

18A:38-1

LEGISLATIVE HISTORY CHECKLIST

(Sets up procedure for contesting validity of affidavits
HJSA 18A:38-1 on non-resident pupils)

LAWS OF 1977 CHAPTER 373

Bill No. S1464

Sponsor(s) Scardino

Date Introduced May 10, 1976

Committee: Assembly Education

Senate Education

Amended during passage Yes

Amendments during passage denoted by asterisks

Date of Passage: Assembly June 20, 1977

Senate Jan. 17, 1977

Date of approval Feb. 8, 1978

Following statements are attached if available:

Sponsor statement Yes

Committee Statement: Assembly No

Senate Yes

Fiscal Note No

Veto message No

Message on signing Yes

Following were printed:

Reports No

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CHAPTER 373 LAWS OF N. J. 1976
APPROVED 2/18/77

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SENATE, No. 1464

STATE OF NEW JERSEY

INTRODUCED MAY 10, 1976

By Senator SCARDINO

Referred to Committee on Education

AN ACT concerning free public education and amending N. J. S.
18A:38-1.

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

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

2 18A:38-1. Public schools shall be free to the following persons
3 over 5 and under 20 years of age:

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

5 (b) Any person who is kept in the home of another person
6 domiciled within the school district and is supported by such other
7 person gratis as if he were such other person's own child, upon
8 filing by such other person with the secretary of the board of
9 education of the district, if so required by the board, a sworn
10 statement that he is domiciled within the district and is support-
11 ing the child gratis and will assume all personal obligations for the
12 child relative to school requirements and that he intends so to
13 keep and support the child gratuitously for a longer time than
14 merely through the school term; *provided, however, that the board*
15 *of education may contest the validity of the ***[allegations contained***
16 *in such]* sworn statement in proceedings before the commissioner,*
17 *except that no child shall be denied admission during the pendency*
18 *of any such proceedings before the commissioner and the board*
19 *shall have the burden of proving by a preponderance of the evidence*
20 *before the commissioner that ***[, notwithstanding the allegations***
21 *contained in the sworn statement.]* the child is ineligible for a free*
22 *education under the criteria listed in this subsection;*

23 (c) Any person whose parent or guardian, even though not
24 domiciled within the district, is residing temporarily therein, but

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

25 any person who has had or shall have his all-year-around dwelling
26 place within the district for 1 year or longer shall be deemed to be
27 domiciled within the district for the purposes of this section ;

28 (d) Any person for whom the bureau of children's services in the
29 department of institutions and agencies is acting as guardian and
30 who is placed in the district by said bureau.

1 2. This act shall take effect immediately.

S 1464 (1977)

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28 (d) Any person for whom the bureau of children's services in the
29 department of institutions and agencies is acting as guardian and
30 who is placed in the district by said bureau.

1 2. This act shall take effect immediately.

STATEMENT

The purpose of this bill is to establish a procedure whereby local boards of education may challenge the truth of allegations contained in affidavits submitted on behalf of pupils who seek free admission to a school district other than the one in which their parents reside. There is substantial evidence that false affidavits are being submitted in many cases to justify a child's entry into another school district. The Commissioner of Education has held that neither he nor the local board of education has authority or jurisdiction to challenge the statements contained in such affidavits. This bill would authorize the commissioner to hear such disputes. The local board would thereby be afforded a procedure for challenging the validity of the representations made in the affidavit. No child would be denied admission, however, pending any appeal to the commissioner, and the board would have the burden of proving by a preponderance of the evidence that the facts were other than what was represented in the affidavit.

SENATE EDUCATION COMMITTEE

STATEMENT TO

SENATE, No. 1464

STATE OF NEW JERSEY

DATED: NOVEMBER 8, 1976

SPONSOR: Senator Scardino

PROVISIONS:

This bill provides school boards with a procedure to test the validity of the sworn statements which are the legal basis for so-called "affidavit students."

BACKGROUND AND PROBLEMS ADDRESSED:

Parents sometimes attempt to send their children to schools in districts other than their own without actually changing their residences. It is a very simple matter for a parent to request a relative or friend who resides within the district to provide the child with an official address within the district for purposes of school attendance.

Further, if the friend or relative agrees to sign an affidavit, the school district must accept the child as a student within the system. The affidavit represents proof to the school district that the child is living with the relative or friend and that the relative or friend is assuming all personnel obligations for the child for a period longer than the school term. Currently, the school system must accept this affidavit unless it is willing to ask the county prosecutor to prosecute the party who signed the affidavit under false pretenses. This offers no practical solution to school boards since settlement through the courts is a long and difficult process. In fact, it is likely that the child will have left the school system before the case is heard.

Senate Bill No. 1464 offers a procedure for contesting the validity of the affidavit without instituting long and costly criminal proceedings through the courts. By permitting the boards of education to go before the commissioner and contesting the validity of the sworn statement, it is anticipated that the threat of such a proceeding will act as a deterrent to individuals who falsely and casually sign such statements.

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FROM THE OFFICE OF THE GOVERNOR

FOR IMMEDIATE RELEASE

FOR FURTHER INFORMATION

FEBRUARY 8, 1978

ANNE BURNS

Governor Brendan Byrne today signed the following bills into law:

A-1876, sponsored by Assemblyman Michael Adubato, (D-Essex), which permits life insurance companies to sell insurance protecting policyholders against losses of value of investment securities issued by a mutual fund or other regulated investment company managed or advised by the insurer.

The bill requires that the benefits provided by this insurance not exceed the difference between the amount paid for the securities and their value at the end of a specified period of not less than 5 years.

S-1464, sponsored by Senator Anthony Scardino, (D-Bergen), which establishes procedures for contesting the validity of affidavits submitted on behalf of pupils seeking free admission to school districts other than where they reside.

Prior to this legislation, a child who did not live with his parents could enroll in the public schools of a district upon the filing of an affidavit by the person he was residing with. The affidavit had to state that the person supported the child without compensation, that he intended to keep and support the child for more than just the school term and that he would assume all personal obligations for the child regarding school requirements. This law has been abused by parents who send their children to schools in districts other than their own by simply requesting a relative or friend living in that district to provide the child with an official address.

This bill provides a procedure ~~PROPERTY OF~~ school districts can contest the validity of an affidavit. NEW JERSEY STATE LIBRARY

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