

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

1 State of Arkansas
2 89th General Assembly
3 Regular Session, 2013
4

As Engrossed: S3/21/13

A Bill

SENATE BILL 809

5 By: Senator A. Clark
6

For An Act To Be Entitled

8 AN ACT CONCERNING PUBLIC SCHOOL STUDENT TRANSFERS; TO
9 *DECLARE AN EMERGENCY*; AND FOR OTHER PURPOSES.
10

Subtitle

11
12 *CONCERNING PUBLIC SCHOOL STUDENT*
13 *TRANSFERS; AND TO DECLARE AN EMERGENCY.*
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16

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
18

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 Arkansas Code § 6-18-206 is repealed.*

20 ~~*6-18-206. Public school choice.*~~

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

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

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



1 ~~in the district.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 ~~govern;~~

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

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

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

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

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

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

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

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

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

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

36

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

3 6-18-231. Public school choice.

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

6 (b) The General Assembly finds that:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 (iv) Standards may not include an applicant's
32 previous academic achievement, athletic or other extracurricular ability,
33 disability, English proficiency level, or previous disciplinary proceedings
34 except that an expulsion from another district may be included under § 6-18-
35 510.

36 (v) A school district receiving transfers under this

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

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

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

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

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

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

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

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

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

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

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

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

1 enforceable judicial decree or court order shall govern.

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

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

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

10 (ii) Provisions of law concerning attendance and
11 enrollment.

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

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

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

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

26 (ii) Limiting the transfers by either:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 (B) Improve student achievement; and

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

3 (p) The state board may promulgate rules to implement this section.
4

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

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

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

22 (3) If the bill is vetoed by the Governor and the veto is
23 overridden, the date the last house overrides the veto.
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25 /s/A. Clark
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