

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
89th General Assembly
Regular Session, 2013

As Engrossed: S3/21/13
A Bill

SENATE BILL 809

By: Senator A. Clark

For An Act To Be Entitled

AN ACT CONCERNING PUBLIC SCHOOL STUDENT TRANSFERS; TO
DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

CONCERNING PUBLIC SCHOOL STUDENT
TRANSFERS; AND TO DECLARE AN EMERGENCY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 6-18-206 is repealed.

~~*6-18-206. Public school choice.*~~

~~*(a)(1) This section may be referred to and cited as the "Arkansas Public School Choice Act of 1989".*~~

~~*(2) The General Assembly finds that the students in Arkansas's public schools and their parents will become more informed about and involved in the public educational system if students and their parents or guardians are provided greater freedom to determine the most effective school for meeting their individual educational needs. There is no right school for every student, and permitting students to choose from among different schools with differing assets will increase the likelihood that some marginal students will stay in school and that other, more motivated students will find their full academic potential.*~~

~~*(3) The General Assembly further finds that giving more options to parents and students with respect to where the students attend public school will increase the responsiveness and effectiveness of the state's schools since teachers, administrators, and school board members will have added incentive to satisfy the educational needs of the students who reside*~~



~~in the district.~~

~~(4) The General Assembly therefore finds that these benefits of enhanced quality and effectiveness in our public schools justify permitting a student to apply for admission to a school in any district beyond the one in which the student resides, provided that the transfer by this student would not adversely affect the desegregation of either district.~~

~~(5) A public school choice program is hereby established to enable any student to attend a school in a district in which the student does not reside, subject to the restrictions contained in this section.~~

~~(b)(1)(A) Before a student may attend a school in a nonresident district, the student's parent or guardian must submit an application on a form approved by the Department of Education to the nonresident district by submitting the application to the superintendent of the school district. This application must be postmarked not later than July 1 of the year in which the student would begin the fall semester at the nonresident district.~~

~~(B)(i) Within thirty (30) days of the receipt of an application from a nonresident student seeking admission under the terms of this section, the superintendent of the nonresident district shall notify the parent or guardian and the resident district in writing as to whether the student's application has been accepted or rejected.~~

~~(ii) If the application is rejected, the superintendent of the nonresident district must state in the notification letter the reason for rejection.~~

~~(iii) If the application is accepted, the superintendent of the nonresident district shall state in the notification letter:~~

~~(a) An absolute deadline for the student to enroll in the district, or the acceptance notification is null; and~~

~~(b) Any instructions for the renewal procedures established by the district.~~

~~(iv)(a) Any student who accepts a school choice transfer may return to his or her resident district during the course of the school year.~~

~~(b) If a transferred student returns to his or her resident district during the school year, the student's transfer is voided, and the student shall reapply for any future transfer.~~

~~(2)(A) The school board of directors of every public school district must adopt by resolution specific standards for acceptance and rejection of applications. Standards may include the capacity of a program, class, grade level, or school building. Nothing in this section requires a school district to add teachers, staff, or classrooms or in any way to exceed the requirements and standards established by existing law. Standards shall include a statement that priority will be given to applications from siblings or stepsiblings residing in the same residence or household of students already attending the district by choice. Standards may not include an applicant's previous academic achievement, athletic or other extracurricular ability, handicapping conditions, English proficiency level, or previous disciplinary proceedings except that an expulsion from another district may be included pursuant to § 6-18-510.~~

~~(B)(i) Any student who applies for a transfer under this section and is denied a transfer by the nonresident district may request a hearing before the State Board of Education to reconsider the transfer.~~

~~(ii) A request for a hearing before the state board shall be in writing and shall be postmarked no later than ten (10) days after notice of rejection of the application under subdivision (b)(1)(B) of this section is received by the student.~~

~~(3) Each school district shall participate in public school choice consistent with this section.~~

~~(c) The responsibility for transportation of a student from the student's resident school district to a nonresident school district shall be borne by the student or the student's parents. The nonresident school district may enter into a written agreement with the student, the student's parents, or the resident school district to provide transportation to or from any place in the resident district to the nonresident district, or both.~~

~~(d)(1) A nonresident district shall accept credits toward graduation that were awarded by another district.~~

~~(2) The nonresident district shall award a diploma to a nonresident student if the student meets the nonresident district's graduation requirements.~~

~~(e) For purposes of determining a school district's state equalization aid, the nonresident student shall be counted as a part of the average daily membership of the district to which the student has transferred.~~

~~(f) The provisions of this section and all student choice options created in this section are subject to the following limitations:~~

~~(1) No student may transfer to a nonresident district where the percentage of enrollment for the student's race exceeds that percentage in the student's resident district except in the circumstances set forth in subdivisions (f)(2) and (3) of this section;~~

~~(2)(A) A transfer to a district is exempt from the restriction set forth in subdivision (f)(1) of this section if the transfer is between two (2) districts within a county and if the minority percentage in the student's race and majority percentages of school enrollment in both the resident and nonresident district remain within an acceptable range of the county's overall minority percentage in the student's race and majority percentages of school population as set forth by the department.~~

~~(B)(i) By the filing deadline each year, the department shall compute the minority percentage in the student's race and majority percentages of each county's public school population from the October Annual School Report and shall then compute the acceptable range of variance from those percentages for school districts within each county.~~

~~(ii)(a) In establishing the acceptable range of variance, the department is directed to use the remedial guideline established in Little Rock School District v. Pulaski County Special School District of allowing an overrepresentation or underrepresentation of black or white students of one fourth ($\frac{1}{4}$) or twenty five percent (25%) of the county's racial balance.~~

~~(b) In establishing the acceptable range of variance for school choice, the department is directed to use the remedial guideline of allowing an overrepresentation or underrepresentation of minority or majority students of one fourth ($\frac{1}{4}$) or twenty five percent (25%) of the county's racial balance;~~

~~(3) A transfer is exempt from the restriction set forth in subdivision (f)(1) of this section if each school district affected by the transfer does not have a critical mass of minority percentage in the student's race of more than ten percent (10%) of any single race;~~

~~(4) In any instance in which the provisions of this subsection would result in a conflict with a desegregation court order or a district's court approved desegregation plan, the terms of the order or plan shall~~

~~govern;~~

~~(5) The department shall adopt appropriate rules and regulations to implement the provisions of this section; and~~

~~(6) The department shall monitor school districts for compliance with this section.~~

~~(g) The state board shall be authorized to resolve disputes arising under subsections (b)–(f) of this section.~~

~~(h) The superintendent of the district shall cause public announcements to be made over the broadcast media and in the print media at such times and in such a manner as to inform parents or guardians of students in adjoining districts of the availability of the program, the application deadline, and the requirements and procedure for nonresident students to participate in the program.~~

~~(i)(1) All superintendents of school districts shall report to the Equity Assistance Center on an annual basis the race, gender, and other pertinent information needed to properly monitor compliance with the provisions of this section.~~

~~(2) The reports may be on those forms that are prescribed by the department, or the data may be submitted electronically by the district using a format authorized by the department.~~

~~(3) The department may withhold state aid from any school district that fails to file its report each year or fails to file any other information with a published deadline requested from school districts by the Equity Assistance Center so long as thirty (30) calendar days are given between the request for the information and the published deadline except when the request comes from a member or committee of the General Assembly.~~

~~(4) A copy of the report shall be provided to the Joint Interim Oversight Committee on Educational Reform.~~

~~(j)(1) The department shall develop a proposed set of rules as it determines is necessary or desirable to amend the provisions of this section.~~

~~(2) The department shall present the proposed rules in written form to the House Interim Committee on Education and the Senate Interim Committee on Education by October 1, 2006, for review and consideration by the committees for possible amendments to this section and to the Arkansas Public School Choice Program by the Eighty-sixth General Assembly.~~

SECTION 2. Arkansas Code Title 6, Chapter 18, Subchapter 2, is amended to add an additional section to read as follows:

6-18-231. Public school choice.

(a) This section shall be known and may be cited as the "Public School Choice Act of 2013".

(b) The General Assembly finds that:

(1) The students in Arkansas's public schools and their parents will become more informed about and involved in the public educational system if students and their parents or guardians are provided greater freedom to determine the most effective school for meeting their individual educational needs. There is no right school for every student, and permitting students to choose from among different schools with differing assets will increase the likelihood that some at-risk students will stay in school and that other, more motivated students will find their full academic potential;

(2) Giving more options to parents and students with respect to where the students attend public school will increase the responsiveness and effectiveness of the state's schools because teachers, administrators, and school board members will have added incentive to satisfy the educational needs of the students who reside in the district; and

(3) These benefits of enhanced quality and effectiveness in our public schools justify permitting a student to apply for admission to a school in any school district beyond the one in which the student resides, provided that the transfer by the student does not conflict with an enforceable judicial decree or court order remedying the effects of past racial segregation in the school district.

(c) A public school choice program is hereby established to enable any student to attend a school in a district in which the student does not reside, subject to the restrictions contained in this section.

(d)(1)(A) If a student seeks to attend a school in a nonresident district, the student's parent or guardian shall submit an application on a form approved by the Department of Education to the superintendent of the nonresident school district not later than July 1 of the year in which the student seeks to begin the fall semester at the nonresident district.

(B)(i) Within thirty (30) days of the receipt of an application from a nonresident student seeking admission under this section, the superintendent of the nonresident district shall notify the parent or

guardian and the resident district in writing as to whether the student's application has been accepted or rejected.

(ii) If the application is rejected, the superintendent of the nonresident district shall state in the notification letter the reason for rejection.

(iii) If the application is accepted, the superintendent of the nonresident district shall state in the notification letter:

(a) A deadline for the student to enroll in the district, after which the acceptance notification is null; and

(b) Instructions for the renewal procedures established by the district.

(iv)(a) A student may accept only one (1) school choice transfer per school year.

(b) If a transferred student seeks to return to his or her resident district, the student shall not return to the resident school district until the next school year.

(c) If a transferred student returns to his or her resident district, the student's transfer is voided, and the student shall reapply if seeking a future school choice transfer

(2)(A)(i) The board of directors of a public school district shall adopt by resolution specific standards for acceptance and rejection of applications. Standards may include the capacity of a program, class, grade level, or school building.

(ii) This section does not require a school district to add teachers, staff, or classrooms or to exceed the requirements and standards established by existing law.

(iii) Standards shall include a statement that priority will be given to applications from siblings or stepsiblings residing in the same household of students already attending the district by choice.

(iv) Standards may not include an applicant's previous academic achievement, athletic or other extracurricular ability, disability, English proficiency level, or previous disciplinary proceedings except that an expulsion from another district may be included under § 6-18-510.

(v) A school district receiving transfers under this

act shall not discriminate on the basis of gender, national origin, race, ethnicity, religion, disability, or academic or athletic eligibility.

(B)(i) A student who is denied a transfer under this section by the nonresident district may request a hearing before the State Board of Education to reconsider the transfer.

(ii) A request for a hearing before the state board shall be in writing and shall be postmarked no later than ten (10) days after the student receives a notice of rejection under subdivision (d)(1)(B) of this section is received by the student.

(3) A school district shall participate in public school choice under this section.

(e)(1) Transportation of a student from the student's resident school district to a nonresident school district is the responsibility of the student.

(2) The nonresident school district may enter into a written agreement with the student, the student's parents, or the resident school district to provide transportation to or from any place in the resident district to the nonresident district.

(f)(1) A nonresident district shall accept credits toward graduation that were awarded by the resident district or another district.

(2) The nonresident district shall award a diploma to a nonresident student if the student meets the nonresident district's graduation requirements.

(g) For purposes of determining a school district's state foundation funding aid, the nonresident student shall be counted as a part of the average daily membership of the district to which the student has transferred.

(h) The state board may resolve disputes arising under subsections (d) and (e) of this section.

(i) A school district shall make public announcements over the broadcast media and in the print media to inform parents or guardians of students in adjoining districts of the availability of the program, the application deadline, and the requirements and procedure for nonresident students to participate in the program.

(j) If this section results in a conflict with an enforceable judicial decree or court order remedying the effects of past racial segregation, the

enforceable judicial decree or court order shall govern.

(k)(1) The transfer of a student under the Arkansas Public School Choice Act of 1989, § 6-18-206 [repealed], is not voided by this section and shall be treated as a transfer under this section.

(2)(A) A student who transferred to a nonresident district under prior law may continue to attend school in the nonresident district until the student completes his or her secondary education, subject to:

(i) School district policies concerning renewal of a transfer; and

(ii) Provisions of law concerning attendance and enrollment.

(B) A present or future sibling of a student who continues enrollment in the nonresident district under this section may enroll in or continue enrollment in the nonresident district until the sibling completes his or her secondary education, if the district has the capacity to accept the sibling without adding teachers, staff, or classrooms, or exceed the regulations and standards established in law.

(1)(1) Annually, a school district may determine the net gain or loss of students from transfers under this section.

(2)(A) If a resident district determines that in one (1) school year a loss of two percent (2%) or more occurs as the result of student transfers under this section, the resident district may limit the number of transfers in that school year by:

(i) Notifying the nonresident district that it is limiting the transfer of students out of the district; and

(ii) Limiting the transfers by either:

(a) Setting the priority for order of transfers by written school district policies; or

(b) If no written policy exists, allowing transfers in the order the requests are submitted until the limit is reached.

(B) If a student is unable to transfer due to the limits under this subdivision (1)(2), the student shall be given priority for a transfer in the following year.

(m)(1) A school district may suspend its school choice program if:

(A) The school district has a minority population of twenty percent (20%) or more of what would have been the school district's

total student population at the beginning of the immediately preceding school year plus the number of students who:

(i) Transferred before the immediately preceding school year; and

(ii) Were enrolled in a nonresident district at the beginning of the immediately preceding school year;

(B) The minority percentage of the total student population changed by five percent (5%) or more as a result of school choice transfers in that year; and

(C)(i) A majority of the school district board of directors approves the suspension.

(ii) By June 1, the school district shall provide the Department of Education with a certified copy of the written resolution of the school district board of directors authorizing the suspension.

(2) The suspension of the program shall not affect the transfer of a student who has already transferred to a nonresident district.

(3) A school choice program suspended under this subsection will resume in the school year immediately following a school year in which the minority percentage of the school district is within five percent (5%) of what the total student population would have been for that year if there had been no school choice transfers out of the district.

(n) If a public school loses more than three percent (3%) of its total student population due to school choice transfers under this section in one (1) school year, the school district where the public school is located shall develop and provide to the department a plan for attracting students into the school district by programs such as magnet schools, agricultural programs, or other special programs.

(o) The department shall emphasize school choice as a method of improving education in Arkansas by:

(1) Providing technical assistance and training to a school that is developing a plan under subsection (n) of this section; and

(2) Providing guidance to a public school on using improved educational opportunities to:

(A) Retain and attract students to the school, generally or for a specific population;

(B) Improve student achievement; and

(C) Enhance the overall educational experience for public school students in Arkansas.

(p) The state board may promulgate rules to implement this section.

SECTION 3 EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that certain provisions of the Arkansas Public School Choice Act of 1989, § 6-18-206, have been found to be unconstitutional by a federal court; that thousands of public school students are currently attending public schools in nonresident school districts under that law; that there is now uncertainty about the viability of those transfers and future transfers; that this act repeals the disputed provisions of that law while preserving the opportunity for public school choice; and that this act is immediately necessary to resolve the uncertainty in the law before the 2013-2014 school year and preserve existing student transfers. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.

/s/A. Clark