

State of Wisconsin



2021 Assembly Bill 970

Date of enactment:
Date of publication*:

2021 WISCONSIN ACT

AN ACT *to repeal* 118.60 (2) (a) 1., 118.60 (2) (be), 118.60 (2) (bm), 118.60 (3) (ar), 118.60 (4v), 119.23 (2) (a) 1. and 119.23 (4v); and *to amend* 118.60 (2) (a) (intro.), 118.60 (2) (a) 2. g., 118.60 (3) (a) (intro.), 118.60 (3) (b), 118.60 (3) (c), 118.60 (3m) (a) 2., 118.60 (3m) (b) 2., 119.23 (3) (b), 119.23 (3m) (a) 2. and 119.23 (3m) (b) 2. of the statutes; **relating to:** eliminating income limits for parental choice programs; eliminating pupil participation limits for the statewide parental choice program; private school tuition charged to a pupil participating in a parental choice program; and creating an education expense reimbursement program for the 2022–23 school year and the summer of 2023.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 118.60 (2) (a) (intro.) of the statutes is amended to read:

118.60 (2) (a) (intro.) Subject to pars. (ag) and (ar), any pupil in grades kindergarten to 12 who resides within an eligible school district may attend any private school under this section and, subject to pars. (ag), (ar), ~~(be)~~, ~~(bm)~~, and (bs), any pupil in grades kindergarten to 12 who resides in a school district, other than an eligible school district or a 1st class city school district, may attend any private school under this section if all of the following apply:

SECTION 2. 118.60 (2) (a) 1. of the statutes is repealed.

SECTION 3. 118.60 (2) (a) 2. g. of the statutes is amended to read:

118.60 (2) (a) 2. g. If the pupil resides in a school district, other than an eligible school district or a 1st class city school district, the pupil was on a waiting list under

~~sub. s. 118.60 (3) (ar) 4., 2019 stats.~~ in any previous school year.

SECTION 4. 118.60 (2) (be) of the statutes is repealed.

SECTION 5. 118.60 (2) (bm) of the statutes is repealed.

SECTION 6. 118.60 (3) (a) (intro.) of the statutes is amended to read:

118.60 (3) (a) (intro.) The pupil or the pupil's parent or guardian shall submit an application, on a form provided by the state superintendent, to the participating private school that the pupil wishes to attend. If more than one pupil from the same family applies to attend the same private school, the pupils may use a single application. No later than 60 days after the end of the application period during which an application is received ~~and subject to par. (ar)~~, the private school shall notify each applicant, in writing, whether his or her application has been accepted. If the private school rejects an application, the notice shall include the reason. ~~Subject to par. (ar), a~~ private school may reject an applicant only if it has

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

reached its maximum general capacity or seating capacity. ~~Except as provided in par. (ar), the~~ The state superintendent shall ensure that the private school determines which pupils to accept on a random basis, except that the private school may give preference to the following in accepting applications, in the order of preference listed:

SECTION 7. 118.60 (3) (ar) of the statutes is repealed.

SECTION 8. 118.60 (3) (b) of the statutes is amended to read:

118.60 (3) (b) If a participating private school rejects an applicant who resides within an eligible school district because the private school has too few available spaces, the applicant may transfer his or her application to a participating private school that has space available. An applicant rejected under this paragraph may be admitted to a private school participating in the program under this section for the following school year, provided that the applicant continues to reside within an eligible school district. ~~The department may not require, in that following school year, the private school to submit financial information regarding the applicant or to verify the eligibility of the applicant to participate in the program under this section on the basis of family income.~~

SECTION 9. 118.60 (3) (c) of the statutes is amended to read:

118.60 (3) (c) If a participating private school rejects an applicant who resides in a school district, other than an eligible school district or a 1st class city school district, because the private school has too few available spaces, the applicant may transfer his or her application to a participating private school that has space available. An applicant who is rejected under this paragraph ~~or an applicant who is on the waiting list under par. (ar) 4.~~ may, subject to sub. (2) (be), be admitted to a private school participating in the program under this section for the following school year, provided that the applicant continues to reside in a school district other than an eligible school district or a 1st class city school district. ~~The department may not require, in that following school year, the private school to submit financial information regarding the applicant or to verify the eligibility of the applicant to participate in the program under this section on the basis of family income.~~

SECTION 10. 118.60 (3m) (a) 2. of the statutes is amended to read:

118.60 (3m) (a) 2. The pupil is enrolled in a grade from 9 to 12 and the family income of the pupil, as determined under ~~sub. s. 118.60 (2) (a) 1., 2019 stats.,~~ does not exceed an amount equal to ~~2.2~~ 3.0 times the poverty level determined in accordance with criteria established by the director of the federal office of management and budget.

SECTION 11. 118.60 (3m) (b) 2. of the statutes is amended to read:

118.60 (3m) (b) 2. The family income of the pupil, as determined under ~~sub. s. 118.60 (2) (a) 1., 2019 stats.,~~ exceeds an amount equal to ~~2.2~~ 3.0 times the poverty

level determined in accordance with criteria established by the director of the federal office of management and budget.

SECTION 12. 118.60 (4v) of the statutes is repealed.

SECTION 13. 119.23 (2) (a) 1. of the statutes is repealed.

SECTION 14. 119.23 (3) (b) of the statutes is amended to read:

119.23 (3) (b) If the private school rejects an applicant because it has too few available spaces, the applicant may transfer his or her application to a participating private school that has space available. An applicant rejected under this paragraph may be admitted to a private school participating in the program under this section for the following school year, provided that the applicant continues to reside within the city. ~~The department may not require, in that following school year, the private school to submit financial information regarding the applicant or to verify the eligibility of the applicant to participate in the program under this section on the basis of family income.~~

SECTION 15. 119.23 (3m) (a) 2. of the statutes is amended to read:

119.23 (3m) (a) 2. The pupil is enrolled in a grade from 9 to 12 and the family income of the pupil, as determined under ~~sub. s. 119.23 (2) (a) 1., 2019 stats.,~~ does not exceed an amount equal to ~~2.2~~ 3.0 times the poverty level determined in accordance with criteria established by the director of the federal office of management and budget.

SECTION 16. 119.23 (3m) (b) 2. of the statutes is amended to read:

119.23 (3m) (b) 2. The family income of the pupil, as determined under ~~sub. s. 119.23 (2) (a) 1., 2019 stats.,~~ exceeds an amount equal to ~~2.2~~ 3.0 times the poverty level determined in accordance with criteria established by the director of the federal office of management and budget.

SECTION 17. 119.23 (4v) of the statutes is repealed.

SECTION 18. Nonstatutory provisions.

(1) EDUCATION EXPENSE REIMBURSEMENT PROGRAM.

(a) *Definitions.* In this subsection:

1. "Approved educational provider" means any of the following:

a. A school board, as defined in s. 115.001 (7), in charge of a public school in a school district, other than a charter school.

b. An institution within the University of Wisconsin System, a technical college, a tribally controlled college, or a private, nonprofit institution of higher education located in this state.

c. Any of the following educational institutions that submits a notice of intent to participate under par. (f) 1.: the governing body of a charter school; the governing body of a private school, as defined in s. 115.001 (3r); or the governing body of a tribal school, as defined in s. 115.001 (15m).

d. Any other educational provider the department approves to offer courses to pupils for reimbursement under this subsection, including educational providers that provide instruction through means of the Internet.

2. "Charter school" has the meaning given in s. 115.001 (1).

3. "Department" means the department of public instruction.

4. "Educational materials" means materials that a pupil's parent may use to educate the pupil, including curriculum or textbooks.

5. "Parent" includes a guardian.

6. "Resident school board" means the school board of a resident school district.

7. "Resident school district" means the school district in which a pupil resides or, if the pupil is attending school in a school district other than the pupil's resident school district pursuant to a whole grade sharing agreement under s. 118.50, the school district in which the pupil is attending school.

(b) *Applicability.*

1. In the 2022-23 school year and in the summer semester or session in 2023, a pupil enrolled in a public school, including a charter school, in this state may, subject to subd. 2., do any of the following:

a. Attend a course offered by an approved educational provider for reimbursement under this subsection.

b. Purchase educational materials for reimbursement under this subsection.

2. A pupil may receive reimbursement under this subsection for a total of no more than 2 courses attended or educational materials purchased under this subsection.

3. A pupil that attends a course under this subsection may not attend the same course under s. 118.52 or 118.55.

(c) *Pupil application procedures; attending courses.*

1. The parent of a pupil who wants to attend a course under this subsection shall notify the department. No later than 10 days after the department receives the notice, the department shall inform the parent of how to apply to attend a course and the deadlines that apply under this subsection.

2. The parent of a pupil who wants to attend a course under this subsection shall submit an application, on a form provided by the department, to the approved educational provider offering the course not later than 6 weeks prior to the date on which the course is scheduled to commence. The application shall specify the course that the pupil wants to attend and may specify the school or schools at which the pupil wants to attend the course. The approved educational provider shall send a copy of the application to the department.

3. If an approved educational provider receives more applications for a particular course than there are spaces available in the course, the approved educational provider shall determine which pupils to accept on a random basis. The approved educational provider may

reject an applicant only if there is no space available in the course, the applicant pupil does not meet the approved educational provider's admission requirements, or the course conflicts with the applicant pupil's individualized education program under s. 115.787 or services plan, as defined in 34 CFR 300.37.

4. If an approved educational provider receives an application for a course under subd. 2., no later than one week prior to the date on which the course is scheduled to commence, the approved educational provider shall notify the applicant and the department, in writing, whether the application is accepted and, if the application is accepted, the school at which the pupil may attend the course. The acceptance applies only for the following semester, school year, or other session in which the course is offered. If the approved educational provider rejects the application, the approved educational provider shall include in the notice the reason for the rejection.

5. If a pupil's parent receives notice of acceptance for the pupil to attend a course offered by an approved educational provider under subd. 4., the parent shall, prior to the date on which the course is scheduled to commence, notify the pupil's resident school board and the approved educational provider of the pupil's intent to attend the course.

(d) *Pupil application procedures; purchasing educational materials.* The parent of a pupil who wants to purchase educational materials under this subsection for purposes of educating the pupil shall, prior to purchasing the educational materials, submit a notice to the department that describes the educational materials, lists what is included in the educational materials, and specifies the cost of the educational materials. No later than 10 days after the department receives the notice, the department shall inform the parent regarding whether the parent's request for reimbursement is approved and any deadlines that apply to the parent's request under this subsection. The department may reject a request under this paragraph only if the notice is incomplete or the limit under par. (b) 2. applies.

(e) *Mandatory participation by school boards and institutions of higher education.*

1. An approved educational provider specified in par. (a) 1. a. shall participate in the program under this subsection. Except as provided in par. (c) 3., an approved educational provider specified in par. (a) 1. a. shall use the same policies and criteria for accepting and rejecting applications to attend a course under par. (c) as the policies and criteria for entry into the course that apply to pupils who reside in the school district, except that, notwithstanding par. (c) 3., the approved educational provider may give preference in attendance in a course to residents of the school district.

2. An approved educational provider specified in par. (a) 1. b. shall participate in the program under this subsection.

tion. An approved educational provider specified in par. (a) 1. b. shall adopt policies and criteria for accepting and rejecting applications to attend a course under par. (c) and shall post a copy of those policies and criteria on the approved educational provider's Internet site.

(f) *Optional participation by private, tribal, and charter schools.* An approved educational provider specified in par. (a) 1. c. is not required to participate in the program under this subsection. An approved educational provider specified in par. (a) 1. c. that wants to participate in the program shall, no later than June 1, 2022, do all of the following:

1. Notify the department that the approved educational provider intends to participate in the program.

2. Adopt a resolution specifying that the approved educational provider will participate in the program.

3. Adopt a resolution specifying the criteria the approved educational provider will use to determine whether to accept or reject individual applications under par. (c). Notwithstanding par. (c) 3., the approved educational provider may give preference in attendance in a course to pupils who are currently enrolled in or attending the approved educational provider's school.

4. Post on the approved educational provider's Internet site the fact that the approved educational provider is participating in the program.

5. For each course the approved educational provider makes available for pupils to attend under the program, not later than 8 weeks prior to the date on which the course is scheduled to commence, post on the approved educational provider's Internet site a description of the course and information regarding admission policies and costs. The approved educational provider shall update the course information required under this subdivision within 7 business days of any changes to that information.

(g) *Rights and privileges of nonresident pupils.* A pupil attending a course in a public school under this subsection in a school district that is not the pupil's resident school district has all of the rights and privileges of pupils residing in that school district and is subject to the same rules and regulations as pupils residing in that school district.

(h) *Disciplinary records.* Notwithstanding s. 118.125, a pupil's resident school board shall provide to an approved educational provider to which the pupil has applied under this subsection, upon request by that approved educational provider, a copy of any expulsion findings and orders, a copy of records of any pending dis-

ciplinary proceeding involving the pupil, a written explanation of the reasons for the expulsion or pending disciplinary proceeding, and the length of the term of the expulsion or the possible outcomes of the pending disciplinary proceeding.

(i) *Transportation.*

1. The parent of a pupil attending a course under this subsection is responsible for transporting the pupil to and from the course.

2. The parent of a pupil who is attending a course under this subsection may apply to the department for reimbursement of the costs incurred by the parent for the transportation of the pupil to and from the pupil's residence or school in which the pupil is enrolled and the location at which the pupil is attending the course if the pupil and parent are unable to pay the cost of such transportation. Subject to par. (j) 3., the department shall determine the reimbursement amount, if any. The department shall give preference under this subdivision to those pupils who satisfy the income eligibility criteria for free or reduced-price lunch under 42 USC 1758 (b) (1).

(j) *Reimbursement of costs.*

1. Except as provided in subd. 3. and subject to the limit under par. (b) 2., if a pupil attends a course offered by an approved educational provider for reimbursement under par. (c), the department shall, in the 2023-24 school year, reimburse the approved educational provider the cost of providing the course to the pupil or \$1,000, whichever is less.

2. Except as provided in subd. 3. and subject to the limit under par. (b) 2., if a pupil's parent purchases educational materials for reimbursement under par. (d), the department shall, in the 2023-24 school year, reimburse the parent the cost of purchasing the educational materials or \$1,000, whichever is less.

3. If the amount available to the department is insufficient to pay the full reimbursement amounts under this paragraph and par. (i) 2., the department shall prorate the payments among those eligible for reimbursement.

SECTION 19. Initial applicability.

(1) **INCOME LIMITS.** The treatment of ss. 118.60 (2) (a) 1. and (bm) and 119.23 (2) (a) 1. first applies to applications to attend a private school participating in a program under s. 118.60 or 119.23 in the 2022-23 school year.

(2) **PRIVATE SCHOOL ADDITIONAL TUITION.** The treatment of ss. 118.60 (3m) (a) 2. and (b) 2. and 119.23 (3m) (a) 2. and (b) 2. first applies to additional tuition a private school charges for the 2022-23 school year.