

VIRGINIA ACTS OF ASSEMBLY -- 1999 RECONVENED SESSION

CHAPTER 988

An Act to amend and reenact §§ 22.1-3 and 22.1-5 of the Code of Virginia, relating to public school residency requirements.

[H 1835]

Approved April 7, 1999

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-3 and 22.1-5 of the Code of Virginia are amended and reenacted as follows:

§ 22.1-3. Persons to whom public schools shall be free.

The public schools in each school division shall be free to each person of school age who resides within the school division. Every person of school age shall be deemed to reside in a school division:

1. When the person is living with a natural parent, or a parent by legal adoption;
2. When the parents of such person are dead and the person is living with a person in loco parentis who actually resides within the school division;
3. When the parents of such person are unable to care for the person and the person is living, not solely for school purposes, with another person who resides in the school division and is the court-appointed guardian, or has legal custody, of the person;
4. When the person is living with a parent, guardian, or person in loco parentis in a temporary shelter in the school division, not solely for school purposes; or
5. When the person is living in the school division not solely for school purposes, as an emancipated minor.

For purposes of this section, "temporary shelter" means (i) any home, single or multi-unit dwelling or housing unit in which persons who are without housing or a fixed address receive temporary housing or shelter or (ii) any facility specifically designed or approved for the purpose of providing temporary housing or shelter to persons who are without permanent housing or a fixed address.

If a person resides within housing or temporary shelter that is situated in more than one school division, the person shall be deemed to reside in and shall be entitled to attend a public school within either school division. However, if a person resides in housing or temporary shelter that is located in one school division, but the property on which such housing or temporary shelter is located lies within more than one school division, such person shall be deemed to reside only in the single school division in which the housing or temporary shelter is located. Notwithstanding any such residency determination, any person residing in housing or a temporary shelter that is located in one school division, but the property on which such housing or temporary shelter is located lies within more than one school division, shall be deemed to reside in either school division, if such person or any sibling of such person residing in the same housing or temporary shelter attends, prior to July 1, 1999, a school within either school division in which the property on which the housing or temporary shelter is located.

§ 22.1-5. Regulations concerning admission of certain persons to schools; tuition charges.

A. The following persons may, in the discretion of the school board of a school division and pursuant to regulations adopted by the school board, be admitted into the public schools of the division and may, in the discretion of the school board, be charged tuition:

1. Persons who reside within the school division but who are not of school age.
2. Persons of school age who are residents of the Commonwealth but who do not reside within the school division.
3. Persons of school age who are attending school in the school division pursuant to a foreign student exchange program approved by the school board.
4. Persons of school age who reside beyond the boundaries of the Commonwealth but near thereto in a state or the District of Columbia which grants the same privileges to residents of the Commonwealth if the school division admitting such persons borders such state or District of Columbia.
5. Persons of school age who reside on a military or naval reservation located wholly or partly within the geographical boundaries of the school division and who are not domiciled residents of the Commonwealth of Virginia; provided, however, that no person of school age residing on a military or naval reservation located wholly or partly within the geographical boundaries of the school division may be charged tuition if federal funds provided under P.L. 874 of 1950, commonly known as Impact Aid, shall fund such students at not less than fifty percent of the total per capita cost of education, exclusive of capital outlay and debt service, for elementary or secondary pupils, as the case may be, of such school division.

For the purposes of determining the residency of persons described in subdivisions 1 and 2 of this subsection, local school boards shall adopt regulations consistent with the residency requirements regarding persons residing in housing or temporary shelter, or on property located in multiple

jurisdictions, as articulated in § 22.1-3.

B. Persons of school age who are not residents of the Commonwealth but are living temporarily with persons residing within a school division may, in the discretion of the school board and pursuant to regulations adopted by it, be admitted to the public schools of the school division. Tuition shall be charged such persons.

C. No tuition charge authorized or required in this section shall exceed the total per capita cost of education, exclusive of capital outlay and debt service, for elementary or secondary pupils, as the case may be, of such school division and the actual, additional costs of any special education or gifted and talented program provided the pupil, except that if the tuition charge is payable by the school board of the school division of the pupil's residence pursuant to a contract entered into between the two school boards, the tuition charge shall be that fixed by such contract.

D. School boards may accept and provide programs for students for whom English is a second language who entered school in Virginia for the first time after reaching their twelfth birthday, and who have not reached twenty-two years of age on or before August 1 of the school year. No tuition shall be charged such students, if state funding is provided for such programs; provided however, that no state funds may be used to provide programs under this subsection for any individual who has reached his eighteenth birthday and who does not provide documentation of United States citizenship or legal presence in the United States.

E. Any local school board accepting students pursuant to this section shall establish acceptance criteria consistent with relevant federal and state law and regulation.