

18A:38-1

**LEGISLATIVE HISTORY CHECKLIST**  
Compiled by the NJ State Law Library

(Military Duty--child of parent  
called to--free public education)

**NJSA:** 18A:38-1

**LAWS OF:** 1994 **CHAPTER:** 169

**BILL NO:** A748

**SPONSOR(S):** Azzolina

**DATE INTRODUCED:** Pre-filed

**COMMITTEE:** **ASSEMBLY:** Veterans  
**SENATE:** Senior Citizens

**AMENDED DURING PASSAGE:** No

**DATE OF PASSAGE:** **ASSEMBLY:** June 20, 1994  
**SENATE:** November 10, 1994

**DATE OF APPROVAL:** December 20, 1994

**FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:**

**SPONSOR STATEMENT:** Yes

**COMMITTEE STATEMENT:** **ASSEMBLY:** Yes  
**SENATE:** Yes

**FISCAL NOTE:** No

**VETO MESSAGE:** No

**MESSAGE ON SIGNING:** No

**FOLLOWING WERE PRINTED:**

**REPORTS:** No

**HEARINGS:** No

KBG:pp

P.L.1994, CHAPTER 169, approved December 20, 1994  
1994 Assembly No. 748

1 AN ACT concerning free public education for a child whose  
2 parent or guardian is called into active military service and  
3 amending N.J.S.18A:38-1 and N.J.S.18A:38-3.  
4

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

7 1. N.J.S.18A:38-1 is amended to read as follows:  
8 18A:38-1. Public schools shall be free to the following persons  
9 over five and under 20 years of age:

- 10 a. Any person who is domiciled within the school district;
- 11 b. (1) Any person who is kept in the home of another person  
12 domiciled within the school district and is supported by such  
13 other person gratis as if he were such other person's own child,  
14 upon filing by such other person with the secretary of the board  
15 of education of the district, if so required by the board, a sworn  
16 statement that he is domiciled within the district and is  
17 supporting the child gratis and will assume all personal  
18 obligations for the child relative to school requirements and that  
19 he intends so to keep and support the child gratuitously for a  
20 longer time than merely through the school term, and a copy of  
21 his lease if a tenant, or a sworn statement by his landlord  
22 acknowledging his tenancy if residing as a tenant without a  
23 written lease, and upon filing by the child's parent or guardian  
24 with the secretary of the board of education a sworn statement  
25 that he is not capable of supporting or providing care for the  
26 child due to a family or economic hardship and that the child is  
27 not residing with the resident of the district solely for the  
28 purpose of receiving a free public education within the district.  
29 The statement shall be accompanied by documentation to support  
30 the validity of the sworn statements, information from or about  
31 which shall be supplied only to the board and only to the extent  
32 that it directly pertains to the support or nonsupport of the  
33 child. If in the judgment of the board of education the evidence  
34 does not support the validity of the claim by the resident, the  
35 board may deny admission to the child. The resident may contest  
36 the board's decision to the commissioner within 21 days of the  
37 date of the decision and shall be entitled to an expedited hearing  
38 before the commissioner on the validity of the claim and shall  
39 have the burden of proof by a preponderance of the evidence that  
40 the child is eligible for a free education under the criteria listed  
41 in this subsection. The board of education shall, at the time of  
42 its decision, notify the resident in writing of his right to contest

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.

1 the board's decision to the commissioner within 21 days. No  
2 child shall be denied admission during the pendency of the  
3 proceedings before the commissioner. In the event the child is  
4 currently enrolled in the district, the student shall not be  
5 removed from school during the 21-day period in which the  
6 resident may contest the board's decision nor during the  
7 pendency of the proceedings before the commissioner. If in the  
8 judgment of the commissioner the evidence does not support the  
9 claim of the resident, he shall assess the resident tuition for the  
10 student prorated to the time of the student's ineligible  
11 attendance in the school district. Tuition shall be computed on  
12 the basis of 1/180 of the total annual per pupil cost to the local  
13 district multiplied by the number of days of ineligible attendance  
14 and shall be collected in the manner in which orders of the  
15 commissioner are enforced. Nothing shall preclude a board from  
16 collecting tuition from the resident, parent or guardian for a  
17 student's period of ineligible attendance in the schools of the  
18 district where the issue is not appealed to the commissioner;

19 (2) If the superintendent or administrative principal of a school  
20 district finds that the parent or guardian of a child who is  
21 attending the schools of the district is not domiciled within the  
22 district and the child is not kept in the home of another person  
23 domiciled within the school district and supported by him gratis  
24 as if the child was the person's own child as provided for in  
25 paragraph (1) of this subsection, the superintendent or  
26 administrative principal may apply to the board of education for  
27 the removal of the child. The parent or guardian shall be entitled  
28 to a hearing before the board and if in the judgment of the board  
29 the parent or guardian is not domiciled within the district or the  
30 child is not kept in the home of another person domiciled within  
31 the school district and supported by them gratis as if the child  
32 was the person's own child as provided for in paragraph (1) of this  
33 subsection, the board may order the transfer or removal of the  
34 child from school. The parent or guardian may contest the  
35 board's decision before the commissioner within 21 days of the  
36 date of the decision and shall be entitled to an expedited hearing  
37 before the commissioner and shall have the burden of proof by a  
38 preponderance of the evidence that the child is eligible for a free  
39 education under the criteria listed in this subsection. The board  
40 of education shall, at the time of its decision, notify the parent  
41 or guardian in writing of his right to contest the decision within  
42 21 days. No child shall be removed from school during the 21-day  
43 period in which the parent may contest the board's decision or  
44 during the pendency of the proceedings before the commissioner.  
45 If in the judgment of the commissioner the evidence does not  
46 support the claim of the parent or guardian, the commissioner  
47 shall assess the parent or guardian tuition for the student  
48 prorated to the time of the student's ineligible attendance in the  
49 schools of the district. Tuition shall be computed on the basis of  
50 1/180 of the total annual per pupil cost to the local district  
51 multiplied by the number of days of ineligible attendance and  
52 shall be collected in the manner in which orders of the  
53 commissioner are enforced. Nothing shall preclude a board from  
54 collecting tuition from the parent or guardian for a student's

1 period of ineligible attendance in the schools of the district  
2 where the issue is not appealed to the commissioner;

3 The provisions of this section requiring proof of support,  
4 custody or tenancy shall not apply to a person keeping a child in  
5 his home whose parent or guardian is a member of the New  
6 Jersey National Guard or a member of the reserve component of  
7 the armed forces of the United States and who has been ordered  
8 into active military service in any of the armed forces of the  
9 United States in time of war or national emergency. In such a  
10 situation, the child shall be eligible to enroll in the district in  
11 which he is being kept, and no tuition shall be charged by the  
12 district. Following the return of the child's parent or guardian  
13 from active military service, the child's eligibility for enrollment  
14 without tuition in the district in which he or she is being kept  
15 shall cease at the end of the current school year;

16 c. Any person who fraudulently allows a child of another  
17 person to use his residence and is not the primary financial  
18 supporter of that child and any person who fraudulently claims to  
19 have given up custody of his child to a person in another district  
20 commits a disorderly persons offense;

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

26 e. Any person for whom the Division of Youth and Family  
27 Services in the Department of Human Services is acting as  
28 guardian and who is placed in the district by said bureau;

29 f. Any person whose parent or guardian moves from one school  
30 district to another school district as a result of being homeless  
31 and whose district of residence is determined pursuant to section  
32 19 of P.L.1979, c.207 (C.18A:7B-12).

33 (cf: P.L.1993, c.380, s.1)

34 2. N.J.S.18A:38-3 is amended to read as follows:

35 18A:38-3. a. Any person not resident in a school district, if  
36 eligible except for residence, may be admitted to the schools of  
37 the district with the consent of the board of education upon such  
38 terms, and with or without payment of tuition, as the board may  
39 prescribe.

40 b. Any person not resident in a school district, if eligible  
41 except for residence, and if that person previously was a resident  
42 of the district, shall be admitted to the schools of the district  
43 without payment of tuition if that person's parent or guardian is  
44 a member of the New Jersey National Guard or a member of the  
45 reserve component of the armed forces of the United States and  
46 has been ordered into active military service in any of the armed  
47 forces of the United States in time of war or national emergency,  
48 resulting in the relocation of the student out of the district. A  
49 school district admitting a student pursuant to this subsection  
50 shall not be obligated for transportation costs.

51 (cf: N.J.S.18A:38-3)

52 3. This act shall take effect immediately.

1  
2  
3  
4  
5  
6

---

Provides that a child whose parent or guardian has been called into active military service remains entitled to a free public education either in district of prior residence or in district to which relocated.

Sponsor's

## STATEMENT

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33

This bill provides that a child who must relocate because a parent or guardian has been ordered to active military service will still be eligible for free public education, either in the same district in which the child previously resided, or in the district in which the child relocates. If the child relocates out of the district, but continues to attend school in the same district, the district will not have to pay transportation expenses. The bill only applies to children whose parents or guardians are members of the New Jersey National Guard or of the reserve component of the armed forces of the United States, and eligibility for enrollment without tuition in the district of relocation will cease at the end of the school year during which the parent or guardian returns from active military service.

Current law provides that in order for a child to be eligible to receive free public education in a district, the child must reside in the district or be kept in the home of another person who has assumed complete responsibility for the child's support and custody. The child's parent must have relinquished custody and support of the child. Sworn statements documenting support, custody and lease contracts must be furnished to the district board of education. The law also does not entitle a child who has relocated outside of the district to keep attending the same school on a tuition-free basis.

---

Provides that a child whose parent or guardian has been called into active military service remains entitled to a free public education either in district of prior residence or in district to which relocated.

**ASSEMBLY VETERANS, MILITARY AFFAIRS  
AND GAMING COMMITTEE**

**STATEMENT TO**

**ASSEMBLY, No. 748**

**STATE OF NEW JERSEY**

**DATED: MAY 5, 1994**

The Assembly Veterans, Military Affairs and Gaming Committee reports favorably Assembly Bill No. 748.

This bill provides that a child who must relocate because a parent or guardian has been ordered to active military service will still be eligible for free public education, either in the same district in which the child previously resided, or in the district in which the child relocates. If the child relocates out of the district, but continues to attend school in the same district, the district will not have to pay transportation expenses. The bill applies only to children whose parents or guardians are members of the New Jersey National Guard or of the reserve component of the armed forces of the United States, and eligibility for enrollment without tuition in the district of relocation will cease at the end of the school year during which the parent or guardian returns from active military service.

Current law provides that in order for a child to be eligible to receive free public education in a district, the child must reside in the district or be kept in the home of another person who has assumed complete responsibility for the child's support and custody. The child's parent must have relinquished custody and support of the child. Sworn statements documenting support, custody and lease contracts must be furnished to the district board of education. The law also does not entitle a child who has relocated outside of the district to keep attending the same school on a tuition-free basis.

This bill was pre-filed for introduction in the 1994 session pending technical review. As reported, the bill includes the changes required by technical review which has been performed.

**SENATE SENIOR CITIZENS, VETERANS  
AFFAIRS AND AGRICULTURE COMMITTEE**

**STATEMENT TO**

**ASSEMBLY, No. 748**

**STATE OF NEW JERSEY**

**DATED: SEPTEMBER 12, 1994**

**The Senate Senior Citizens, Veterans Affairs and Agriculture Committee reports favorably Assembly Bill No. 748.**

**This bill provides that a child who must relocate because a parent or guardian has been ordered to active military service will still be eligible for free public education, either in the same district in which the child previously resided, or in the district in which the child relocates. If the child relocates out of the district, but continues to attend school in the same district, the district will not have to pay transportation expenses. The bill applies only to children whose parents or guardians are members of the New Jersey National Guard or of the reserve component of the armed forces of the United States, and eligibility for enrollment without tuition in the district of relocation will cease at the end of the school year during which the parent or guardian returns from active military service.**

**Current law provides that in order for a child to be eligible to receive free public education in a district, the child must reside in the district or be kept in the home of another person who has assumed complete responsibility for the child's support and custody. The child's parent must have relinquished custody and support of the child. Sworn statements documenting support, custody and lease contracts must be furnished to the district board of education. The law also does not entitle a child who has relocated outside of the district to keep attending the same school on a tuition-free basis.**