

HOUSE BILL No. 1388

DIGEST OF INTRODUCED BILL

Citations Affected: IC 20-19-9-6; IC 20-24; IC 20-25.7-4-9; IC 20-26; IC 21-14-9; IC 31-34-20-5; IC 31-37-19-26.

Synopsis: Education benefits related to military service. 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. Makes the following changes to provisions concerning resident tuition rate eligibility for active duty armed forces personnel and dependents of active duty armed forces personnel: (1) Defines "dependent". (2) Amends the definition of "qualified course". (3) Provides that spouses of active duty armed forces personnel are eligible for the resident tuition rate. (4) Provides that spouses and dependents of active duty armed forces personnel are eligible, from the date that the state educational institution accepts the spouse or dependent for enrollment, for the resident tuition rate if the spouse or dependent enrolls in the state educational institution within a certain amount of time. (5)
(Continued next page)

Effective: July 1, 2020.

Klinker, Stutzman

January 15, 2020, read first time and referred to Committee on Education.



Digest Continued

Provides that a dependent or spouse of a person who serves on active duty in the armed forces is eligible for the resident tuition rate for the duration of the spouse's or dependent's continuous enrollment at a state educational institution regardless of whether the person serving on active duty continues, after the spouse or dependent is accepted for enrollment in the state educational institution, to satisfy certain resident rate tuition eligibility criteria.



Introduced

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. 1388



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



1 charter school students and the students' parents. As part of the annual
 2 onboarding process and orientation, the virtual charter school must
 3 provide to a parent of a student:

4 (1) the student engagement and attendance requirements or
 5 policies of the virtual charter school; and

6 (2) notice that a person who knowingly or intentionally deprives
 7 a dependent of education commits a violation under IC 35-46-1-4.

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

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

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

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

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

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

37 (1) Operate at a site or for grades other than as specified in the
 38 charter.

39 (2) Charge tuition to any student residing within the school
 40 corporation's geographic boundaries. However, a charter school
 41 may charge tuition for:

42 (A) a preschool program, unless charging tuition for the



- 1 preschool program is barred under federal law; or
 2 (B) a latch key program;
 3 if the charter school provides those programs.
 4 (3) Except **as provided under IC 20-26-19 and except** for a
 5 foreign exchange student who is not a United States citizen, enroll
 6 a student who is not a resident of Indiana.
 7 (4) Be located in a private residence.
 8 (5) Provide solely home based instruction.
 9 (b) A charter school is not prohibited from delivering instructional
 10 services:
 11 (1) through the Internet or another online arrangement; or
 12 (2) in any manner by computer;
 13 if the instructional services are provided to students enrolled in the
 14 charter school in a manner that complies with any procedures adopted
 15 by the department concerning online and computer instruction in public
 16 schools.
 17 SECTION 4. IC 20-25.7-4-9, AS ADDED BY P.L.214-2015,
 18 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 19 JULY 1, 2020]: Sec. 9. (a) Any student who lives in the attendance area
 20 served by a school that is operated as an innovation network school
 21 under this chapter may attend the innovation network school. The
 22 innovation network school may not refuse enrollment to a student who
 23 lives in the attendance area **or a student described in IC 20-26-19-4.**
 24 (b) This subsection applies if the number of applications for a
 25 program, class, grade level, or building exceeds the capacity of the
 26 program, class, grade level, or building. If an innovation network
 27 school receives a greater number of applications than there are spaces
 28 for students, each timely applicant must be given an equal chance of
 29 admission.
 30 SECTION 5. IC 20-26-11-1, AS AMENDED BY P.L.13-2006,
 31 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 32 JULY 1, 2020]: Sec. 1. As used in this chapter with respect to legal
 33 settlement, transfers, and the payment of tuition, the words "residence",
 34 "resides", or other comparable language means a permanent and
 35 principal habitation that an individual uses for a home for a fixed or
 36 indefinite period, at which the individual remains when not called
 37 elsewhere for work, studies, recreation, or other temporary or special
 38 purpose. These terms are not synonymous with legal domicile. Except
 39 as provided in section ~~2(3)~~ **2(a)(3)** of this chapter, where a court order
 40 grants an individual custody of a student, the residence of the student
 41 is where that individual resides.
 42 SECTION 6. IC 20-26-11-2, AS AMENDED BY P.L.13-2006,



1 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
2 JULY 1, 2020]: Sec. 2. **(a) Except as provided in subsection (b)**, the
3 legal settlement of a student is governed by the following provisions:

4 (1) If the student:

5 (A) is less than eighteen (18) years of age; or

6 (B) is at least eighteen (18) years of age but is not
7 emancipated;

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

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

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

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

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

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

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

29 (A) mother;

30 (B) father; or

31 (C) both mother and father;

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

40 (4) If the legal settlement of a student, in a situation to which
41 subdivision (1) otherwise applies, cannot reasonably be
42 determined and the student is being supported by, cared for by,



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

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

27 (6) If the student's parents:

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

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

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

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

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

41 (A) at the election of:

42 (i) the parent;



- 1 (ii) the student, if the student is at least eighteen (18) years
 2 of age; or
 3 (iii) a juvenile court conducting a proceeding under
 4 IC 31-34-20-5, IC 31-34-21-10, IC 31-37-19-26, or
 5 IC 31-37-20-6 (or IC 31-6-4-18.5 before its repeal);
 6 be extended until the end of that semester; or
 7 (B) at the discretion of the school, until the end of that school
 8 year.

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

12 (9) If a juvenile court has:

- 13 (A) made findings of fact concerning the legal settlement of a
 14 student under IC 31-34-20-5, IC 31-34-21-10, IC 31-37-19-26,
 15 or IC 31-37-20-6 (or IC 31-6-4-18.5 before its repeal); and
 16 (B) jurisdiction over the student under IC 31-34 or IC 31-37;
 17 the legal settlement of the student is the attendance area specified
 18 as the legal settlement in the latest findings of fact issued by the
 19 juvenile court.

20 **(b) This subsection applies to a student described in**
 21 **IC 20-26-19-4. A student is considered, from the date that the**
 22 **parent of the student submits the application and documentation**
 23 **required under IC 20-26-19-4(2) until the date that the parent**
 24 **provides proof of residence by the date required under**
 25 **IC 20-26-19-6, to have legal settlement in the attendance area of**
 26 **the school corporation in which the parent:**

- 27 **(1) has submitted the application and documentation required**
 28 **under IC 20-26-19-4(2); and**
 29 **(2) intends to reside.**

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

- 34 (1) parent granted physical custody by a court; or
 35 (2) student, if the student is at least eighteen (18) years of age;
 36 may elect for the student to have legal settlement in the school
 37 corporation whose attendance area contains the residence of the
 38 student's mother or the school corporation whose attendance area
 39 contains the residence of the student's father.

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



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

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

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

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

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

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

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

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

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

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

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

- 39 (1) The parent is transferred to or is pending transfer to a
40 military installation within Indiana while on active duty
41 pursuant to an official military order.
42 (2) The parent submits to the public school:



1 (A) an application, as determined by the public school, for
2 enrollment in the public school; and

3 (B) documentation, as determined by the state board,
4 regarding the transfer or pending transfer.

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

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

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

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

21 (1) A temporary on base billeting facility.

22 (2) A purchased or leased home or apartment.

23 (3) Any federal government housing or off base military
24 housing, including off base military housing that is provided
25 through a public-private venture.

26 (c) If a parent of a student fails to provide proof of residence to
27 a public school in accordance with subsection (a), the public school
28 may expel the student.

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

30 (1) shall adopt rules under IC 4-22-2 regarding the
31 documentation required under section 4(2)(B) of this chapter;
32 and

33 (2) may adopt rules under IC 4-22-2 to otherwise implement
34 this chapter.

35 SECTION 10. IC 21-14-9-0.3 IS ADDED TO THE INDIANA
36 CODE AS A NEW SECTION TO READ AS FOLLOWS
37 [EFFECTIVE JULY 1, 2020]: **Sec. 0.3.** As used in this chapter,
38 "dependent" means a biological child, adopted child, or stepchild
39 of a person described in section 1 of this chapter.

40 SECTION 11. IC 21-14-9-0.5, AS ADDED BY P.L.11-2015,
41 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
42 JULY 1, 2020]: **Sec. 0.5.** As used in this chapter, "qualified course"



1 includes a course prescribed by a state educational institution to obtain
 2 a graduate degree. **means a course prescribed by a state educational**
 3 **institution to obtain an undergraduate degree or graduate degree.**

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

14 **(1) The deadline for enrollment by the spouse or dependent as**
 15 **established by the state educational institution.**

16 **(2) Twelve (12) months after the date that the state**
 17 **educational institution accepts the spouse or dependent for**
 18 **enrollment.**

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

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

31 (1) places a child;

32 (2) changes the placement of a child; or

33 (3) reviews the implementation of a decree under IC 31-34-21 of
 34 a child placed;

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

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

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

41 (2) Apply ~~IC 20-26-11-2(1)~~ **IC 20-26-11-2(a)(1)** through
 42 ~~IC 20-26-11-2(8)~~ **IC 20-26-11-2(a)(8)** to determine where the



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



1 under IC 20-26-11-9 concerning the legal settlement of the child.
2 (e) The juvenile court may place a child in a public school,
3 regardless of whether the public school has a waiting list for
4 admissions, if the court determines that the school's program meets the
5 child's educational needs and the school agrees to the placement. A
6 placement under this subsection does not affect the legal settlement of
7 the child.

