

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 84th General Assembly
3 Regular Session, 2003

A Bill

HOUSE BILL 2238

4
5 By: Representative Ormond
6
7

For An Act To Be Entitled

8
9 AN ACT TO ENSURE THAT EVERY STUDENT IN THE STATE
10 IS AFFORDED AN OPPORTUNITY TO ATTEND A SCHOOL
11 WHICH PROVIDES AN EQUAL OPPORTUNITY TO OBTAIN AN
12 ADEQUATE EDUCATION; TO AMEND THE PUBLIC SCHOOL
13 CHOICE LAW; AND FOR OTHER PURPOSES.
14

Subtitle

15
16 AN ACT TO ENSURE THAT EVERY STUDENT IN
17 THE STATE IS AFFORDED AN OPPORTUNITY TO
18 ATTEND A SCHOOL WHICH PROVIDES AN EQUAL
19 OPPORTUNITY TO OBTAIN AN ADEQUATE
20 EDUCATION; TO AMEND THE PUBLIC SCHOOL
21 CHOICE LAW.
22
23

24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
25

26 SECTION 1. Arkansas Code Title 6, Chapter 13, is amended to add an
27 additional subchapter to read as follows:

28 6-13-1601. Findings and intent.

29 (a) The purpose of this subchapter is to provide enhanced opportunity
30 for students in Arkansas to gain the knowledge and skills necessary for post-
31 secondary education, technical education, or the world of work.

32 (b) The General Assembly finds that the State Constitution requires
33 the state to maintain a general, suitable, and efficient system of free
34 public schools and adopt all suitable means to secure to the people the
35 advantages and opportunities of education.

36 (c) The General Assembly finds that a child should be allowed the



1 opportunity to attend a public school that will provide the child with an
2 equal opportunity to obtain an adequate education in compliance with the
3 requirements imposed by the Arkansas Supreme Court's decision in Lake View
4 School District v. Huckabee, 351 Ark. 31 (2002).

5
6 6-13-1602. Certified schools.

7 (a) Before January 1, 2004, the State Board of Education shall review
8 all public schools in the state and determine if the schools meet all state
9 standards necessary to provide students with an equal opportunity for an
10 adequate education.

11 (b) The State Board of Education shall designate each school that
12 meets all state standards necessary to provide students with an equal
13 opportunity or an adequate education as a "certified school".

14 (c) The State Board of Education shall maintain a list of all
15 certified schools in the state and provide a copy of the list to parents upon
16 request.

17 (d) The State Board of Education and the Department of Education shall
18 ensure and may undertake all measures necessary to ensure that there is a
19 certified school available for every child ages five (5) to eighteen (18)
20 years in the state and shall require the nearest certified school that is
21 available to the child shall provide transportation for any child choosing to
22 attend the public certified school.

23
24 6-13-1603. Education certificate program.

25 Any student assigned to attend a school that has not been designated as
26 a certified school may transfer and attend any certified school in the state
27 under the Arkansas Public School Choice Act of 1989.

28
29 6-13-1604. Students in juvenile detention facilities.

30 The provisions of this subchapter do not apply to a student who is
31 enrolled in a school operating for the purpose of providing educational
32 services to youth in a juvenile detention facility as defined by § 6-20-104.

33
34 6-13-1605. Rules.

35 (a) The State Board of Education may adopt rules and regulations
36 necessary to implement this subchapter.

1 **(b) However, the inclusion of eligible private schools within options**
 2 **available to Arkansas public school students does not expand the regulatory**
 3 **authority of the state, its officers, or any school district to impose any**
 4 **additional regulation of private schools beyond those reasonably necessary to**
 5 **enforce this subchapter.**

6
 7 SECTION 2. Arkansas Code § 6-18-206 is amended to read as follows:
 8 6-18-206. Public school choice.

9 (a)(1) This section may be referred to and cited as the "Arkansas
 10 Public School Choice Act of 1989".

11 (2) The General Assembly hereby finds that the students in
 12 Arkansas' public schools and their parents will become more informed about
 13 and involved in the public educational system if students and their parents
 14 or guardians are provided greater freedom to determine the most effective
 15 school for meeting their individual educational needs. There is no right
 16 school for every student, and permitting students to choose from among
 17 different schools with differing assets will increase the likelihood that
 18 some marginal students will stay in school and that other, more motivated
 19 students will find their full academic potential.

20 (3) The General Assembly further finds that giving more options
 21 to parents and students with respect to where the students attend public
 22 school will increase the responsiveness and effectiveness of the state's
 23 schools, since teachers, administrators, and school board members will have
 24 added incentive to satisfy the educational needs of the students who reside
 25 in the district.

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

31 (5) A public school choice program is hereby established to
 32 enable any student assigned to attend a school that has not been designated
 33 as a certified school to transfer and attend another school that has been
 34 designated as a certified school in a district in which the student does or
 35 does not reside, subject to the restrictions contained in this section.

36 (b)(1)(A) Before a student may attend a school in a nonresident

1 district, the student's parent or guardian must submit an application on a
 2 form approved by the Department of Education to the nonresident ~~district~~
 3 certified school. This application must be postmarked not later than July 1
 4 of the year in which the student would begin the fall semester at the
 5 nonresident ~~district~~ certified school.

6 (B)(i) Within thirty (30) days of the receipt of an
 7 application from a nonresident student seeking admission under the terms of
 8 this section, ~~a participating district~~ the nonresident certified school shall
 9 notify the parent or guardian and the resident district in writing as to
 10 whether the student's application has been accepted or rejected.

11 (ii)(a) If the application is rejected, the
 12 nonresident district must state in the notification letter the reason for
 13 rejection.

14 (b) An application may only be rejected
 15 because of space limitations at the certified school, because the student's
 16 assigned school is a certified school, or because the transfer is because of
 17 or to avoid a disciplinary action at the student's assigned school.

18 (iii) If the application is accepted, the nonresident district
 19 shall state in the notification letter:

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

22 (b) Any instructions for the renewal
 23 procedures established by the district.

24 (2)(A) The school board ~~of any participating district~~ of
 25 directors of every public school district must adopt by resolution specific
 26 standards for acceptance and rejection of applications. Standards may
 27 include the capacity of a program, class, grade level, or school building.
 28 Nothing in this section requires a school district to add teachers or
 29 classrooms or in any way to exceed the requirements and standards established
 30 by existing law. Standards shall include a statement that priority will be
 31 given to applications from siblings or stepsiblings residing in the same
 32 residence or household of students already attending the district by choice.
 33 Standards may not include an applicant's previous academic achievement,
 34 athletic or other extracurricular ability, handicapping conditions, English
 35 proficiency level, or previous disciplinary proceedings, except that an
 36 expulsion from another district may be included pursuant to § 6-18-510.

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

4 (ii) A request for a hearing before the state board
 5 shall be in writing and shall be postmarked no later than ten (10) days after
 6 notice of rejection of the application under subdivision (b)(1)(B) is
 7 received by the student.

8 (3) ~~A school board may by resolution determine that it will not~~
 9 ~~admit any nonresident pupil to its schools pursuant to this section.~~ Each
 10 public school shall participate in public school choice consistent with this
 11 section.

12 (c)(1) The responsibility for transportation of a student from the
 13 student's resident school district to a nonresident school district shall be
 14 borne by the student or the student's parents, if the students choose to
 15 attend a certified school that is not the nearest certified school for the
 16 student to attend.

17 (2) The resident district shall provide transportation to the
 18 certified school nearest the student's residence.

19 (3) ~~The resident school district and the nonresident school~~
 20 ~~district may enter into a written agreement with the student, or student's~~
 21 ~~parents, or resident school district to provide transportation to or from the~~
 22 ~~nonresident district, or both.~~

23 (d)(1) A nonresident district shall accept credits toward graduation
 24 that were awarded by another district.

25 (2) The nonresident district shall award a diploma to a
 26 nonresident student if the student meets the nonresident district's
 27 graduation requirements.

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

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

33 ~~(1) No student may transfer to a nonresident district where the~~
 34 ~~percentage of enrollment for the student's race exceeds that percentage in~~
 35 ~~the student's resident district except in the circumstances set forth in~~
 36 ~~subdivisions (2) and (4) of this subsection;~~

1 ~~(2) A transfer to a district is exempt from the restriction set~~
 2 ~~forth in subdivision (f)(1) of this section if all districts within a county~~
 3 ~~have voted to participate in choice, if the transfer is between two (2)~~
 4 ~~districts within a county, and if the minority percentage in the student's~~
 5 ~~race and majority percentages of school enrollment in both the resident and~~
 6 ~~nonresident district remain within an acceptable range of the county's~~
 7 ~~overall minority percentage in the student's race and majority percentages of~~
 8 ~~school population as set forth by the department;~~

9 ~~(3) The department shall by the filing deadline each year~~
 10 ~~compute the minority percentage in the student's race and majority~~
 11 ~~percentages of each county's public school population from the October Annual~~
 12 ~~School Report and shall then compute the acceptable range of variance from~~
 13 ~~those percentages for school districts within each county. In establishing~~
 14 ~~the acceptable range of variance, the department is directed to use the~~
 15 ~~remedial guideline established in Little Rock School District v. Pulaski~~
 16 ~~County Special School District of allowing an overrepresentation or~~
 17 ~~underrepresentation of black or white students of one fourth (1/4) or twenty-~~
 18 ~~five percent (25%) of the county's racial balance. In establishing the~~
 19 ~~acceptable range of variance for school choice, the department is directed to~~
 20 ~~use the remedial guideline of allowing an overrepresentation or~~
 21 ~~underrepresentation of minority or majority students of one fourth (1/4) or~~
 22 ~~twenty five percent (25%) of the county's racial balance;~~

23 ~~(4) A transfer is exempt from the restriction set forth in~~
 24 ~~subdivision (f)(1) of this section if each school district within the county~~
 25 ~~does not have a critical mass of minority percentage in the student's race of~~
 26 ~~more than ten percent (10%) of any single race;~~

27 ~~(5) In any instance where the foregoing provisions would result~~
 28 ~~in a conflict with a desegregation court order or a district's court-approved~~
 29 ~~desegregation plan, the terms of the order or plan shall govern;~~

30 ~~(6) The department shall adopt appropriate rules and regulations~~
 31 ~~to implement the provisions of this section; and~~

32 ~~(7) The department shall monitor school districts for compliance~~
 33 ~~with this section.~~

34 ~~(g)(f)~~ The state board shall be authorized to resolve disputes arising
 35 under subsections (b)-(f) of this section.

36 ~~(h)(g)~~ A district participating under this program All public school

1 districts shall cause public announcements to be made over the broadcast
2 media and in the print media at such times and in such manner as to inform
3 parents or guardians of students in adjoining districts of the availability
4 of the program, the application deadline, and the requirements and procedure
5 for nonresident students to participate in the program.

6 ~~(i)~~~~(1)~~(h)(1) All school districts shall report to the Equity
7 Assistance Center on an annual basis the race, gender, and other pertinent
8 information needed to properly monitor compliance with the provisions of this
9 section.

10 (2) The reports may be on those forms that are prescribed by the
11 department, or the data may be submitted electronically by the district using
12 a format authorized by the department.

13 (3) The department may withhold state aid from any school
14 district that fails to file its report each year or fails to file any other
15 information with a published deadline requested from school districts by the
16 center so long as thirty (30) calendar days are given between the request for
17 the information and the published deadline except when the request comes from
18 a member or committee of the General Assembly.

19 (4) A copy of the report shall be provided to the Joint Interim
20 Oversight Subcommittee on Educational Reform.

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