



State of Wisconsin
2003 - 2004 LEGISLATURE

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**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2003 ASSEMBLY BILL 393**

June 24, 2003 – Offered by Representatives JENSEN, SINICKI, TOWNS and VUKMIR.

1 **AN ACT to amend** 115.77 (1), 115.77 (4) (j) 10., 115.777 (1), 115.78 (1), 115.782 (2)
2 (d), 115.787 (3) (d), 115.79 (2), 115.792 (1) (b), 115.792 (3) (a), 115.80 (8), 115.88
3 (8), 118.51 (3) (a) 2., 118.51 (6), 118.51 (14) (a) 1. and 121.54 (10); and **to create**
4 115.82 (2) (e), 118.51 (14) (a) 3. and 121.78 (5) of the statutes; **relating to:**
5 allowing certain pupils who are victims of violent crimes to transfer to a
6 different school district.

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

7 **SECTION 1.** 115.77 (1) of the statutes is amended to read:
8 115.77 (1) In sub. (1m) (a) to (d), except as provided in s. 118.51 (12) (a) and (b)
9 2., if a child with a disability is attending a public school in a nonresident school
10 district under s. 118.51, 121.78 (5), or 121.84 (1) (a) or (4), “local educational agency”
11 means the school district that the child is attending.

1 **SECTION 2.** 115.77 (4) (j) 10. of the statutes is amended to read:

2 115.77 (4) (j) 10. If the local educational agency is a school district, the number
3 of children with disabilities who attend the school district under ss. 118.51, 121.78
4 (5), and 121.84 (1) (a) and (4), the disability of each such child and the special
5 education or related services received by each such child.

6 **SECTION 3.** 115.777 (1) of the statutes is amended to read:

7 115.777 (1) (a) A physician, nurse, psychologist, social worker or administrator
8 of a social agency who reasonably believes that a child brought to him or her for
9 services has a disability shall refer the child to the local educational agency. If the
10 local educational agency to whom the referral is made is the school district in which
11 the child resides but the child is attending a public school in a nonresident school
12 district under s. 118.51, 121.78 (5), or 121.84 (1) (a) or (4), the school board of the
13 school district in which the child resides shall provide the name of the child and
14 related information to the school board of the school district that the child is
15 attending.

16 (b) A person who is required to be licensed under s. 115.28 (7), who is employed
17 by a local educational agency and who reasonably believes a child has a disability,
18 shall refer the child to the local educational agency. If the local educational agency
19 to whom the referral is made is the school district that the child is attending but the
20 child is a nonresident attending a public school in that school district under s. 118.51,
21 121.78 (5), or 121.84 (1) (a) or (4), the school board of the school district that the child
22 is attending shall provide the name of the child and related information to the school
23 board of the child's school district of residence.

24 (c) Any person other than those specified under par. (a) or (b) who reasonably
25 believes that a child is a child with a disability may refer the child to a local

1 educational agency. If the local educational agency to whom the referral is made is
2 the school district in which the child resides but the child is attending a public school
3 in a nonresident school district under s. 118.51, 121.78 (5), or 121.84 (1) (a) or (4), the
4 school board of the school district in which the child resides shall provide the name
5 of the child and related information to the school board of the school district that the
6 child is attending.

7 **SECTION 4.** 115.78 (1) of the statutes is amended to read:

8 115.78 (1) DEFINITION. In this section, for a child who is attending a public
9 school in a nonresident school district under s. 118.51, 121.78 (5), or 121.84 (1) (a) or
10 (4), “local educational agency” means the school board of the school district that the
11 child is attending.

12 **SECTION 5.** 115.782 (2) (d) of the statutes is amended to read:

13 115.782 (2) (d) If a child is attending a public school in a nonresident school
14 district under s. 118.51, 121.78 (5), or 121.84 (1) (a) or (4), when the individualized
15 education program team conducts its initial evaluation of the child or any
16 reevaluation of the child under sub. (4), the team shall include at least one person
17 designated by the school board of the child’s school district of residence who has
18 knowledge or special expertise about the child.

19 **SECTION 6.** 115.787 (3) (d) of the statutes is amended to read:

20 115.787 (3) (d) If a child is attending a public school in a nonresident school
21 district under s. 118.51, 121.78 (5), or 121.84 (1) (a) or (4), when the individualized
22 education program team for the child develops the child’s individualized education
23 program, the team shall include at least one person designated by the school board
24 of the school district in which the child resides who has knowledge or special
25 expertise about the child.

1 **SECTION 7.** 115.79 (2) of the statutes is amended to read:

2 115.79 (2) An educational placement is provided to implement a child's
3 individualized education program. Except as provided in s. 118.51 (12) (a) and (b)
4 2., if a child with a disability is attending a public school in a nonresident school
5 district under s. 118.51, 121.78 (5), or 121.84 (1) (a) or (4), the school board of the
6 school district that the child is attending shall provide an educational placement for
7 the child and shall pay tuition charges instead of the school district in which the child
8 resides if required by the placement.

9 **SECTION 8.** 115.792 (1) (b) of the statutes is amended to read:

10 115.792 (1) (b) The local educational agency shall establish and maintain
11 procedures to ensure that a child's parents are provided prior written notice
12 whenever the local educational agency proposes to initiate or change, or refuses to
13 initiate or change, the identification, evaluation or educational placement of the
14 child, or the provision of a free appropriate public education to the child. In this
15 paragraph, "local educational agency" includes the nonresident school district that
16 a child is attending under s. 118.51, 121.78 (5), or 121.84 (1) (a) or (4).

17 **SECTION 9.** 115.792 (3) (a) of the statutes is amended to read:

18 115.792 (3) (a) In this subsection, "local educational agency" includes the
19 nonresident school district that a child is attending under s. 118.51, 121.78 (5), or
20 121.84 (1) (a) or (4).

21 **SECTION 10.** 115.80 (8) of the statutes is amended to read:

22 115.80 (8) Except as provided in 20 USC 1415 (k), during the pendency of any
23 proceedings under this section, the local educational agency may not change the
24 educational placement of a child unless the child's parents agree to the change. If
25 the child is applying for initial admission to a public school, the child shall, with the

1 consent of the child's parents, be placed in the public school program until all
2 proceedings under this section have been completed. In this subsection, "local
3 educational agency" includes the nonresident school district that a child is attending
4 under s. 118.51, 121.78 (5), or 121.84 (1) (a) or (4).

5 **SECTION 11.** 115.82 (2) (c) of the statutes is created to read:

6 115.82 (2) (c) If the child is attending a public school in a nonresident school
7 district under s. 121.78 (5), s. 121.78 (5) (e) applies.

8 **SECTION 12.** 115.88 (8) of the statutes is amended to read:

9 115.88 (8) ENROLLMENT OUT OF STATE. If a child with a disability is enrolled in
10 a public special education program located in another state and the state
11 superintendent is satisfied that the program in which the child is enrolled complies
12 with this subchapter, the state superintendent shall certify to the department of
13 administration in favor of the school district in which the child resides or the school
14 district attended by the child under s. 118.51, 121.78 (5), or 121.84 (1) (a) or (4) a sum
15 equal to the amount expended by the school district during the preceding year for the
16 additional costs associated with the child's special education program as costs
17 eligible for reimbursement from the appropriation under s. 20.255 (2) (b).

18 **SECTION 13.** 118.51 (3) (a) 2. of the statutes is amended to read:

19 118.51 (3) (a) 2. A nonresident school board may not act on any application
20 received under subd. 1. until after the 3rd Friday following the first Monday in
21 February. If a nonresident school board receives more applications for a particular
22 grade or program than there are spaces available in the grade or program, the
23 nonresident school board shall determine which pupils to accept on a random basis,
24 after giving preference first to pupils who transferred to a nonresident school district
25 under s. 121.78 (5) and then at the first opportunity to do so applied for admittance

1 to a nonresident school district under this section, and 2nd to pupils and to siblings
2 of pupils who are already attending public school in the nonresident school district.
3 If a nonresident school board determines that space is not otherwise available for
4 open enrollment pupils in the grade or program to which an individual has applied,
5 the school board may nevertheless accept an applicant who is ~~already attending~~
6 ~~school in the nonresident school district or a sibling of the applicant~~ required to be
7 given preference.

8 **SECTION 14.** 118.51 (6) of the statutes is amended to read:

9 118.51 (6) RESIDENT SCHOOL DISTRICT TRANSFER LIMITATIONS. A school board may
10 limit the number of its resident pupils attending public school in other school
11 districts under this section in the 1998–99 school year to 3% of its membership. In
12 each of the 7 succeeding school years, a school board may limit the number of its
13 resident pupils attending public school in other school districts to an additional 1%
14 of its membership. If more than the maximum allowable number of resident pupils
15 apply to attend public school in other school districts in any school year under this
16 section, the school board shall determine which pupils will be allowed to attend
17 public school in other school districts on a random basis, except that the school board
18 shall give preference first to pupils who transferred to a nonresident school district
19 under s. 121.78 (5) and then at the first opportunity to do so applied for admittance
20 to a nonresident school district under this section, and 2nd to pupils who are already
21 attending public school in the school district to which they are applying under this
22 section and to siblings of such pupils.

23 **SECTION 15.** 118.51 (14) (a) 1. of the statutes is amended to read:

24 118.51 (14) (a) 1. Except as provided in ~~subd.~~ subds. 2. and 3., the parent of a
25 pupil attending public school in a nonresident school district under this section is

1 responsible for transporting the pupil to and from school in the nonresident school
2 district attended by the pupil.

3 **SECTION 16.** 118.51 (14) (a) 3. of the statutes is created to read:

4 118.51 (14) (a) 3. If the pupil transferred to another school district under s.
5 121.78 (5) and then at the first opportunity to do so was admitted to a nonresident
6 school district that is contiguous to the school district of residence under this section,
7 s. 121.78 (5) (e) 1. continues to apply to the transportation of the pupil.

8 **SECTION 17.** 121.54 (10) of the statutes is amended to read:

9 121.54 (10) ATTENDANCE IN NONRESIDENT SCHOOL DISTRICT. Subject to s. 118.51
10 (14) (a) 2., a school board may elect to provide transportation, including
11 transportation to and from summer classes, for nonresident pupils who are
12 attending public school in the school district under s. 118.51, 121.78 (5), or 121.84 (4),
13 or its resident pupils who are attending public school in another school district under
14 s. 118.51, 121.78 (5), or 121.84 (4), or both, except that a school board may not provide
15 transportation under this subsection for a nonresident pupil to or from a location
16 within the boundaries of the school district in which the pupil resides.

17 **SECTION 18.** 121.78 (5) of the statutes is created to read:

18 121.78 (5) VICTIMS OF VIOLENT CRIMINAL OFFENSES. (a) In this subsection,
19 “violent criminal offense” has the meaning given in the administrative rules
20 promulgated by the department to implement 20 USC 7912.

21 (b) A school board shall allow a pupil enrolled in the school district who is the
22 victim of a violent criminal offense, as determined by the school board, to attend a
23 public school outside the school district of residence, and shall pay tuition for the
24 pupil, if all of the following apply:

1 1. a. The pupil was the victim of the violent criminal offense while on the school
2 grounds of the school that the pupil attends, during school hours or during a
3 school-sponsored event held at the school that the pupil attends; or

4 b. The pupil was the victim of the violent criminal offense while being
5 transported to school to attend curricular programs during school hours, or from
6 school to home immediately following school hours, on a school bus owned, leased,
7 or contracted by the school board or in a motor vehicle operated as an alternative
8 method of providing transportation under s. 121.555.

9 2. There is no other public school operated by the school board in the pupil's
10 school district of residence that has the appropriate grade level for the pupil.

11 3. The pupil or his or her parent or guardian reports the violent criminal offense
12 to the appropriate law enforcement agency and to the principal of the school that the
13 pupil attends.

14 (c) Within 10 working days of an incident being reported under par. (b) 3., the
15 school board shall notify the parent or guardian of the pupil who is enrolled in the
16 school district and who is the victim of the violent criminal offense, in writing, of the
17 opportunity to attend a public school in another school district under. par. (b).

18 (d) Notwithstanding s. 121.77 (1) (b), the school board of the school district to
19 which the pupil applies shall admit the pupil, except that the school board may reject
20 the application for any of the reasons specified in s. 118.51 (5) (a). Unless the school
21 board of the school district to which the pupil has applied rejects the application, the
22 school board of the school district of residence and the school board of the school
23 district to which the pupil has applied shall complete the transfer of the pupil within
24 30 days of the date on which the pupil's application is received by the latter school
25 board.

1 (e) 1. If the pupil attends school in a school district that is contiguous to the
2 pupil's school district of residence, the school board of the pupil's school district of
3 residence shall pay to transport the pupil to and from school in the nonresident
4 school district.

5 2. If the pupil attends school in a school district that is not contiguous to the
6 pupil's school district of residence, the pupil's parent or guardian is responsible for
7 transporting the pupil to and from school in the nonresident school district, except
8 that, if the pupil is a child with a disability, as defined in s. 115.76 (5), and
9 transportation of the pupil is required in the individualized education program
10 developed for the child under s. 115.787 (2) or is required under s. 121.54 (3), the
11 school board of the school district of attendance shall provide such transportation.

12 (f) The school board of the school district of attendance shall allow the pupil to
13 continue to attend school in the school district under this subsection until the first
14 opportunity for the pupil to be admitted to a nonresident school district under the
15 open enrollment program under s. 118.51 occurs.

16 **SECTION 19. Initial applicability.**

17 (1) This act first applies to violent criminal offenses committed on the effective
18 date of this subsection.

19 (END)