

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

State of Arkansas  
90th General Assembly  
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As Engrossed: S2/9/15 S2/17/15  
**A Bill**

SENATE BILL 179

By: Senators A. Clark, *J. English, G. Stubblefield*

By: Representatives Cozart, Gates, *Baltz, Bell, Deffenbaugh, C. Douglas, Gossage, G. Hodges, Lowery, Ratliff*

### **For An Act To Be Entitled**

AN ACT TO REQUIRE A SCHOOL DISTRICT SUBJECT TO A DESEGREGATION ORDER TO NOTIFY THE DEPARTMENT OF EDUCATION AND TO PROVIDE A COPY OF THE DESEGREGATION ORDER; TO AMEND THE PUBLIC SCHOOL CHOICE ACT OF 2013; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

### **Subtitle**

TO REQUIRE A SCHOOL DISTRICT SUBJECT TO A DESEGREGATION ORDER TO NOTIFY THE DEPARTMENT OF EDUCATION AND TO PROVIDE A COPY OF THE DESEGREGATION ORDER; TO AMEND THE PUBLIC SCHOOL CHOICE ACT OF 2013; AND TO DECLARE AN EMERGENCY.

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

SECTION 1. Arkansas Code Title 6, Chapter 13, Subchapter 1, is amended to add an additional section to read as follows:

6-13-113. School district desegregation orders – Orders.

(a) By January 1, 2016, a school district that is subject to a desegregation order or desegregation-related order shall notify the Department of Education in writing.

(b) A school district that is subject to a desegregation order or a desegregation-related order shall include in the written notice to the department:



- (1) A copy of the desegregation order or desegregation-related order;
  - (2) The case heading and case number of each court case in which the order was entered;
  - (3) The name and location of each court that maintains jurisdiction over the order; and
  - (4) A description of the school choice student transfer desegregation obligations, if any, that the school district is subject to, related to the order.
- (c) A school district that is released from court supervision related to a desegregation order or desegregation-related order shall promptly notify the department.
- (d) A school district that fails to meet the requirements of this section is in violation of the Standards for Accreditation of Arkansas Public Schools and School Districts.
- (e) The department shall post on the department's website all written notifications received as required by this section.

SECTION 2. Arkansas Code § 6-18-1901(a), concerning the Public School Choice Act of 2013, is amended to read as follows:

(a) This subchapter shall be known and may be cited as the "Public School Choice Act of ~~2013~~ 2015".

SECTION 3. Arkansas Code § 6-18-1902(4), concerning the definition of transfer student, is amended to read as follows:

(4) "Transfer student" means a public school student in kindergarten through grade twelve (12) who transfers to a nonresident district through a public school choice option under this subchapter.

SECTION 4. Arkansas Code § 6-18-1903(a)-(d), concerning the public school choice program, are amended to read as follows:

(a) A public school choice program is established to enable a student in kindergarten through grade twelve (12) to attend a school in a nonresident district, subject to the limitations under § 6-18-1906.

(b) Each school district shall participate in a public school choice program consistent with this subchapter.

(c) This subchapter does not require a school district to add teachers, staff, or classrooms or in any way to exceed the requirements and standards established by existing law.

(d)(1) The board of directors of a public school district shall adopt by resolution specific standards for acceptance and rejection of applications under this subchapter.

(2) The standards:

(A) May include without limitation the capacity of a program, class, grade level, or school building;

(B) May include a claim of a lack of capacity by a school district only if the school district has reached at least ninety percent (90%) of the maximum authorized student population in a program, class, grade level, or school building;

(C) Shall include a statement that priority will be given to an applicant who has a sibling or stepsibling who:

(i) Resides in the same household; and

(ii) Is already enrolled in the nonresident district by choice; and

~~(C)~~ (D) Shall not include an applicant's:

(i) Academic achievement;

(ii) Athletic or other extracurricular ability;

(iii) English proficiency level; or

(iv) Previous disciplinary proceedings, except that an expulsion from another district may be included under § 6-18-510.

(3) A school district receiving transfers under this subchapter shall not discriminate on the basis of gender, national origin, race, ethnicity, religion, or disability.

SECTION 5. Arkansas Code § 6-18-1904(a)-(c), concerning general provisions, are amended to read as follows:

(a) The transfer of a student under the Arkansas Public School Choice Act of 1989, § 6-18-206 [repealed], or the Public School Choice Act of 2013, is not voided by this subchapter and shall be treated as a transfer under this subchapter.

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

(2)(A) A student who accepts a public school choice transfer may return to his or her resident district during the school year.

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

(c)(1) A transfer student attending a nonresident school under this subchapter may complete all remaining school years at the nonresident district.

(2) A present or future sibling of a student who continues enrollment in the nonresident district under this subsection and applies for a school choice transfer under § 6-18-1905 may enroll in ~~or continue enrollment in~~ the nonresident district ~~until the sibling of the transfer student completes his or her secondary education~~, if the district has the capacity to accept the sibling without adding teachers, staff, or classrooms or exceeding the regulations and standards established by law.

(3) A present or future sibling of a student who continues enrollment in the nonresident district and who enrolls in the nonresident district under subdivision (c)(2) of this section may complete all remaining school years at the nonresident district.

SECTION 6. Arkansas Code §§ 6-18-1905 and 6-18-1906 are amended to read as follows:

6-18-1905. Application for a transfer.

(a) If a student seeks to attend a school in a nonresident district, the student's parent shall submit an application:

(1) To the nonresident district ~~with a copy to~~ ,which shall notify the resident district of the filing of the application;

(2) On a form approved by the Department of Education; and

(3) Postmarked no later than ~~June~~ May 1 of the year in which the student seeks to begin the fall semester at the nonresident district.

(b) A nonresident district that receives an application under subsection (a) of this section shall, upon receipt of the application, place a date and time stamp on the application that reflects the date and time the nonresident district received the application.

(c) A nonresident district shall review and make a determination on each application in the order in which the application was received by the

nonresident district.

(d) Before accepting or rejecting an application, a nonresident district shall determine whether one of the limitations under § 6-18-1906 applies to the application.

~~(e)(1) By August~~ July 1 of the school year in which the student seeks to enroll in a nonresident district under this subchapter, the superintendent of the nonresident district shall notify the parent and the resident district in writing as to whether the student's application has been accepted or rejected.

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

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

~~(A) A~~ a reasonable deadline by which the student shall enroll in the nonresident district and after which the acceptance notification is null; ~~and~~

~~(B) Instructions for the renewal procedures established by the nonresident district.~~

6-18-1906. Limitations.

(a)(1) If the provisions of this subchapter conflict with a provision of an enforceable desegregation court order or a district's court-approved desegregation plan regarding the effects of past racial segregation in student assignment, the provisions of the order or plan shall govern.

(2) If a school district claims a conflict under subdivision (a)(1) of this section, the school district shall immediately submit proof from a federal court to the Department of Education that the school district has a genuine conflict under an active desegregation order or active court-approved desegregation plan with the interdistrict school choice provisions of this subchapter.

~~(1) A school district annually may declare an exemption under this section if the school district is subject to the desegregation order or mandate of a federal court or agency remedying the effects of past racial segregation.~~

~~(2)(A) An exemption declared by a board of directors under this~~

~~subsection is irrevocable for one (1) year from the date the school district notifies the Department of Education of the declaration of exemption.~~

~~(B) After each year of exemption, the board of directors may elect to participate in public school choice under this section if the school district's participation does not conflict with the school district's federal court ordered desegregation program.~~

~~(3) A school district shall notify the department by April 1 if in the next school year the school district intends to:~~

~~(A) Declare an exemption under this section; or~~

~~(B) Resume participation after a period of exemption.~~

~~(e)(1)(A)~~ (b)(1)(A) There is established a numerical net maximum limit on school choice transfers each school year from a school district, less any school choice transfers into the school district, under this section of not more than three percent (3%) of the ~~school district's three-quarter average daily membership for the~~ enrollment that exists in the school district as of October 15 of the immediately preceding school year.

(B) For the purpose of determining the percentage of school choice transfers under this subsection, siblings who are counted in the numerator as transfer students shall count as one (1) student, ~~and siblings who are counted in the denominator as part of the average daily membership shall count as one (1) student.~~

(C) A student eligible to transfer to a nonresident district under § 6-15-430(c)(1), § 6-18-227, or § 6-21-812 shall not count against the cap of three percent (3%) of the resident or nonresident district.

(2) Annually by ~~June 1~~ December 15, the department shall report to each school district the net maximum number of school choice transfers for the ~~current~~ next school year.

(3) If a student is unable to transfer due to the limits under this subsection, the resident district shall give the student priority for a transfer in the ~~following~~ first school year in which the district is no longer subject to subdivision § (b)(1) of this section in the order that the resident district receives notices of applications under § 6-18-1905, as evidenced by a notation made by the district on the applications indicating date and time of receipt.

SECTION 7. Arkansas Code § 6-18-1908 is amended to read as follows:  
6-18-1908. Effective date.

The provisions of this subchapter ~~shall remain in effect until July 1, 2015~~ are effective immediately.

SECTION 8. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that public school choice is effective in meeting the needs of students; that the current school choice provisions are about to expire; and that this act is immediately necessary to ensure that students have public school choice options for the 2015-2016 school year. 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*