

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

1 State of Arkansas
2 88th General Assembly
3 Regular Session, 2011
4

As Engrossed: S3/29/11 S3/30/11

A Bill

SENATE BILL 914

5 By: Senator G. Baker
6

For An Act To Be Entitled

8 AN ACT CONCERNING THE ARKANSAS PUBLIC SCHOOL CHOICE
9 ACT OF 1989; AND FOR OTHER PURPOSES.
10
11

Subtitle

12 CONCERNING THE ARKANSAS PUBLIC SCHOOL
13 CHOICE ACT OF 1989.
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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
18

19 *SECTION 1. Arkansas Code § 6-18-206(a), concerning public school*
20 *choice, is amended to read as follows:*

21 *(a)(1) This section may be referred to and cited as the “Arkansas*
22 *Interdistrict Public School Choice Act of ~~1989~~ 2011”.*

23 *(2) The General Assembly finds that the guiding principle in all*
24 *decisions regarding public elementary and secondary education in the state is*
25 *the pursuit of educational excellence and the best interest of each*
26 *individual student, within the principles established by the Constitution of*
27 *the United States and the Arkansas Constitution.*

28 *(3) The General Assembly further finds that decisions involving*
29 *public education and the best interest of each individual student should be*
30 *assessed and made in light of instances in history related to intentional*
31 *discrimination on the basis of race that caused racially segregated school*
32 *districts, and school districts subject to federal remedial court orders to*
33 *desegregate student assignments.*

34 *(4) The General Assembly further finds that the students in*
35 *Arkansas’s public schools and their parents or guardians will become more*
36 *informed about and involved in the public educational system if students and*



1 *their parents or guardians are provided greater freedom to determine the most*
2 *effective school for meeting their individual educational needs. There is no*
3 *right school for every student, and permitting students to choose from among*
4 *different schools with differing assets will increase the likelihood that all*
5 *students will receive the best education and some marginal students will stay*
6 *in school and that other, more motivated students will find their full*
7 *academic potential.*

8 ~~(3)~~(5) *The General Assembly further finds that giving more*
9 *options to parents and students with respect to where the students attend*
10 *public school will increase the responsiveness and effectiveness of the*
11 *state's schools since teachers, administrators, and school board members will*
12 *have added incentive to satisfy the educational needs of the students who*
13 *reside in the district.*

14 ~~(4)~~(6) *The General Assembly therefore finds that these benefits*
15 *of enhanced quality and effectiveness in our public schools justify*
16 *permitting a student to apply for admission to a school in any district*
17 *beyond the one in which the student resides, provided that the transfer by*
18 *this student would not adversely affect the desegregation of either district.*

19 ~~(5)~~(7) *The following forty-eight (48) desegregating school*
20 *districts may be exempt from the public school choice requirements of this*
21 *section if the school board of directors of the school district determines*
22 *that the public school choice provisions of this section are inconsistent*
23 *with the desegregation obligations of the district:*

24 *(A) Bearden;*

25 *(B) Blytheville;*

26 *(C) Bradley;*

27 *(D) Camden-Fairview;*

28 *(E) Cutter-Morning Star;*

29 *(F) Dumas;*

30 *(G) El Dorado;*

31 *(H) England;*

32 *(I) Forrest City;*

33 *(J) Fort Smith;*

34 *(K) Fouke;*

35 *(L) Fountain Lake;*

36 *(M) Glen Rose;*

- 1 (N) Harmony Grove;
- 2 (O) Hazen;
- 3 (P) Helena-West Helena;
- 4 (Q) Hermitage;
- 5 (R) Hope;
- 6 (S) Hot Springs;
- 7 (T) Hoxie;
- 8 (U) Hughes;
- 9 (V) Jessieville;
- 10 (W) Jonesboro;
- 11 (X) Junction City;
- 12 (Y) Lake Hamilton;
- 13 (Z) Lakeside;
- 14 (AA) Little Rock;
- 15 (BB) Magnet Cove;
- 16 (CC) Magnolia;
- 17 (DD) Malvern;
- 18 (EE) Marked Tree;
- 19 (FF) Marvell;
- 20 (GG) Mountain Pine;
- 21 (HH) Nashville;
- 22 (II) Nemo Vista;
- 23 (JJ) North Little Rock;
- 24 (KK) Ouachita;
- 25 (LL) Palestine-Wheatley;
- 26 (MM) Pine Bluff;
- 27 (NN) Pulaski County Special;
- 28 (OO) South Conway County;
- 29 (PP) Star City;
- 30 (QQ) Stephens;
- 31 (RR) Warren;
- 32 (SS) Watson Chapel;
- 33 (TT) West Memphis;
- 34 (UU) Wonderview; and
- 35 (VV) Wynne.

36 A determination made by a school board of directors under this subdivision

1 shall be irrevocable for three (3) years from the date the determination was
2 made. After three (3) years the school board of directors may choose to
3 participate in public school choice under this section if the school district
4 has fully complied with all desegregation obligations and the school
5 district's participation will not conflict with any federal court-ordered
6 desegregation programs. A school district that participates in public school
7 choice under this section shall notify the Department of Education by June 1
8 before the school year implementing public school choice that the school
9 board of directors has elected to participate.

10 (8) A school district not included under subdivision (a)(7) of
11 this section under a current desegregation order issued by a federal court
12 may be exempt from this section if the federal court determines that the
13 requirements of public school choice under this section are inconsistent with
14 the desegregation obligations of the school district.

15 (9) At the discretion of a school district exempt under
16 subdivisions (a)(7) or (a)(8) of this section, if it is in the best
17 educational, social, or psychological interest of an individual student, the
18 school district may approve the legal:

19 (A) Enrollment of an individual nonresident student into
20 the school district; or

21 (B) Transfer of an individual resident student from the
22 school district.

23 (10) Legal enrollment or legal transfer of a student under
24 subdivision (a)(9) of this section shall be considered a legal transfer under
25 § 6-18-316 and shall be the only basis for the legal enrollment or legal
26 transfer of a student, other than school choice options under § 6-18-227,
27 from a school district exempted from school choice under this section.

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

31
32 SECTION 2. Arkansas Code § 6-18-206(b)(1)(B)(iv), concerning the
33 duration of transfer, is amended to read as follows:

34 (iv)(a) Any student who accepts a public school
35 choice transfer may return to his or her resident district during the course
36 of ~~the~~ any school year.

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

4 (c) A public school choice transfer under this
5 section shall be valid until the student:

6 (1) Graduates from high school;

7 (2) Seeks an additional public school
8 choice transfer; or

9 (3) Returns to his or her resident
10 school district.

11
12 SECTION 3. Arkansas Code § 6-18-206(b)(2)(B), concerning applications
13 for public school choice transfer, is amended to read as follows:

14 (B)(i)(a) A student legally enrolled in a nonresident
15 school district under this section on June 30, 2010 may remain enrolled in
16 his or her public school choice school district until the student:

17 (1) Graduates from high school;

18 (2) Seeks an additional public school
19 choice transfer; or

20 (3) Returns to his or her resident
21 school district.

22 (b) A sibling or step-sibling of a student
23 legally enrolled in a nonresident school district under this section on June
24 30, 2010 is eligible for initial enrollment and priority admission in the
25 same nonresident school district during the student's legal enrollment or
26 until the sibling or step-sibling:

27 (1) Graduates from high school;

28 (2) Seeks an additional public school
29 choice transfer; or

30 (3) Returns to his or her resident
31 school district.

32 (c) A sibling or step-sibling of a sibling or
33 step-sibling of a student under subdivision (b)(2)(B)(i)(a) of this section
34 is eligible for priority admission in the same nonresident school district
35 until the sibling or step-sibling of a sibling or step-sibling of a student
36 under subdivision (b)(2)(B)(i)(a) of this section:

1 (1) Graduates from high school;
 2 (2) Seeks an additional public school
 3 choice transfer; or
 4 (3) Returns to his or her resident
 5 school district.

6 (d) A school district maintains the right to
 7 challenge the unlawful attendance of resident students in another school
 8 district under § 6-18-202.

9 (ii)(a) Any student who applies for a transfer under
 10 this section and is denied a transfer by the nonresident district may request
 11 a hearing before the State Board of Education to reconsider the transfer.

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

16 (c) The state board may approve the transfer
 17 if the state board determines that it is in the best educational interests of
 18 the student and that the transfer would not have a negative impact on a
 19 federal desegregation court order of the resident school district or
 20 nonresident school district.

21
 22 SECTION 4. Arkansas Code § 6-18-206(f)-(j), concerning public school
 23 choice limitations, is amended to read as follows:

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

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

30 ~~(2)(A) A transfer to a district is exempt from the restriction~~
 31 ~~set forth in subdivision (f)(1) of this section if the transfer is between~~
 32 ~~two (2) districts within a county and if the minority percentage in the~~
 33 ~~student's race and majority percentages of school enrollment in both the~~
 34 ~~resident and nonresident district remain within an acceptable range of the~~
 35 ~~county's overall minority percentage in the student's race and majority~~
 36 ~~percentages of school population as set forth by the department.~~

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

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

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

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

21 ~~(4) In any instance in which the provisions of this subsection~~
22 ~~would result in a conflict with a desegregation court order or a district's~~
23 ~~court-approved desegregation plan, the terms of the order or plan shall~~
24 ~~govern;~~

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

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

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

31 ~~(h)(g) The superintendent of the district shall cause public~~
32 ~~announcements to be made over the broadcast media and in the print media at~~
33 ~~such times and in such a manner as to inform parents or guardians of students~~
34 ~~in adjoining districts of the availability of the program, the application~~
35 ~~deadline, and the requirements and procedure for nonresident students to~~
36 ~~participate in the program.~~

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

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

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

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

16 ~~(j)~~(l)(i) The department shall develop a ~~proposed~~ set of rules ~~as it~~
17 ~~determines is necessary or desirable to amend~~ administer the provisions of
18 this section.

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

24
25 SECTION 5. EMERGENCY CLAUSE. It is found and determined by the
26 General Assembly of the State of Arkansas that the uncertainty created by the
27 desegregation lawsuit filed against the Magnet Cove School District in which
28 the court's order could completely negate school choice or create open choice
29 without regard to existing federal desegregation court orders; that this
30 uncertainty affects other Arkansas school districts; and that this act is
31 immediately necessary because this issue creates a situation that causes a
32 necessity for these provisions to be implemented as soon as possible.
33 Therefore, an emergency is declared to exist and this act being immediately
34 necessary for the preservation of the public peace, health, and safety shall
35 become effective on:

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

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

4 (3) If the bill is vetoed by the Governor and the veto is
5 overridden, the date the last house overrides the veto.

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8 /s/G. Baker
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