

Stricken language would be deleted from and underlined language would be added to present law.  
Act 560 of the Regular Session

1 State of Arkansas  
2 90th General Assembly  
3 Regular Session, 2015  
4

As Engrossed: S2/9/15 S2/17/15

# A Bill

SENATE BILL 179

5 By: Senators A. Clark, J. English, G. Stubblefield  
6 By: Representatives Cozart, Gates, Baltz, Bell, Deffenbaugh, C. Douglas, Gossage, G. Hodges, Lowery,  
7 Ratliff  
8

## For An Act To Be Entitled

9  
10 AN ACT TO REQUIRE A SCHOOL DISTRICT SUBJECT TO A  
11 DESEGREGATION ORDER TO NOTIFY THE DEPARTMENT OF  
12 EDUCATION AND TO PROVIDE A COPY OF THE DESEGREGATION  
13 ORDER; TO AMEND THE PUBLIC SCHOOL CHOICE ACT OF 2013;  
14 TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.  
15  
16

## Subtitle

17  
18 TO REQUIRE A SCHOOL DISTRICT SUBJECT TO A  
19 DESEGREGATION ORDER TO NOTIFY THE  
20 DEPARTMENT OF EDUCATION AND TO PROVIDE A  
21 COPY OF THE DESEGREGATION ORDER; TO AMEND  
22 THE PUBLIC SCHOOL CHOICE ACT OF 2013; AND  
23 TO DECLARE AN EMERGENCY.  
24  
25

26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
27

28 SECTION 1. Arkansas Code Title 6, Chapter 13, Subchapter 1, is amended  
29 to add an additional section to read as follows:

30 6-13-113. School district desegregation orders – Orders.

31 (a) By January 1, 2016, a school district that is subject to a  
32 desegregation order or desegregation-related order shall notify the  
33 Department of Education in writing.

34 (b) A school district that is subject to a desegregation order or a  
35 desegregation-related order shall include in the written notice to the  
36 department:



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1           (1) A copy of the desegregation order or desegregation-related  
2 order;

3           (2) The case heading and case number of each court case in which  
4 the order was entered;

5           (3) The name and location of each court that maintains  
6 jurisdiction over the order; and

7           (4) A description of the school choice student transfer  
8 desegregation obligations, if any, that the school district is subject to,  
9 related to the order.

10          (c) A school district that is released from court supervision related  
11 to a desegregation order or desegregation-related order shall promptly notify  
12 the department.

13          (d) A school district that fails to meet the requirements of this  
14 section is in violation of the Standards for Accreditation of Arkansas Public  
15 Schools and School Districts.

16          (e) The department shall post on the department's website all written  
17 notifications received as required by this section.

18  
19          SECTION 2. Arkansas Code § 6-18-1901(a), concerning the Public School  
20 Choice Act of 2013, is amended to read as follows:

21          (a) This subchapter shall be known and may be cited as the "Public  
22 School Choice Act of ~~2013~~ 2015".

23  
24          SECTION 3. Arkansas Code § 6-18-1902(4), concerning the definition of  
25 transfer student, is amended to read as follows:

26          (4) "Transfer student" means a public school student in kindergarten  
27 through grade twelve (12) who transfers to a nonresident district through a  
28 public school choice option under this subchapter.

29  
30          SECTION 4. Arkansas Code § 6-18-1903(a)-(d), concerning the public  
31 school choice program, are amended to read as follows:

32          (a) A public school choice program is established to enable a student  
33 in kindergarten through grade twelve (12) to attend a school in a nonresident  
34 district, subject to the limitations under § 6-18-1906.

35          (b) Each school district shall participate in a public school choice  
36 program consistent with this subchapter.

1 (c) This subchapter does not require a school district to add teachers,  
2 staff, or classrooms or in any way to exceed the requirements and standards  
3 established by existing law.

4 (d)(1) The board of directors of a public school district shall adopt  
5 by resolution specific standards for acceptance and rejection of applications  
6 under this subchapter.

7 (2) The standards:

8 (A) May include without limitation the capacity of a  
9 program, class, grade level, or school building;

10 (B) May include a claim of a lack of capacity by a school  
11 district only if the school district has reached at least ninety percent  
12 (90%) of the maximum authorized student population in a program, class, grade  
13 level, or school building;

14 (C) Shall include a statement that priority will be given  
15 to an applicant who has a sibling or stepsibling who:

16 (i) Resides in the same household; and

17 (ii) Is already enrolled in the nonresident district  
18 by choice; and

19 ~~(G)~~ (D) Shall not include an applicant's:

20 (i) Academic achievement;

21 (ii) Athletic or other extracurricular ability;

22 (iii) English proficiency level; or

23 (iv) Previous disciplinary proceedings, except that  
24 an expulsion from another district may be included under § 6-18-510.

25 (3) A school district receiving transfers under this subchapter  
26 shall not discriminate on the basis of gender, national origin, race,  
27 ethnicity, religion, or disability.

28  
29 SECTION 5. Arkansas Code § 6-18-1904(a)-(c), concerning general  
30 provisions, are amended to read as follows:

31 (a) The transfer of a student under the Arkansas Public School Choice  
32 Act of 1989, § 6-18-206 [repealed], or the Public School Choice Act of 2013,  
33 is not voided by this subchapter and shall be treated as a transfer under  
34 this subchapter.

35 (b)(1) A student may accept only one (1) school choice transfer per  
36 school year.

1 (2)(A) A student who accepts a public school choice  
2 transfer may return to his or her resident district during the school year.

3 (B) If a transferred student returns to his or her  
4 resident district, the student's transfer is voided, and the student shall  
5 reapply if the student seeks a future school choice transfer.

6 (c)(1) A transfer student attending a nonresident school under this  
7 subchapter may complete all remaining school years at the nonresident  
8 district.

9 (2) A present or future sibling of a student who continues  
10 enrollment in the nonresident district under this subsection and applies for  
11 a school choice transfer under § 6-18-1905 may enroll in ~~or continue~~  
12 ~~enrollment in the nonresident district until the sibling of the transfer~~  
13 ~~student completes his or her secondary education,~~ if the district has the  
14 capacity to accept the sibling without adding teachers, staff, or classrooms  
15 or exceeding the regulations and standards established by law.

16 (3) A present or future sibling of a student who continues  
17 enrollment in the nonresident district and who enrolls in the nonresident  
18 district under subdivision (c)(2) of this section may complete all remaining  
19 school years at the nonresident district.

20  
21 SECTION 6. Arkansas Code §§ 6-18-1905 and 6-18-1906 are amended to  
22 read as follows:

23 6-18-1905. Application for a transfer.

24 (a) If a student seeks to attend a school in a nonresident district,  
25 the student's parent shall submit an application:

26 (1) To the nonresident district ~~with a copy to~~ ,which shall  
27 notify the resident district of the filing of the application;

28 (2) On a form approved by the Department of Education; and

29 (3) Postmarked no later than ~~June~~ May 1 of the year in which the  
30 student seeks to begin the fall semester at the nonresident district.

31 (b) A nonresident district that receives an application under  
32 subsection (a) of this section shall, upon receipt of the application, place  
33 a date and time stamp on the application that reflects the date and time the  
34 nonresident district received the application.

35 (c) A nonresident district shall review and make a determination on  
36 each application in the order in which the application was received by the

1 nonresident district.

2 (d) Before accepting or rejecting an application, a nonresident  
3 district shall determine whether one of the limitations under § 6-18-1906  
4 applies to the application.

5 (e)(1) By August July 1 of the school year in which the student seeks  
6 to enroll in a nonresident district under this subchapter, the superintendent  
7 of the nonresident district shall notify the parent and the resident district  
8 in writing as to whether the student's application has been accepted or  
9 rejected.

10 (2) If the application is rejected, the superintendent of the  
11 nonresident district shall state in the notification letter the reason for  
12 rejection.

13 (3) If the application is accepted, the superintendent of the  
14 nonresident district shall state in the notification letter\*

15 ~~(A) A a reasonable deadline by which the student shall~~  
16 ~~enroll in the nonresident district and after which the acceptance~~  
17 ~~notification is null, and~~

18 ~~(B) Instructions for the renewal procedures established by~~  
19 ~~the nonresident district.~~

20

21 6-18-1906. Limitations.

22 (a)(1) If the provisions of this subchapter conflict with a provision  
23 of an enforceable desegregation court order or a district's court-approved  
24 desegregation plan regarding the effects of past racial segregation in  
25 student assignment, the provisions of the order or plan shall govern.

26 (2) If a school district claims a conflict under subdivision  
27 (a)(1) of this section, the school district shall immediately submit proof  
28 from a federal court to the Department of Education that the school district  
29 has a genuine conflict under an active desegregation order or active court-  
30 approved desegregation plan with the interdistrict school choice provisions  
31 of this subchapter.

32 ~~(1) A school district annually may declare an exemption under this~~  
33 ~~section if the school district is subject to the desegregation order or~~  
34 ~~mandate of a federal court or agency remedying the effects of past racial~~  
35 ~~segregation.~~

36 ~~(2)(A) An exemption declared by a board of directors under this~~

1 subsection is irrevocable for one (1) year from the date the school district  
2 notifies the Department of Education of the declaration of exemption.

3 ~~(B) After each year of exemption, the board of directors  
4 may elect to participate in public school choice under this section if the  
5 school district's participation does not conflict with the school district's  
6 federal court ordered desegregation program.~~

7 (3) A school district shall notify the department by April 1 if  
8 in the next school year the school district intends to:

9 (A) Declare an exemption under this section; or

10 (B) Resume participation after a period of exemption.

11 ~~(e)(1)(A) (b)(1)(A)~~ There is established a numerical net maximum limit  
12 on school choice transfers each school year from a school district, less any  
13 school choice transfers into the school district, under this section of not  
14 more than three percent (3%) of the school district's three quarter average  
15 daily membership for the enrollment that exists in the school district as of  
16 October 15 of the immediately preceding school year.

17 (B) For the purpose of determining the percentage of school  
18 choice transfers under this subsection, siblings who are counted in the  
19 numerator as transfer students shall count as one (1) student, ~~and siblings~~  
20 ~~who are counted in the denominator as part of the average daily membership~~  
21 ~~shall count as one (1) student.~~

22 (C) A student eligible to transfer to a nonresident  
23 district under § 6-15-430(c)(1), § 6-18-227, or § 6-21-812 shall not count  
24 against the cap of three percent (3%) of the resident or nonresident  
25 district.

26 (2) Annually by ~~June 1~~ December 15, the department shall report  
27 to each school district the net maximum number of school choice transfers for  
28 the ~~current~~ next school year.

29 (3) If a student is unable to transfer due to the limits under  
30 this subsection, the resident district shall give the student priority for a  
31 transfer in the ~~following~~ first school year in which the district is no  
32 longer subject to subdivision § (b)(1) of this section in the order that the  
33 resident district receives notices of applications under § 6-18-1905, as  
34 evidenced by a notation made by the district on the applications indicating  
35 date and time of receipt.

36

1 SECTION 7. Arkansas Code § 6-18-1908 is amended to read as follows:  
2 6-18-1908. Effective date.

3 The provisions of this subchapter ~~shall remain in effect until July 1,~~  
4 2015 are effective immediately.

5  
6 SECTION 8. EMERGENCY CLAUSE. It is found and determined by the  
7 General Assembly of the State of Arkansas that public school choice is  
8 effective in meeting the needs of students; that the current school choice  
9 provisions are about to expire; and that this act is immediately necessary to  
10 ensure that students have public school choice options for the 2015-2016  
11 school year. Therefore, an emergency is declared to exist, and this act being  
12 immediately necessary for the preservation of the public peace, health, and  
13 safety shall become effective on:

- 14 (1) The date of its approval by the Governor;  
15 (2) If the bill is neither approved nor vetoed by the Governor,  
16 the expiration of the period of time during which the Governor may veto the  
17 bill; or  
18 (3) If the bill is vetoed by the Governor and the veto is  
19 overridden, the date the last house overrides the veto.

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*/s/A. Clark*

**APPROVED: 03/20/2015**

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Title 6 Education  
Subtitle 2. Elementary And Secondary Education Generally  
Chapter 18 Students  
Subchapter 19 Public School Choice Act of 2013

A.C.A. § 6-18-1901 (2015)

**6-18-1901. Title -- Legislative findings.**

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

(b) The General Assembly finds that:

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

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

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

**HISTORY:** Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1902 (2015)

**6-18-1902. Definitions.**

As used in this subchapter:

- (1) "Nonresident district" means a school district other than a student's resident district;
- (2) "Parent" means a student's parent, guardian, or other person having custody or care of the student;
- (3) "Resident district" means the school district in which the student resides as determined under § 6-18-202; and
- (4) "Transfer student" means a public school student who transfers to a nonresident district through a public school choice option under this subchapter.

**HISTORY:** Acts 2013, No. 1227, § 6.View  ▾

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⌂ A.C.A. § 6-18-1903 ⌂



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A.C.A. § 6-18-1903

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A.C.A. § 6-18-1903 (2015)

**6-18-1903. Public school choice program established.**

**(a)** A public school choice program is established to enable a student to attend a school in a nonresident district, subject to the limitations under § 6-18-1906.

**(b)** Each school district shall participate in a public school choice program consistent with this subchapter.

**(c)** This subchapter does not require a school district to add teachers, staff, or classrooms or in any way to exceed the requirements and standards established by existing law.

**(d) (1)** The board of directors of a public school district shall adopt by resolution specific standards for acceptance and rejection of applications under this subchapter.

**(2)** The standards:

**(A)** May include without limitation the capacity of a program, class, grade level, or school building;

**(B)** Shall include a statement that priority will be given to an applicant who has a sibling or stepsibling who:

**(i)** Resides in the same household; and

**(ii)** Is already enrolled in the nonresident district by choice; and

**(C)** Shall not include an applicant's:

**(i)** Academic achievement;

**(ii)** Athletic or other extracurricular ability;

**(iii)** English proficiency level; or

(iv) Previous disciplinary proceedings, except that an expulsion from another district may be included under § 6-18-510.

(3) A school district receiving transfers under this act shall not discriminate on the basis of gender, national origin, race, ethnicity, religion, or disability.

(e) A nonresident district shall:

(1) Accept credits toward graduation that were awarded by another district; and

(2) Award a diploma to a nonresident student if the student meets the nonresident district's graduation requirements.

(f) The superintendent of a school district shall cause public announcements to be made over the broadcast media and either in the print media or on the Internet to inform parents of students in adjoining districts of the:

(1) Availability of the program;

(2) Application deadline; and

(3) Requirements and procedure for nonresident students to participate in the program.

**HISTORY:** Acts 2013, No. 1227, § 6.

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⬅ A.C.A. § 6-18-1903 ➡



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Chapter 18 Students  
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A.C.A. § 6-18-1904 (2015)

**6-18-1904. General provisions.**

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

**(b) (1)** A student may accept only one (1) school choice transfer per school year.

**(2) (A)** A student who accepts a public school choice transfer may return to his or her resident district during the school year.

**(B)** If a transferred student returns to his or her resident district, the student's transfer is voided, and the student shall reapply if the student seeks a future school choice transfer.

**(c) (1)** A transfer student attending a nonresident school under this subchapter may complete all remaining school years at the nonresident district.

**(2)** A present or future sibling of a student who continues enrollment in the nonresident district under this subsection may enroll in or continue enrollment in the nonresident district until the sibling of the transfer student completes his or her secondary education, if the district has the capacity to accept the sibling without adding teachers, staff, or classrooms or exceeding the regulations and standards established by law.


**(d) (1)** The transfer student or the transfer student's parent is responsible for the transportation of the transfer student to and from the school in the nonresident district where the transfer student is enrolled.



**(2)** The nonresident district may enter into a written agreement with the student, the student's parent, or the resident district to provide the transportation.

**(3)** The State Board of Education may resolve disputes concerning transportation arising under this subsection.

(e) For purposes of determining a school district's state aid, a transfer student is counted as a part of the average daily membership of the nonresident district where the transfer student is enrolled.

**HISTORY:** Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1905 (2015)

**6-18-1905. Application for a transfer.**

(a) If a student seeks to attend a school in a nonresident district, the student's parent shall submit an application:

(1) To the nonresident district with a copy to the resident district;

(2) On a form approved by the Department of Education; and

(3) Postmarked no later than June 1 of the year in which the student seeks to begin the fall semester at the nonresident district.

(b) (1) By August 1 of the school year in which the student seeks to enroll in a nonresident district under this subchapter, the superintendent of the nonresident district shall notify the parent and the resident district in writing as to whether the student's application has been accepted or rejected.

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

(3) If the application is accepted, the superintendent of the nonresident district shall state in the notification letter:

(A) A reasonable deadline by which the student shall enroll in the nonresident district and after which the acceptance notification is null; and

(B) Instructions for the renewal procedures established by the nonresident district.

**HISTORY:** Acts 2013, No. 1227, § 6.

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Chapter 18 Students  
Subchapter 19 Public School Choice Act of 2013

A.C.A. § 6-18-1906 (2015)

**6-18-1906. Limitations.**

**(a)** If the provisions of this subchapter conflict with a provision of an enforceable desegregation court order or a district's court-approved desegregation plan regarding the effects of past racial segregation in student assignment, the provisions of the order or plan shall govern.

**(b) (1)** A school district annually may declare an exemption under this section if the school district is subject to the desegregation order or mandate of a federal court or agency remedying the effects of past racial segregation.

**(2) (A)** An exemption declared by a board of directors under this subsection is irrevocable for one (1) year from the date the school district notifies the Department of Education of the declaration of exemption.

**(B)** After each year of exemption, the board of directors may elect to participate in public school choice under this section if the school district's participation does not conflict with the school district's federal court-ordered desegregation program.

**(3)** A school district shall notify the department by April 1 if in the next school year the school district intends to:

**(A)** Declare an exemption under this section; or

**(B)** Resume participation after a period of exemption.

**(c) (1) (A)** There is established a numerical net maximum limit on school choice transfers each school year from a school district, less any school choice transfers into the school district, under this section of not more than three percent (3%) of the school district's three-quarter average daily membership for the immediately preceding school year.


**(B)** For the purpose of determining the percentage of school choice transfers under this subsection, siblings who are counted in the numerator as transfer students shall count as one (1) student, and siblings who are counted in the denominator as part of the average daily



membership shall count as one (1) student.

**(2)** Annually by June 1, the Department of Education shall report to each school district the net maximum number of school choice transfers for the current school year.

**(3)** If a student is unable to transfer due to the limits under this subsection, the resident district shall give the student priority for a transfer in the following year in the order that the resident district receives notices of applications under § 6-18-1905, as evidenced by a notation made by the district on the applications indicating date and time of receipt.

**HISTORY:** Acts 2013, No. 1227, § 6.

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A.C.A. § 6-18-1907 (2015)

**6-18-1907. Rules -- Appeal -- Data collection and reporting.**

**(a)** The State Board of Education may promulgate rules to implement this subchapter.

**(b) (1)** A student whose application for a transfer under § 6-18-1905 is rejected by the nonresident district may request a hearing before the state board to reconsider the transfer.

**(2) (A)** A request for a hearing before the state board shall be in writing and shall be postmarked no later than ten (10) days after the student or the student's parent receives a notice of rejection of the application under § 6-18-1905.

**(B)** As part of the review process, the parent may submit supporting documentation that the transfer would be in the best educational, social, or psychological interest of the student.

**(3)** If the state board overturns the determination of the nonresident district on appeal, the state board shall notify the parent, the nonresident district, and the resident district of the basis for the state board's decision.

**(c) (1)** The department shall collect data from school districts on the number of applications for student transfers under this section and study the effects of school choice transfers under this subchapter, including without limitation the net maximum number of transfers and exemptions, on both resident and nonresident districts for up to two (2) years to determine if a racially segregative impact has occurred to any school district.

**(2)** Annually by October 1, the department shall report its findings from the study of the data under this subsection to the Senate Committee on Education and the House Committee on Education.

**HISTORY:** Acts 2013, No. 1227, § 6.

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Arkansas Code of 1987 Annotated  
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\*\*\* Legislation is current through the 2014 Second Extraordinary Session \*\*\*  
\*\*\* and updates received from the Arkansas Code Revision Commission \*\*\*  
\*\*\* through December 12, 2014. \*\*\*

Title 6 Education  
Subtitle 2. Elementary And Secondary Education Generally  
Chapter 18 Students  
Subchapter 19 Public School Choice Act of 2013

A.C.A. § 6-18-1908 (2015)

**6-18-1908. Effective date.**

The provisions of this subchapter shall remain in effect until July 1, 2015.

**HISTORY:** Acts 2013, No. 1227, § 6.

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