

# SENATE BILL No. 349

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## DIGEST OF INTRODUCED BILL

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

**Synopsis:** Transfer tuition. Provides that a student who is placed in a health care facility by the student's parent or guardian may receive classroom instruction at the facility under certain conditions. Requires the school corporation in which the student has legal settlement to pay transfer tuition to the health care facility. Allows a school corporation to enter into an agreement to pay transfer tuition to a nonprofit corporation that educates children who have been placed in a health care facility.

**Effective:** July 1, 1998.

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January 8, 1998, read first time and referred to Committee on Education.

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Introduced

Second Regular Session 110th General Assembly (1998)

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 1997 General Assembly.

## SENATE BILL No. 349

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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 20-8.1-6.1-1.5 IS ADDED TO THE INDIANA  
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
3 [EFFECTIVE JULY 1, 1998]: **Sec. 1.5. As used in this chapter,**  
4 **"transferee school corporation" includes a state licensed private or**  
5 **public health care facility providing classroom instruction under**  
6 **section 5(d) of this chapter.**

7 SECTION 2. IC 20-8.1-6.1-5, AS AMENDED BY P.L.119-1996,  
8 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
9 JULY 1, 1998]: Sec. 5. (a) A student who is placed in a state licensed  
10 private or public health care facility, child care facility, or foster family  
11 home:

12 (1) by or with the consent of the division of family and children;  
13 (2) by a court order; or  
14 (3) by a child-placing agency licensed by the division of family  
15 and children;  
16 may attend school in the school corporation in which the home or  
17 facility is located. If the school corporation in which the home or

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1 facility is located is not the school corporation in which the student has  
 2 legal settlement, the school corporation in which the student has legal  
 3 settlement shall pay the transfer tuition of the student.

4 (b) A student who is placed in a state licensed private or public  
 5 health care or child care facility by a parent or guardian may attend  
 6 school in the school corporation in which the facility is located if:

7 (1) the placement is necessary for the student's physical or  
 8 emotional health and well-being; and

9 (2) the placement is for no less than four (4) weeks.

10 The school corporation in which the student has legal settlement shall  
 11 pay the transfer tuition of the student. The parent or guardian of the  
 12 student shall notify the school corporation in which the facility is  
 13 located and the school corporation of the student's legal settlement, if  
 14 identifiable, of the placement. No later than thirty (30) days after this  
 15 notice, the school corporation of legal settlement shall either pay the  
 16 transfer tuition of the transferred student or appeal the payment by  
 17 notice to the department of education. The acceptance or notice of  
 18 appeal by the school corporation shall be given by certified mail to the  
 19 parent or guardian of the student and any affected school corporation.  
 20 In the case of a student who is not identified as disabled under  
 21 IC 20-1-6, the Indiana state board of education shall make a  
 22 determination on transfer tuition in accordance with the procedures set  
 23 out in section 10 of this chapter. In the case of a student who has been  
 24 identified as disabled under IC 20-1-6, the determination on transfer  
 25 tuition shall be made in accordance with this subsection and the  
 26 procedures adopted by the Indiana state board of education under  
 27 IC 20-1-6-2.1(a)(5).

28 (c) A student who is placed in:

29 (1) an institution operated by the division of disability, aging, and  
 30 rehabilitative services or the division of mental health; or

31 (2) an institution, a public or private facility, a home, a group  
 32 home, or an alternative family setting by the division of disability,  
 33 aging, and rehabilitative services or the division of mental health;

34 may attend school in the school corporation in which the institution is  
 35 located. The state shall pay the transfer tuition of the student, unless  
 36 another entity is required to pay the transfer tuition as a result of a  
 37 placement described in subsection (a) or (b) or another state is  
 38 obligated to pay the transfer tuition.

39 **(d) A student who is placed in a state licensed private or public**  
 40 **health care facility by the student's parent or guardian may receive**  
 41 **classroom instruction at the facility if:**

42 **(1) teachers who are certified by the Indiana state board of**

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1 education are employed by the facility to provide classroom  
2 instruction to students who are placed at the facility;

3 (2) the facility agrees to provide classroom instruction for the  
4 student; and

5 (3) the placement of the student in the facility is:

6 (A) necessary for the student's physical or emotional  
7 health and well-being;

8 (B) recommended by a physician; and

9 (C) for at least:

10 (i) five (5) days, in the case of a student who is enrolled  
11 in grade 1 through grade 5; or

12 (ii) three (3) days, in the case of a student who is enrolled  
13 in grade 6 through grade 12.

14 The school corporation in which the student has legal settlement  
15 shall pay the transfer tuition of the student under this chapter to  
16 the private or public health care facility. The parent or guardian  
17 of the student shall notify the school corporation in which the  
18 student has legal settlement of the placement. Not later than thirty  
19 (30) days after receiving the notice, the school corporation of legal  
20 settlement shall pay the transfer tuition of the transferred student  
21 or appeal the payment by notice to the department of education.  
22 The acceptance or notice of appeal by the school corporation must  
23 be given by certified mail to the parent or guardian of the student.

24 SECTION 3. IC 20-8.1-6.1-6.1 IS AMENDED TO READ AS  
25 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 6.1. (a) This section  
26 applies only:

27 (1) to children described in subsection (c)(2)(D);

28 (2) after the school corporation has made extensive efforts to  
29 provide a suitable educational program within the school  
30 corporation to the child, **in the case of a child** described in  
31 subsection ~~(c)(2)(D)~~; **(c)(2)(D)(i) through (c)(2)(D)(iii)**; and

32 (3) after the school corporation determines that the child:

33 (A) cannot be served by the school corporation and as a last  
34 resort can be best served by placement with the not-for-profit  
35 corporation, **in the case of a child described in subsection**  
36 **(c)(2)(D)(i) through (c)(2)(D)(iii)**; or

37 (B) will benefit from classroom instruction as described in  
38 section 5(d) of this chapter, **in the case of a child who is**  
39 **placed in a licensed private or public health care facility**  
40 **under section 5(d) of this chapter.**

41 (b) The school corporation shall maintain records concerning the  
42 efforts made by the school corporation to provide the educational

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1 program within the school corporation to ~~the~~ a child as required under  
 2 subsection (a).

3 (c) A school corporation may enter into an agreement with:

4 (1) a not-for-profit corporation that operates a federally approved  
 5 education program; or

6 (2) a not-for-profit corporation that:

7 (A) is exempt from federal income taxation under Section  
 8 501(c)(3) of the Internal Revenue Code;

9 (B) for its classroom instruction, employs teachers who are  
 10 certified by the state board of education;

11 (C) employs other professionally and state licensed staff as  
 12 appropriate; and

13 (D) educates children who:

14 (i) have been suspended, expelled, or excluded from a public  
 15 school in that school corporation and have been found to be  
 16 emotionally disturbed;

17 (ii) have been placed with the not-for-profit corporation by  
 18 court order; ~~or~~

19 (iii) have been referred by a local health department; ~~or~~

20 **(iv) have been placed in a state licensed private or public**  
 21 **health facility care as described in section 5(d) of this**  
 22 **chapter.**

23 in order to provide a student with an individualized education  
 24 program that is the most suitable educational program available.

25 (d) If a school corporation enters into an agreement as described in  
 26 subsection (c), the school corporation shall pay an amount agreed upon  
 27 from the transfer tuition of the student to the not-for-profit corporation.

28 SECTION 4. IC 20-8.1-6.1-7, AS AMENDED BY P.L.119-1996,  
 29 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 30 JULY 1, 1998]: Sec. 7. (a) If a student is transferred under section 2 of  
 31 this chapter from a school corporation in Indiana to a public school  
 32 corporation in another state, the transferor corporation shall pay the  
 33 transferee corporation the full tuition fee charged by the transferee  
 34 corporation. However, the amount of the full tuition fee must not  
 35 exceed the amount charged by the transferor corporation for the same  
 36 class of school, or if the school has no such classification, the amount  
 37 must not exceed the amount charged by the geographically nearest  
 38 school corporation in Indiana which has such classification.

39 (b) If a child is:

40 (1) placed by a court order in an out-of-state institution or other  
 41 facility; and

42 (2) provided all educational programs and services by a public

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1 school corporation in the state where the child is placed, whether  
 2 at the facility, the public school, or another location;  
 3 the county office of family and children for the county placing the child  
 4 shall pay from the county family and children's fund to the public  
 5 school corporation in which the child is enrolled the amount of transfer  
 6 tuition specified in subsection (c).

7 (c) The transfer tuition for which a county office is obligated under  
 8 subsection (b) is equal to the following:

9 (1) The amount under a written agreement among the county  
 10 office, the institution or other facility, and the governing body of  
 11 the public school corporation in the other state that specifies the  
 12 amount and method of computing transfer tuition.

13 (2) The full tuition fee charged by the transferee corporation, if  
 14 subdivision (1) does not apply. However, the amount of the full  
 15 tuition fee must not exceed the amount charged by the transferor  
 16 corporation for the same class of school, or if the school has no  
 17 such classification, the amount must not exceed the amount  
 18 charged by the geographically nearest school corporation in  
 19 Indiana which has such classification.

20 (d) If a child is:

21 (1) placed by a court order in an out-of-state institution or other  
 22 facility; and

23 (2) provided:

24 (A) onsite educational programs and services either through  
 25 the facility's employees or by contract with another person or  
 26 organization that is not a public school corporation; or

27 (B) educational programs and services by a nonpublic school;  
 28 the county office of family and children for the county placing the child  
 29 shall pay from the county family and children's fund in an amount and  
 30 in the manner specified in a written agreement between the county  
 31 office and the institution or other facility.

32 (e) An agreement described in subsection (c) or (d) is subject to the  
 33 approval of the director of the division of family and children.  
 34 However, for purposes of IC 4-13-2, the agreement shall not be treated  
 35 as a contract.

36 **(f) If a child is placed in a state licensed private or public health**  
 37 **care facility by the student's parent or guardian and receives**  
 38 **classroom instruction at the facility under section 5(d) of this**  
 39 **chapter, the department of education shall determine under this**  
 40 **chapter the amount of transfer tuition that the school corporation**  
 41 **in which the student has legal settlement shall pay to the facility.**



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