

18A:38-1

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NJSA: 18A: 38-1 et al

(District of
residence--students)

LAWS OF: 1989

CHAPTER: 290

Bill No: S2352

Sponsor(s): Pallone

Date Introduced: March 28, 1988

Committee: Assembly: -----

Senate: Education

Amended during passage: Yes Amendments during passage
denoted by asterisks.

Date of Passage: Assembly: ~~March~~ January 4, 1990

Senate: December 8, 1988

Date of Approval: January 12, 1990

Following statements are attached if available:

Sponsor statement: Yes

Committee Statement: Assembly: No
Senate: Yes

Fiscal Note: No

Veto Message: No

Message on signing: No

Following were printed:

Reports: No

Hearings: No

KBG/SLJ

P.L.1989, CHAPTER 290, approved January 12, 1990
1988 Senate No. 2352 (Second Reprint)

1 AN ACT concerning the district of residence for certain
2 students ¹, amending P.L.1979, c.207 and N.J.S.18A:38-1¹ and
3 supplementing chapter 38 of Title 18A of the New Jersey
4 Statutes.

5
6 BE IT ENACTED by the Senate and General Assembly of the
7 State of New Jersey:

8 ¹[1. a. Notwithstanding the provisions of subsection d. of
9 N.J.S.18A:38-1, any person over five and under 20 years of age
10 whose parent or guardian moves from one school district to a
11 another school district due to temporary dislocation resulting
12 from an emergency situation shall continue to be considered
13 domiciled in the school district from which the parent or guardian
14 moved. As used in this subsection, a move is temporary if it is
15 intended that the parent or guardian will reside in the dwelling
16 for a period not to not to exceed 11 months.

17 b. Any student residing in one school district and attending
18 school in a another school district pursuant to the provisions of
19 subsection a. of this section shall be entitled to transportation to
20 and from the school. The transportation shall be provided at no
21 cost to the student or his parent or guardian by the school district
22 which the child is attending and the district shall receive from
23 the State 100% reimbursement of this transportation cost during
24 the school year in which the cost is incurred.]¹

25 ¹i. Section 19 of P.L.1979, c.207 (C.18A:7B-12) is amended to
26 read as follows:

27 19. For school funding purposes, the Commissioner of
28 Education shall determine district of residence as follows:

29 a. The district of residence for children in foster homes shall
30 be the district in which the foster parents reside. If a child in a
31 foster home is subsequently placed in a State facility or by a
32 State agency, the district of residence of the child shall then be
33 determined as if no such foster placement had occurred.

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in the
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SED committee amendments adopted October 20, 1988.

² Assembly floor amendments adopted December 15, 1988.

1 **b. The district of residence for children who are in residential**
2 **State facilities, or who have been placed by State agencies in**
3 **group homes, private schools or out-of-state facilities, shall be**
4 **the present district of residence of the parent or guardian with**
5 **whom the child lived prior to his most recent admission to a State**
6 **facility or most recent placement by a State agency.**

7 **If this cannot be determined, the district of residence shall be**
8 **the district in which the child resided prior to such admission or**
9 **placement.**

10 **c. The district of residence for children whose parent or**
11 **guardian temporarily move from one school district to another as**
12 **the result of being homeless shall be the district in which the**
13 **parent or guardian last resided prior to becoming homeless. For**
14 **the purpose of this amendatory and supplementary act,**
15 **"homeless" shall mean an individual who temporarily lacks a**
16 **fixed, regular and adequate residence.**

17 **[c.] d. If the district of residence cannot be determined**
18 **according to the criteria contained herein, or if the criteria**
19 **contained herein identify a district of residence outside of the**
20 **State, the State shall assume fiscal responsibility for the tuition**
21 **of the child. The tuition shall equal the State average net**
22 **current expense budget per pupil plus the appropriate categorical**
23 **program support, if any. This amount shall be appropriated in the**
24 **same manner as other State aid under this act. The Department**
25 **of Education shall pay the amount to the Department of Human**
26 **Services or the Department of Corrections or, in the case of a**
27 **homeless child, to the school district in which the child is**
28 **enrolled¹.**

29 **(cf: P.L.1985, c.244, s.1)**

30 ¹2. N.J.S.18A:38-1 is amended to read as follows:

31 **18A:38-1. Public schools shall be free to the following persons**
32 **over five and under 20 years of age:**

33 **(a) Any person who is domiciled within the school district;**

34 **(b) Any person who is kept in the home of another person**
35 **domiciled within the school district and is supported by such**
36 **other person gratis as if he were such other person's own child,**
37 **upon filing by such other person with the secretary of the board**
38 **of education of the district, if so required by the board, a sworn**
39 **statement that he is domiciled within the district and is**

1 supporting the child gratis and will assume all personal
2 obligations for the child relative to school requirements and that
3 he intends so to keep and support the child gratuitously for a
4 longer time than merely through the school term, and a copy of
5 his lease if a tenant, or a sworn statement by his landlord
6 acknowledging his tenancy if residing as a tenant without a
7 written lease, and upon filing by the child's parent or guardian
8 with the secretary of the board of education a sworn statement
9 that he is not supporting the child, accompanied by
10 documentation to support the validity of the sworn statements,
11 information from or about which shall be supplied only to the
12 board and only to the extent that it directly pertains to the
13 support or nonsupport of the child; provided, however, that the
14 board of education may contest the validity of the sworn
15 statement in proceedings before the commissioner, except that
16 no child shall be denied admission during the pendency of any
17 such proceedings before the commissioner, and the resident shall
18 have the burden of proving by a preponderance of the evidence
19 before the commissioner that the child is eligible for a free
20 education under the criteria listed in this subsection. If in the
21 judgment of the commissioner this evidence does not support the
22 claim of the resident, he may assess the resident tuition for the
23 student prorated to the time of the board's request for a sworn
24 statement from the resident. Tuition shall be computed on the
25 basis of 1/180 of the total annual per pupil cost to the local
26 district multiplied by the number of days of ineligible attendance;

27 (c) Any person who fraudulently allows a child of another
28 person to use his residence and is not the primary financial
29 supporter of that child and any person who fraudulently claims to
30 have given up custody of his child to a person in another district
31 commits a disorderly persons offense;

32 (d) Any person whose parent or guardian, even though not
33 domiciled within the district, is residing temporarily therein, but
34 any person who has had or shall have his all-year-round dwelling
35 place within the district for one year or longer shall be deemed to
36 be domiciled within the district for the purposes of this section;

37 (e) Any person for whom the Division of Youth and Family
38 Services in the Department of Human Services is acting as
39 guardian and who is placed in the district by said bureau;

1 (f) Any person whose parent or guardian moves from one
2 school district to another school district as a result of being
3 homeless and whose district of residence is determined pursuant
4 to section 19 of P.L.1979, c.207 (C.18A:7B-12).¹

5 (cf: P.L.1985, c.6, s.1)

6 13. (New section) The district of residence for a homeless
7 child determined pursuant to section 19 of P.L.1979, c.207
8 (C.18A:7B-12) shall be responsible for the education of the
9 homeless child. The district of residence shall determine the
10 educational placement of the child after consulting with the
11 parent or guardian. This determination shall ²[either]² be ²: a.²
12 to continue the ²[student's] child's² education in the school
13 district of ²last attendance, b. to enroll the child in the district
14 of² residence ²if the district of residence is not the district of
15 last attendance,² or ²c.² to enroll the ²[student] child² in the
16 school district where the child is temporarily living, whichever is
17 in the child's best interest. If the parent or guardian objects to
18 the determination made by the district of residence, the county
19 superintendent of schools shall be notified and within 48 hours
20 shall determine the placement of the child based on criteria
21 established by the State Board of Education. Any appeals
22 regarding the determination shall be resolved according to rules
23 established by the State Board of Education.

24 When the homeless child attends school in ²[the district where
25 temporarily living] a district other than the district of
26 residence², the district of residence shall pay the costs of tuition
27 for the child to attend school in that district and shall pay for any
28 transportation costs incurred by ²[the] that² district ²[in which
29 the child is temporarily residing]². When the homeless child
30 attends school in the district of residence while temporarily
31 residing in another district, the district of residence shall provide
32 for transportation to and from school pursuant to the provisions
33 of N.J.S.18A:58-7.¹

34 ¹[2.]¹ 4. Subject to the "Administrative Procedure Act,"
35 P.L.1968, c.410 (C.52:14B-1 et seq.), the State Board of
36 Education shall adopt rules and regulations necessary to
37 effectuate the purposes of this act.

38 ¹[3.]¹ 5. This act shall take effect July 1 next following
39 enactment.

S2352 [2R]

5

1

EDUCATION

Children

3

Modifies the school district of residence for certain children

5

residing in temporary housing.

SENATE, No. 2352
STATE OF NEW JERSEY

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INTRODUCED MARCH 28, 1988

By Senator PALLONE

1 AN ACT concerning the district of residence for certain students
and supplementing chapter 38 of Title 18A of the New Jersey
3 Statutes.

5 BE IT ENACTED *by the Senate and General Assembly of the*
State of New Jersey:

7 1. a. Notwithstanding the provisions of subsection d. of N.J.S.
18A:38-1, any person over five and under 20 years of age whose
9 parent or guardian moves from one school district to a another
school district due to temporary dislocation resulting from an
11 emergency situation shall continue to be considered domiciled in
the school district from which the parent or guardian moved. As
13 used in this subsection, a move is temporary if it is intended that
the parent or guardian will reside in the dwelling for a period not
15 to not to exceed 11 months.

b. Any student residing in one school district and attending
17 school in a another school district pursuant to the provisions of
subsection a. of this section shall be entitled to transportation to
19 and from the school. The transportation shall be provided at no
cost to the student or his parent or guardian by the school district
21 which the child is attending and the district shall receive from
the State 100% reimbursement of this transportation cost during
23 the school year in which the cost is incurred.

2. Subject to the "Administrative Procedure Act," P.L. 1968,
25 c. 410 (C. 52:14B-1 et seq.), the State Board of Education shall
adopt rules and regulations necessary to effectuate the purposes
27 of this act.

3. This act shall take effect July 1 next following enactment.

29

STATEMENT

31

This bill provides that when a child and his parents or guardians
33 are temporarily relocated in a different school district

1 due to an emergency situation the child will continue in his or her
school. Under existing law, if a family were to be temporarily
3 displaced, the children in the family would attend the schools of
the district in which they were temporarily housed. This bill
5 would ensure the continuity of instruction and prevent school
districts which may contain an inordinate amount of emergency
7 housing from bearing an unreasonable burden.

The bill also provides that the State will pay for providing
9 transportation for these children to and from school.

11

EDUCATION

13

Children

15 Modifies the school district of residence for certain children
residing in temporary housing.

SENATE EDUCATION COMMITTEE

STATEMENT TO

SENATE, No. 2352

with Senate committee amendments

STATE OF NEW JERSEY

DATED: OCTOBER 20, 1988

The Senate Education Committee favorably reports this bill with committee amendments.

As amended, this bill establishes a procedure to provide for the education of children whose parents or guardians temporarily move from one district to another as the result of being homeless. Under the bill, "homeless" means an individual who temporarily lacks a fixed, regular and adequate residence.

The bill defines the child's district of residence as the district in which the parent or guardian last resided before becoming homeless. That district will be responsible for the education of the homeless child, and shall, in consultation with the parents, determine the educational placement of the child. That placement could either continue the student's education in the district of residence, or enroll the child in the school district where the family is temporarily living. The choice would be based upon the best interest of the child. If the parent or guardian objects to the decision, the county superintendent would determine the placement. That placement could be appealed based upon State Board of Education regulations .

When the homeless child attends school in the district where he is temporarily living, the district of residence shall pay the costs of tuition for the child to attend school in that district and shall pay for any transportation costs incurred by the district in which the child is temporarily residing. When the homeless child attends school in the district of residence while temporarily residing in another district, the district of residence shall provide for transportation to and from school.

If the district of residence could not be determined, or if the prior district was outside the State, the State would be responsible for the cost of education of the child.

The committee amended this bill to include a definition of a homeless family, and to provide a means for the determination of the child's district of residence. The amendments also permit

placement of the child in the new district or a continuation of the education program in the child's district of residence. The choice must be based upon the best interests of the child, and may be appealed by the child's parent or legal guardian.

The amendments also provide that the district of residence is responsible for tuition if the child is to go to school in the district of temporary residence and make the district of residence responsible for transportation costs whatever the placement. As amended, if the district of residence cannot be determined, then the State would be responsible for the cost of education for the child.

While New Jersey law requires that each child receive a free public education, in the case of a family that is homeless and has been temporarily relocated, it is not always clear which school district has the responsibility for educating the children of that family. Under federal law, enacted in 1987, each State must insure that homeless children are not denied an education because of a dispute between the school district where they formerly lived and the district in which they are currently residing. (Steward B. McKinney Homeless Assistance Act; Pub. L. 100-77). That law requires that the State provide access to education to homeless children based upon the best interest of the child. As amended, this bill would meet those federal requirements and also fulfill New Jersey Constitutional and statutory mandates.

STATE OF NEW JERSEY

INTRODUCED MARCH 28, 1988

By Senator PALLONE

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2 students ¹, amending P.L.1979, c.207 and N.J.S.18A:38-1¹ and
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21 cost to the student or his parent or guardian by the school district
22 which the child is attending and the district shall receive from
23 the State 100% reimbursement of this transportation cost during
24 the school year in which the cost is incurred.]¹

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5 whom the child lived prior to his most recent admission to a State
6 facility or most recent placement by a State agency.

7 If this cannot be determined, the district of residence shall be
8 the district in which the child resided prior to such admission or
9 placement.

10 c. The district of residence for children whose parent or
11 guardian temporarily move from one school district to another as
12 the result of being homeless shall be the district in which the
13 parent or guardian last resided prior to becoming homeless. For
14 the purpose of this amendatory and supplementary act,
15 "homeless" shall mean an individual who temporarily lacks a
16 fixed, regular and adequate residence.

17 [c.] d. If the district of residence cannot be determined
18 according to the criteria contained herein, or if the criteria
19 contained herein identify a district of residence outside of the
20 State, the State shall assume fiscal responsibility for the tuition
21 of the child. The tuition shall equal the State average net
22 current expense budget per pupil plus the appropriate categorical
23 program support, if any. This amount shall be appropriated in
24 the same manner as other State aid under this act. The
25 Department of Education shall pay the amount to the Department
26 of Human Services or the Department of Corrections or, in the
27 case of a homeless child, to the school district in which the child
28 is enrolled¹.

29 (cf: P.L.1985, c.244, s.1)

30 ¹2. N.J.S.18A:38-1 is amended to read as follows:

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39 statement that he is domiciled within the district and is

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obligations for the child relative to school requirements and that
3 he intends so to keep and support the child gratuitously for a
longer time than merely through the school term, and a copy of
5 his lease if a tenant, or a sworn statement by his landlord
acknowledging his tenancy if residing as a tenant without a
7 written lease, and upon filing by the child's parent or guardian
with the secretary of the board of education a sworn statement
9 that he is not supporting the child, accompanied by
documentation to support the validity of the sworn statements,
11 information from or about which shall be supplied only to the
board and only to the extent that it directly pertains to the
13 support or nonsupport of the child; provided, however, that the
board of education may contest the validity of the sworn
15 statement in proceedings before the commissioner, except that
no child shall be denied admission during the pendency of any
17 such proceedings before the commissioner, and the resident shall
have the burden of proving by a preponderance of the evidence
19 before the commissioner that the child is eligible for a free
education under the criteria listed in this subsection. If in the
21 judgment of the commissioner this evidence does not support the
claim of the resident, he may assess the resident tuition for the
23 student prorated to the time of the board's request for a sworn
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25 basis of 1/180 of the total annual per pupil cost to the local
district multiplied by the number of days of ineligible attendance;

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person to use his residence and is not the primary financial
29 supporter of that child and any person who fraudulently claims to
have given up custody of his child to a person in another district
31 commits a disorderly persons offense;

33 (d) Any person whose parent or guardian, even though not
domiciled within the district, is residing temporarily therein, but
any person who has had or shall have his all-year-round dwelling
35 place within the district for one year or longer shall be deemed to
be domiciled within the district for the purposes of this section;

37 (e) Any person for whom the Division of Youth and Family
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39 guardian and who is placed in the district by said bureau;

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2 school district to another school district as a result of being
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9 homeless child. The district of residence shall determine the
10 educational placement of the child after consulting with the
11 parent or guardian. This determination shall either be to
12 continue the student's education in the school district of
13 residence or to enroll the student in the school district where the
14 child is temporarily living, whichever is in the child's best
15 interest. If the parent or guardian objects to the determination
16 made by the district of residence, the county superintendent of
17 schools shall be notified and within 48 hours shall determine the
18 placement of the child based on criteria established by the State
19 Board of Education. Any appeals regarding the determination
20 shall be resolved according to rules established by the State
21 Board of Education.

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23 temporarily living, the district of residence shall pay the costs of
24 tuition for the child to attend school in that district and shall pay
25 for any transportation costs incurred by the district in which the
26 child is temporarily residing. When the homeless child attends
27 school in the district of residence while temporarily residing in
28 another district, the district of residence shall provide for
29 transportation to and from school pursuant to the provisions of
30 N.J.S.18A:58-7.¹

31 ¹[2.]¹ 4. Subject to the "Administrative Procedure Act,"
32 P.L.1968, c.410 (C.52:14B-1 et seq.), the State Board of
33 Education shall adopt rules and regulations necessary to
34 effectuate the purposes of this act.

35 ¹[3.]¹ 5. This act shall take effect July 1 next following
enactment.

S2352 [1R]

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EDUCATION

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