



March 26, 1999

**ENGROSSED
HOUSE BILL No. 1902**

DIGEST OF HB 1902 (Updated March 24, 1999 3:10 pm - DI 71)

Citations Affected: IC 20-8.1.

Synopsis: Transfer tuition. 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 or child care facility under certain circumstances. Adds provisions allowing a student who is placed in a state licensed private or public health care or child care facility by a parent or guardian to attend school in the school corporation in which the facility is located if the
(Continued next page)

Effective: July 1, 1999.

Porter

(SENATE SPONSOR — WEATHERWAX)

January 26, 1999, read first time and referred to Committee on Education.
February 24, 1999, amended, reported — Do Pass.
March 1, 1999, read second time, amended, ordered engrossed.
March 2, 1999, engrossed.
March 3, 1999, read third time, passed. Yeas 97, nays 0.

SENATE ACTION

March 8, 1999, read first time and referred to Committee on Education.
March 25, 1999, amended, reported favorably — Do Pass.

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EH 1902—LS 7126/DI 73+



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placement is projected to be for at least 14 consecutive days or at least an aggregate of 20 days. (Current law requires the placement to be for at least four weeks.) Provides that placement to a health care facility must be recommended by a physician. Provides that an entity in Indiana other than a parent or guardian that accepts an out of state student for placement is the guarantor for the student's transfer tuition to the Indiana school corporation that the student attends unless there is another guarantor.

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March 26, 1999

First Regular Session 111th General Assembly (1999)

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 1998 General Assembly.

ENGROSSED HOUSE BILL No. 1902

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 20-8.1-6.1-5 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. (a) A student who is
3 placed in a state licensed private or public health care facility, child
4 care facility, or foster family home:
5 (1) by or with the consent of the division of family and children;
6 (2) by a court order; or
7 (3) by a child-placing agency licensed by the division of family
8 and children;
9 may attend school in the school corporation in which the home or
10 facility is located. If the school corporation in which the home or
11 facility is located is not the school corporation in which the student has
12 legal settlement, the school corporation in which the student has legal
13 settlement shall pay the transfer tuition of the student.
14 (b) A student who is placed in a state licensed private or public
15 health care or child care facility by a parent or guardian may attend
16 school in the school corporation in which the facility is located if:

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1 (1) the placement is necessary for the student's physical or
 2 emotional health and well-being **and, if the placement is in a**
 3 **health care facility, is recommended by a physician;** and

4 (2) the placement is **projected to be** for no less than ~~four (4)~~
 5 ~~weeks;~~ **fourteen (14) consecutive calendar days or an**
 6 **aggregate of twenty (20) calendar days.**

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

25 (c) A student who is placed in:

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

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

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

36 SECTION 2. IC 20-8.1-6.1-6.1 IS AMENDED TO READ AS
 37 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 6.1. (a) ~~This section~~
 38 ~~applies only:~~

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

40 ~~(2) after the school corporation has made extensive efforts to~~
 41 ~~provide a suitable educational program within the school~~
 42 ~~corporation to the child described in subsection (c)(2)(D); and~~

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1 (3) after the school corporation determines that the child cannot
 2 be served by the school corporation and as a last resort can be
 3 best served by placement with the not-for-profit corporation:

4 (b) The school corporation shall maintain records concerning the
 5 efforts made by the school corporation to provide the educational
 6 program within the school corporation to the child as required under
 7 subsection (a):

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

9 (1) a ~~not-for-profit~~ **nonprofit** corporation that operates a federally
 10 approved education program; or

11 (2) a ~~not-for-profit~~ **nonprofit** corporation that:

12 (A) is exempt from federal income taxation under Section
 13 501(c)(3) of the Internal Revenue Code;

14 (B) for its classroom instruction, employs teachers who are
 15 certified by the ~~state board of education;~~ **professional**
 16 **standards board;**

17 (C) employs other professionally and state licensed staff as
 18 appropriate; and

19 (D) educates children who:

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

23 (ii) have been placed with the ~~not-for-profit~~ **nonprofit**
 24 corporation by court order; ~~or~~

25 (iii) have been referred by a local health department; **or**

26 (iv) **have been placed in a state licensed private or public**
 27 **health care or child care facility as described in section**
 28 **5(b) of this chapter;**

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

31 (d) (b) If a school corporation **that is a transferee corporation**
 32 enters into an agreement as described in subsection (c); (a), the school
 33 corporation shall pay **to the nonprofit corporation** an amount agreed
 34 upon from the transfer tuition of the student. ~~to the not-for-profit~~
 35 ~~corporation.~~ **The amount agreed upon may not exceed the transfer**
 36 **tuition costs that otherwise would be payable to the transferee**
 37 **corporation.**

38 (c) If a school corporation **that is a transferor corporation**
 39 enters into an agreement as described in subsection (a), the school
 40 corporation shall pay **to the nonprofit corporation** an amount
 41 agreed upon which may not exceed the transfer tuition costs that
 42 otherwise would be payable to a transferee school corporation.



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1 SECTION 3. IC 20-8.1-6.1-13 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. (a) If a student:

3 (1) has legal settlement in the attendance area of a school
 4 corporation in another state, when legal settlement is determined
 5 without regard to the appointment of a guardian in Indiana solely
 6 for the purpose of facilitating the placement of the student in a
 7 facility described in subdivision (2);

8 (2) is placed in a state licensed private or public health care
 9 facility, private or public child care institution, or treatment center
 10 in Indiana by:

11 (A) the parent or guardian of the student; or

12 (B) a governmental entity in another state; and

13 (3) is enrolled in a school corporation in Indiana;

14 the state licensed private or public health care facility, private or public
 15 child care institution, or treatment center where the student is placed,
 16 regardless of when the student is placed, is jointly liable with the
 17 person placing the student for transfer tuition under this chapter.

18 **(b) Notwithstanding subsection (a), a sole proprietorship, a**
 19 **partnership, an association, a corporation, a limited liability**
 20 **company, a fiduciary, an individual who is not the student's parent**
 21 **or guardian, or another entity in Indiana that accepts the**
 22 **placement of a student who:**

23 (1) has legal settlement in the attendance area of a school
 24 corporation in another state; and

25 (2) is enrolled in a school corporation in Indiana;

26 is the guarantor for the student's transfer tuition under this
 27 chapter unless there is another guarantor. The Indiana state board
 28 of education shall hear all appeals under this subsection in
 29 accordance with section 10 of this chapter.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Education, to which was referred House Bill 1902, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, line 35, delete "a" and insert "**the**".

Page 3, line 36, delete "when a school corporation entering into the agreement" and insert "."

Page 3, delete line 37, begin a new paragraph and insert:

"(c) If a school corporation that is a transferor corporation enters into an agreement as described in subsection (a), the school corporation shall pay to the nonprofit corporation an amount agreed upon which may not exceed the transfer tuition costs that otherwise would be payable to a transferee school corporation."

and when so amended that said bill do pass.

(Reference is to HB 1902 as introduced.)

CHENEY, Chair

Committee Vote: yeas 12, nays 0.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1902 be amended to read as follows:

Page 3, after line 41, begin a new paragraph and insert:

"SECTION 3. IC 20-8.1-6.1-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. (a) If a student:

(1) has legal settlement in the attendance area of a school corporation in another state, when legal settlement is determined without regard to the appointment of a guardian in Indiana solely for the purpose of facilitating the placement of the student in a facility described in subdivision (2);

(2) is placed in a state licensed private or public health care facility, private or public child care institution, or treatment center in Indiana by:

(A) the parent or guardian of the student; or

(B) a governmental entity in another state; and

(3) is enrolled in a school corporation in Indiana;

the state licensed private or public health care facility, private or public child care institution, or treatment center where the student is placed, regardless of when the student is placed, is jointly liable with the person placing the student for transfer tuition under this chapter.

(b) Notwithstanding subsection (a), a sole proprietorship, a partnership, an association, a corporation, a limited liability company, a fiduciary, an individual who is not the student's parent, or another entity in Indiana that accepts the placement of a student who:

(1) has legal settlement in the attendance area of a school corporation in another state; and

(2) is enrolled in a school corporation in Indiana;

is liable in full for the student's transfer tuition under this chapter. The Indiana state board of education shall hear all appeals under this subsection in accordance with section 10 of this chapter."

(Reference is to HB 1902 as printed February 25, 1999.)

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COMMITTEE REPORT

Mr. President: The Senate Committee on Education, to which was referred House Bill No. 1902, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 1, after "well-being and" insert "**, if the placement is in a health care facility,**".

Page 2, line 3, delete "by a physician".

Page 4, line 19, after "parent" delete "," and insert "**or guardian,**".

Page 4, line 25, delete "liable in full" and insert "**the guarantor**".

Page 4, line 25, delete "." and insert "**unless there is another guarantor.**".

and when so amended that said bill do pass.

(Reference is to HB 1902 as reprinted March 2, 1999.)

WEATHERWAX, Chairperson

Committee Vote: Yeas 7, Nays 0.

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