by the state board of education, regarding the transfer or pending transfer. Provides that the student is considered to have legal settlement in the attendance area of the school corporation in which the parent: (1) has submitted the required application and documentation; and (2) intends to reside. Requires a parent who is transferred to or is pending transfer to a military installation within Indiana to provide proof of residence to the public school not later than 10 instructional days after the arrival date provided on the required documentation. Provides that if the parent of the student fails to provide the proof of residence, the public school may expel the student.

**Effective:** July 1, 2020.

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## Lindauer

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January 8, 2020, read first time and referred to Committee on Education.

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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 BILL No. 1122

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

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

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

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



- 1 provide to a parent of a student:
- 2 (1) the student engagement and attendance requirements or
- 3 policies of the virtual charter school; and
- 4 (2) notice that a person who knowingly or intentionally deprives
- 5 a dependent of education commits a violation under IC 35-46-1-4.
- 6 (b) A student who is not enrolled in a virtual charter school before
- 7 July 1, 2020, must complete the annual onboarding process and
- 8 orientation established by the virtual charter school under subsection
- 9 (a) with the student's parent before the student may enroll in the virtual
- 10 charter school. If a student or student's parent does not participate in
- 11 the virtual charter school's annual onboarding process and orientation
- 12 established under subsection (a), the student may not enroll in the
- 13 virtual charter school.
- 14 (c) An authorizer shall review and monitor whether a virtual charter
- 15 school that is authorized by the authorizer complies with the
- 16 requirements under this section.
- 17 (d) An individual who is employed as a licensed teacher at a virtual
- 18 charter school must comply with any mandatory licensed teacher
- 19 training that is required under this title.
- 20 (e) A virtual charter school must require that if a student who
- 21 attends a virtual charter school accumulates the number of unexcused
- 22 absences sufficient to result in the student's classification as a habitual
- 23 truant (as described in IC 20-20-8-8(a)(17)), the student must be
- 24 withdrawn from enrollment in the virtual charter school.
- 25 (f) **Except as provided in IC 20-26-19**, a virtual charter school may
- 26 not enroll a student unless the student is an Indiana resident. If the
- 27 virtual charter school is unable to verify that a student who attends the
- 28 virtual charter school is an Indiana resident, the virtual charter school
- 29 must pay back to the department the state tuition support distribution
- 30 in an amount determined by the department that the virtual charter
- 31 school received for that student.
- 32 SECTION 3. IC 20-24-8-2, AS ADDED BY P.L.169-2005,
- 33 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 34 JULY 1, 2020]: Sec. 2. (a) A charter school may not do the following:
- 35 (1) Operate at a site or for grades other than as specified in the
- 36 charter.
- 37 (2) Charge tuition to any student residing within the school
- 38 corporation's geographic boundaries. However, a charter school
- 39 may charge tuition for:
- 40 (A) a preschool program, unless charging tuition for the
- 41 preschool program is barred under federal law; or
- 42 (B) a latch key program;



1 if the charter school provides those programs.

2 (3) Except **as provided under IC 20-26-19 and except** for a  
3 foreign exchange student who is not a United States citizen, enroll  
4 a student who is not a resident of Indiana.

5 (4) Be located in a private residence.

6 (5) Provide solely home based instruction.

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

9 (1) through the Internet or another online arrangement; or

10 (2) in any manner by computer;

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

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

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

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

40 SECTION 6. IC 20-26-11-2, AS AMENDED BY P.L.13-2006,  
41 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
42 JULY 1, 2020]: Sec. 2. **(a) Except as provided in subsection (b), the**



- 1 legal settlement of a student is governed by the following provisions:  
 2 (1) If the student:  
 3 (A) is less than eighteen (18) years of age; or  
 4 (B) is at least eighteen (18) years of age but is not  
 5 emancipated;  
 6 the legal settlement of the student is in the attendance area of the  
 7 school corporation where the student's parents reside.  
 8 (2) If the student's mother and father, in a situation to which  
 9 subdivision (1) otherwise applies, are divorced or separated, the  
 10 legal 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) If a court order has not been made establishing the custody  
 14 of the student.  
 15 (B) Except as provided in subdivision (3), if both parents have  
 16 agreed on the parent or person with whom the student will  
 17 live.  
 18 (C) If the parent granted custody of the student has abandoned  
 19 the student.  
 20 In the event of a dispute between the parents of the student, or  
 21 between the parents and a student at least eighteen (18) years of  
 22 age, the legal settlement of the student shall be determined as  
 23 otherwise provided in this section.  
 24 (3) If, in a situation in which subdivision (1) otherwise applies,  
 25 the student's mother and father are divorced or separated, and if  
 26 a court order grants the student's:  
 27 (A) mother;  
 28 (B) father; or  
 29 (C) both mother and father;  
 30 custody of the student, the legal settlement of the student is the  
 31 school corporation whose attendance area contains the residence  
 32 of the mother or father, as elected under section 2.5(a) of this  
 33 chapter. If the custodial parent (or the student, if at least eighteen  
 34 (18) years of age) does not make an election under section 2.5(a)  
 35 of this chapter, the legal settlement of the student is the school  
 36 corporation whose attendance area contains the residence of the  
 37 parent granted physical custody by the court order.  
 38 (4) If the legal settlement of a student, in a situation to which  
 39 subdivision (1) otherwise applies, cannot reasonably be  
 40 determined and the student is being supported by, cared for by,  
 41 and living with some other individual, the legal settlement of the  
 42 student is in the attendance area of that individual's residence,



1           except where the parents of the student are able to support the  
 2           student but have placed the student in the home of another  
 3           individual, or allowed the student to live with another individual,  
 4           primarily for the purpose of attending school in the attendance  
 5           area where the other individual resides. The school may, if the  
 6           facts are in dispute, condition acceptance of the student's legal  
 7           settlement on the appointment of that individual as legal guardian  
 8           or custodian of the student, and the date of legal settlement will  
 9           be fixed to coincide with the commencement of the proceedings  
 10          for the appointment of a guardian or custodian. However, if a  
 11          student does not reside with the student's parents because the  
 12          student's parents are unable to support the child and the child is  
 13          not residing with an individual other than a parent primarily to  
 14          attend a particular school, the student's legal settlement is where  
 15          the student resides, and the establishment of a legal guardianship  
 16          may not be required by the school. In addition, a legal  
 17          guardianship or custodianship established solely to attend school  
 18          in a particular school corporation does not affect the  
 19          determination of the legal settlement of the student under this  
 20          chapter.

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

25          (6) If the student's parents:  
 26                (A) are living outside the United States due to educational  
 27                pursuits or a job assignment;  
 28                (B) do not maintain a permanent home in any school  
 29                corporation in the United States; and  
 30                (C) have placed the student in the home of another individual;  
 31          the legal settlement of the student is in the attendance area where  
 32          the other individual resides.

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

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

39                (A) at the election of:  
 40                   (i) the parent;  
 41                   (ii) the student, if the student is at least eighteen (18) years  
 42                  of age; or



- 1 (iii) a juvenile court conducting a proceeding under  
 2 IC 31-34-20-5, IC 31-34-21-10, IC 31-37-19-26, or  
 3 IC 31-37-20-6 (or IC 31-6-4-18.5 before its repeal);  
 4 be extended until the end of that semester; or  
 5 (B) at the discretion of the school, until the end of that school  
 6 year.
- 7 However, that election, where a student has completed grade 11  
 8 in any school year, shall extend to the end of the following school  
 9 year in grade 12.
- 10 (9) If a juvenile court has:
- 11 (A) made findings of fact concerning the legal settlement of a  
 12 student under IC 31-34-20-5, IC 31-34-21-10, IC 31-37-19-26,  
 13 or IC 31-37-20-6 (or IC 31-6-4-18.5 before its repeal); and  
 14 (B) jurisdiction over the student under IC 31-34 or IC 31-37;  
 15 the legal settlement of the student is the attendance area specified  
 16 as the legal settlement in the latest findings of fact issued by the  
 17 juvenile court.
- 18 **(b) This subsection applies to a student described in**  
 19 **IC 20-26-19-4. A student is considered, from the date that the**  
 20 **parent of the student submits the application and documentation**  
 21 **required under IC 20-26-19-4(2) until the date that the parent**  
 22 **provides proof of residence by the date required under**  
 23 **IC 20-26-19-6, to have legal settlement in the attendance area of**  
 24 **the school corporation in which the parent:**
- 25 **(1) has submitted the application and documentation required**  
 26 **under IC 20-26-19-4(2); and**  
 27 **(2) intends to reside.**
- 28 SECTION 7. IC 20-26-11-2.5, AS AMENDED BY P.L.219-2015,  
 29 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 30 JULY 1, 2020]: Sec. 2.5. (a) In the case of a student described in  
 31 section ~~2(3)~~ **2(a)(3)** of this chapter, the:
- 32 (1) parent granted physical custody by a court; or  
 33 (2) student, if the student is at least eighteen (18) years of age;  
 34 may elect for the student to have legal settlement in the school  
 35 corporation whose attendance area contains the residence of the  
 36 student's mother or the school corporation whose attendance area  
 37 contains the residence of the student's father.
- 38 (b) An election under subsection (a) shall be made on a yearly basis  
 39 and applies throughout the school year unless the student's parent no  
 40 longer resides within the attendance area of the school corporation.
- 41 (c) The parent or student who makes an election under subsection  
 42 (a) is not required to pay transfer tuition.



1 SECTION 8. IC 20-26-11-3, AS AMENDED BY P.L.13-2006,  
 2 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 3 JULY 1, 2020]: Sec. 3. The state superintendent shall prepare the form  
 4 of agreement to be used under section ~~2(2)~~ **2(a)(2)** of this chapter and  
 5 a form to be executed by any individual with whom the student is living  
 6 under section ~~2(2)~~, **2(a)(2)**, ~~2(3)~~, **2(a)(3)**, ~~2(4)~~, **2(a)(4)**, or ~~2(6)~~ **2(a)(6)**  
 7 of this chapter. The execution of the form by the individual and its  
 8 continuance in force is a condition to the application of section ~~2(2)~~,  
 9 **2(a)(2)**, ~~2(3)~~, **2(a)(3)**, ~~2(4)~~, **2(a)(4)**, or ~~2(6)~~ **2(a)(6)** of this chapter. The  
 10 form must contain an agreement of the individual that the individual  
 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 individual were the student's parent. On the execution of that form  
 15 and for as long as it remains in force, the individual has these duties  
 16 and liabilities.

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

20 **Chapter 19. Temporary Exception to Residency Requirements**

21 **Sec. 1. As used in this chapter, "active duty" means full-time**  
 22 **service in the armed forces of the United States.**

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

27 **Sec. 3. As used in this chapter, "public school" means a:**

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

30 **Sec. 4. Notwithstanding any other law, a student meets the**  
 31 **residency requirements for enrollment at a public school in**  
 32 **Indiana if the parent of the student meets the following:**

- 33 (1) The parent is transferred to or is pending transfer to a  
 34 military installation within Indiana while on active duty  
 35 pursuant to an official military order.  
 36 (2) The parent submits to the public school:  
 37 (A) an application, as determined by the public school, for  
 38 enrollment in the public school; and  
 39 (B) documentation, as determined by the state board,  
 40 regarding the transfer or pending transfer.  
 41 (3) If the parent is submitting an application described in  
 42 subdivision (2)(A) to a public school maintained by a school



1           corporation, the parent intends to reside in the attendance  
2           area of the school corporation.

3           **Sec. 5. In addition to any other means by which a public school**  
4           **accepts an application for enrollment of a student or registration**  
5           **in a course by a student, a public school shall accept an application**  
6           **for enrollment and course registration, as applicable, by electronic**  
7           **means for a student described in section 4 of this chapter.**

8           **Sec. 6. (a) A parent of a student described in section 4 of this**  
9           **chapter shall provide proof of residence to the public school not**  
10          **later than ten (10) instructional days after the arrival date**  
11          **provided on the documentation described in section 4(2)(B) of this**  
12          **chapter.**

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

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

20          **(c) If a parent of a student fails to provide proof of residence to**  
21          **a public school in accordance with subsection (a), the public school**  
22          **may expel the student.**

23          **Sec. 7. The state board:**

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

29          SECTION 10. IC 31-34-20-5, AS AMENDED BY P.L.160-2012,  
30          SECTION 57, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
31          JULY 1, 2020]: Sec. 5. (a) This section applies if the department or a  
32          juvenile court:

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

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

40          (b) The juvenile court shall do the following:

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



- 1 (2) Apply ~~IC 20-26-11-2(1)~~ **IC 20-26-11-2(a)(1)** through  
 2 ~~IC 20-26-11-2(8)~~ **IC 20-26-11-2(a)(8)** to determine where the  
 3 child has legal settlement.
- 4 (3) Include the findings of fact required by this section in:  
 5 (A) the dispositional order;  
 6 (B) the modification order; or  
 7 (C) the other decree;  
 8 making or changing the placement of the child.
- 9 (c) The juvenile court may determine that the legal settlement of the  
 10 child is in the school corporation in which the child will attend school  
 11 under IC 20-26-11-8(d).
- 12 (d) The juvenile court shall comply with the reporting requirements  
 13 under IC 20-26-11-9 concerning the legal settlement of the child.
- 14 (e) The department or a juvenile court may place a child in a public  
 15 school, regardless of whether the public school has a waiting list for  
 16 admissions, if the department or juvenile court determines that the  
 17 school's program meets the child's educational needs and the school  
 18 agrees to the placement. A placement under this subsection does not  
 19 affect the legal settlement of the child.
- 20 SECTION 11. IC 31-37-19-26, AS AMENDED BY P.L.160-2012,  
 21 SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 22 JULY 1, 2020]: Sec. 26. (a) This section applies if a juvenile court:  
 23 (1) places a child;  
 24 (2) changes the placement of a child; or  
 25 (3) reviews the implementation of a decree under IC 31-37-20 (or  
 26 IC 31-6-4-19 before its repeal) of a child placed;  
 27 in a state licensed private or public health care facility, child care  
 28 facility, foster family home, or the home of a relative or other  
 29 unlicensed caretaker.
- 30 (b) The juvenile court shall do the following:  
 31 (1) Make findings of fact concerning the legal settlement of the  
 32 child.  
 33 (2) Apply ~~IC 20-26-11-2(1)~~ **IC 20-26-11-2(a)(1)** through  
 34 ~~IC 20-26-11-2(8)~~ **IC 20-26-11-2(a)(8)** to determine where the  
 35 child has legal settlement.  
 36 (3) Include the findings of fact required by this section in the:  
 37 (A) dispositional order;  
 38 (B) modification order; or  
 39 (C) other decree;  
 40 making or changing the placement of the child.
- 41 (c) The juvenile court may determine that the legal settlement of the  
 42 child is in the school corporation in which the child will attend school



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

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

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

