

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.

HOUSE ENROLLED ACT No. 1902

AN ACT to amend the Indiana Code concerning education.

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

SECTION 1. IC 20-8.1-6.1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. (a) A student who is placed in a state licensed private or public health care facility, child care facility, or foster family home:

- (1) by or with the consent of the division of family and children;
- (2) by a court order; or
- (3) by a child-placing agency licensed by the division of family and children;

may attend school in the school corporation in which the home or facility is located. If the school corporation in which the home or facility is located is not the school corporation in which the student has legal settlement, the school corporation in which the student has legal settlement shall pay the transfer tuition of the student.

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

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

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

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

(c) A student who is placed in:

(1) an institution operated by the division of disability, aging, and rehabilitative services or the division of mental health; or
 (2) an institution, a public or private facility, a home, a group home, or an alternative family setting by the division of disability, aging, and rehabilitative services or the division of mental health;
 may attend school in the school corporation in which the institution is located. The state shall pay the transfer tuition of the student, unless another entity is required to pay the transfer tuition as a result of a placement described in subsection (a) or (b) or another state is obligated to pay the transfer tuition.

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

(1) ~~to children described in subsection (c)(2)(D);~~
 (2) ~~after the school corporation has made extensive efforts to provide a suitable educational program within the school corporation to the child described in subsection (c)(2)(D); and~~
 (3) ~~after the school corporation determines that the child cannot be served by the school corporation and as a last resort can be best served by placement with the not-for-profit corporation:~~

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

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

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

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

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

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

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

(D) educates children who:

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

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

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

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

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

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

(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.**

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

(1) has legal settlement in the attendance area of a school

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

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