

# Bill as Introduced

SB 37 - AS INTRODUCED

2011 SESSION

11-0767  
04/03

SENATE BILL **37**

AN ACT relative to the determination of residency for certain pupils.

SPONSORS: Sen. Stiles, Dist 24; Sen. Carson, Dist 14; Rep. St. Cyr, Belk 5; Rep. Shaw, Hills 16; Rep. Ladd, Graf 5

COMMITTEE: Education

---

ANALYSIS

This bill provides further detail on the procedure for resolving residency disputes.

---

Explanation: Matter added to current law appears in *bold italics*.  
Matter removed from current law appears ~~[in brackets and struck through]~~  
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

## STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Eleven*

AN ACT relative to the determination of residency for certain pupils.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1 1 School Attendance; Legal Residence Required. Amend RSA 193:12, VI(a) to read as follows:

2 VI.(a) The commissioner of the department of education, or designee, shall decide residency  
3 issues for all pupils, including homeless children and youths, in accordance with this section. If more  
4 than one school district is involved in a residency dispute, or the parents who live apart cannot agree  
5 on the residence of a minor child, the respective superintendents shall jointly make such decision. In  
6 those instances when an agreement cannot be reached, the commissioner of the department of  
7 education, or designee, shall make a determination within [14] 30 days of notice of the residency  
8 dispute and such determination shall be final. *If the unresolved residency dispute has resulted*  
9 *in an interruption of educational or related services, or such an interruption is likely to*  
10 *occur if the determination cannot be made before the expiration of 30 days, the*  
11 *determination shall be made within 14 days. With the agreement of the school districts*  
12 *involved and of the minor child's parent or legal representative, the time for determination*  
13 *of the residency dispute may be extended. Residency disputes may be submitted to the*  
14 *commissioner for determination by a school district involved in a dispute. In cases where*  
15 *the failure to resolve a residency dispute has resulted in or is likely to result in the*  
16 *interruption of educational or related services, a minor child's parent or legal*  
17 *representative may submit a residency dispute for determination to the commissioner. In*  
18 ~~[any case]~~ *all cases*, a written explanation shall be provided to the parties of record and a copy of  
19 such explanation shall be kept on file by the department of education. No school district shall deny a  
20 pupil attendance or implementation of an existing individualized education program.

21 2 Effective Date. This act shall take effect 60 days after its passage.

CHAPTER 178  
SB 37 – FINAL VERSION

18May2011... 1808h

2011 SESSION

11-0767  
04/03

SENATE BILL        **37**

AN ACT            relative to the determination of residency for certain pupils.

SPONSORS:        Sen. Stiles, Dist 24; Sen. Carson, Dist 14; Rep. St. Cyr, Belk 5; Rep. Shaw,  
                         Hills 16; Rep. Ladd, Graf 5

COMMITTEE:      Education

---

ANALYSIS

This bill provides further detail on the procedure for resolving residency disputes.

---

Explanation:     Matter added to current law appears in *bold italics*.  
                         Matter removed from current law appears [~~in brackets and struck through.~~]  
                         Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

CHAPTER 178  
SB 37 – FINAL VERSION

18May2011... 1808h

11-0767  
04/03

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Eleven*

AN ACT relative to the determination of residency for certain pupils.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1 178:1 School Attendance; Legal Residence Required. Amend RSA 193:12, VI(a) to read as  
2 follows:

3 VI.(a) The commissioner of the department of education, or designee, shall decide residency  
4 issues for all pupils, [~~including~~] **excluding** homeless children and youths, in accordance with this  
5 section. If more than one school district is involved in a residency dispute, or the parents who live  
6 apart cannot agree on the residence of a minor child, the respective superintendents shall jointly  
7 make such decision. In those instances when an agreement cannot be reached, the commissioner of  
8 the department of education, or designee, shall make a determination within [~~14~~] **30** days of notice of  
9 the residency dispute and such determination shall be final. *If the unresolved residency dispute  
10 has resulted in an interruption of educational or related services, or such an interruption  
11 is likely to occur if the determination cannot be made before the expiration of 30 days, the  
12 determination shall be made within 14 days. With the agreement of the school districts  
13 involved and of the minor child's parent or legal representative, the time for determination  
14 of the residency dispute may be extended. Residency disputes may be submitted to the  
15 commissioner for determination by a school district involved in a dispute. In cases where  
16 the failure to resolve a residency dispute has resulted in or is likely to result in the  
17 interruption of educational or related services, a minor child's parent or legal  
18 representative may submit a residency dispute for determination to the commissioner. In  
19 [~~any case~~] all cases, all parties with an interest in the dispute shall be notified of the  
20 pendency of the proceedings, shall have an opportunity to review all information provided  
21 to the commissioner, and shall have an opportunity to present facts and legal arguments to  
22 the commissioner. The commissioner's decision, including a written explanation for that  
23 decision, shall be provided to the parties of record and a copy of such explanation shall be kept on  
24 file by the department of education. No school district shall deny a pupil attendance or  
25 implementation of an existing individualized education program.*

26 178:2 Legal Residence Required. Amend RSA 193:12, II(a)(2) to read as follows:

27 (2) In a divorce decree where parents are awarded joint decision making  
28 responsibility or joint legal custody, the legal residence of a minor child is the residence of the parent  
29 with whom the child resides. If a parent is awarded sole or primary residential responsibility or

CHAPTER 178  
SB 37 - FINAL VERSION

- Page 2 -

1 physical custody by a court of competent jurisdiction in this or any other state, legal residence of a  
2 minor child is the residence of the parent who has sole or primary residential responsibility or  
3 physical custody. If the parent with sole or primary physical custody lives outside the state of New  
4 Hampshire, the pupil does not have residence in New Hampshire. If the court order is for equal or  
5 approximately equal periods of residential responsibility, the child's legal residence for school  
6 attendance purposes shall be as stated in the order. If a child is in a court-ordered residential  
7 placement, foster home, or group home pursuant to RSA 169-B, RSA 169-C, RSA 169-D, RSA 170-C,  
8 or RSA 463, residence shall be determined in accordance with RSA ~~[193:27]~~ **193:28**.

9 178:3 Effective Date. This act shall take effect 60 days after its passage.

10 Approved: June 14, 2011

11 Effective Date; August 13, 2011

# Committee Minutes

**SENATE CALENDAR NOTICE  
EDUCATION**

Senator Nancy Stiles Chairman  
 Senator James Forsythe V Chairman  
 Senator Sharon Carson  
 Senator Molly Kelly  
 Senator Russell Prescott

For Use by Senate Clerk's Office ONLY	
<input type="checkbox"/>	Bill Status
<input type="checkbox"/>	Docket
<input type="checkbox"/>	Calendar
Proof: <input type="checkbox"/>	Calendar <input type="checkbox"/> Bill Status

**Date: January 21, 2011**

**HEARINGS**

**Tuesday**

**2/1/2011**

**EDUCATION**

**LOB 103**

**1:00 PM**

(Name of Committee)

(Place)

(Time)

**EXECUTIVE SESSION MAY FOLLOW**

1:00 PM SB37

relative to the determination of residency for certain pupils.

1:30 PM SB45

relative to criteria for designation as a Granite State scholar.

**Sponsors:**

**SB37**

Sen. Nancy Stiles  
 Rep. Rick Ladd

Sen. Sharon Carson

Rep. Jeffrey St. Cyr

Rep. Barbara Shaw

**SB45**

Sen. Lou D'Allesandro  
 Sen. Bob Odell  
 Sen. Amanda Merrill

Sen. Sharon Carson  
 Sen. Jim Rausch

Sen. Molly Kelly  
 Sen. Sylvia Larsen

Sen. John Gallus  
 Sen. Matthew Houde



# Education Committee

## Hearing Report

**TO:** Members of the Senate

**FROM:** Tom Prasol, Legislative Aide

**RE:** Hearing report on SB 37 – relative to the determination of residency for certain pupils.

**HEARING DATE:** 2/1/2011

**MEMBERS OF THE COMMITTEE PRESENT:** Senator Stiles  
Senator Forsythe  
Senator Carson  
Senator Prescott  
Senator Kelly

**MEMBERS OF THE COMMITTEE ABSENT:** No one

**Sponsor(s):** Sen. Stiles, Dist 24; Sen. Carson, Dist 14; Rep. St. Cyr, Belk 5;  
Rep. Shaw, Hills 16; Rep. Ladd, Graf 5

**What the bill does:** This bill provides further detail on the procedure for resolving residency disputes.

**Who supports the bill:** Senator Nancy Stiles, District 24  
Senator Sharon Carson, District 14  
Paul Leather, DOE  
Bonnie Dunham

**Who opposes the bill:** Mark Joyce, NH School Administrators Association  
Dean Michener, NH School Board Association

### Summary of testimony received:

Senator Forsythe opened the hearing at 1:04pm and recognized Senator Stiles as the prime sponsor,

### Senator Stiles

Senator Stiles introduced the bill as one of residency for pupils to complete the updating of the education statutes. The language of this bill as

introduced was agreed upon by the Department of Education as well as the Disabilities Rights Center. It allows homeless students or children of divorced parents who live in separate school districts to become part of the discussion as to the district responsible for them. While SB 37 doesn't change the process under the current system, it allows the parents to have a voice.

Senator Stiles also mention that Mike Skibby from the Disabilities Rights Center was not able to attend the hearing due to a family emergency. She urged the Committee to pass the legislation and was not asked a question.

### **Mark Joyce, NH School Administrators**

Mr. Joyce testified on behalf o the NH School Administrators Association and is opposed to this bill. According to Mr. Joyce there is not a compelling issue that warrants an alteration to the system. In fact, he believes that the process in its current state works well and is simple and straight forward. This bill would create unnecessary pathways that could confuse the dispute resolution. Under the current law, disputes can either be brought to the commissioner to be settled or to the courts.

While the intention of the bill is to resolve residency disputes, 90% of his testimony deals with Special Education. Special Education is an important issue because it brings with it a large financial burden. However, there is no loss of service to the students in these issues because of the "stay-put" provision (in which federal law directs a child to stay in their current educational placement throughout any legal review). He also noted that homeless children disputes are not an issue for his members, but will become one if this bill opens up an appeals process to parents.

In conclusion he stated that the bill is well intentioned, but at present time this is not a problem that requires attention, and in fact this may confuse the current system.

Senator Kelly inquired if there was a specific case that caused this issue to arise considering the school districts do not feel there is a problem. Mr. Joyce responded that there are always ongoing cases but the only one that comes to mind is regarding a homeless special education student and therefore not an issue because of the stay-put provision.

### **Paul Leather, Department of Education**

Mr. Leather worked with all entities to ensure this legislation is workable and addressed the necessary timelines. The majority of cases where residency is disputed are in areas with homeless or unclear residencies (ie. Parents are divorced with joint custody). In one specific case, he

referenced a parent who had been called upon for active duty in the military and the spouse followed. This left the children with the mother's parents and the school district had a difficult time determining their proper residency.

Current law states that any residency dispute must be worked out between superintendents. Mr. Leather and the DOE agree that if parents were permitted to become involved it would provide a much smoother process. In cases where special education isn't present, the stay-put provision is not an option. This causes students to be out of school until a resolution is reached on their residency. There have been several special education cases and they recognize the cost concerns. Most importantly, this language would be included in the general residency statute and therefore apply to all students.

Senator Carson questioned the line 11 change from 14 days to 30 days. Mr. Leather answered that the intent was to reach a resolution as soon as possible and if all parties are part of the resolution there is a chance it may take longer. Senator Carson followed up that 14 days may be too long and suggested a resolution may want to be rendered more expeditiously. Mr. Leather reiterated that it was originally 14 days to determine proper residency; however there are possibly complex situations that may take longer. On the same issue, Senator Prescott inquired if the student would be in a program during the 14 days. It was Mr. Leather's understanding that they would be in a program, and hoped it would be a program that would be long term. He reiterated that the intent is to deal with a problem locally, and issues would only come to this level if a sufficient outcome was unavailable.

Senator Kelly then questioned the intent of the legislation. The current law assumes a resolution will be reached by superintendents and she wondered if there have been past instances where a disagreement occurred. Mr. Leather informed her that the intent is to create a resolution process if the superintendents cannot reach an agreement. He noted that there have been times in which the superintendent was unable to sufficiently reach a conclusion.

### **Dean Michener, NH School Board Association**

Mr. Michener and the NH School Board Association are opposed to this bill. They believe this is more of a residency and attendance issue that belongs to districts. The current law is sufficient because the issue is brought to the superintendent and if it cannot be resolved there, it is brought to the commissioner of the Department of Education.

He also stated that this bill adds confusion. It extends the current timeline from 14 days to 30 days dependent on likelihood, which is confusing. Also, they are not aware of specific problems that are causing this. In

reference to the homelessness issue, the McKinney Act states that homeless students must be enrolled. In reference to residency, divorce decrees cover it. In conclusion they believe the current system works and believe that this bill will open up to possible litigation.

### **Bonnie Dunham**

Ms. Dunham is a parent of a child with disabilities. She is involved with the parent information center and therefore is exposed to parents with similar situations. She supports the intent of this bill 100% and the actual bill 90%. She believes it will give a greater voice to parents and intends to resolve a serious problem. Ms. Dunham suggested a change to line 19. The last sentence should read "no school district shall deny a pupil attendance or implementation of an existing IEP, **pending the resolution of a residency dispute.**" No child should be denied an education and with a few wording changes this bill could address this issue.

### **Richard Cohen, Disabilities rights Center**

Mr. Cohen and the DRC support this bill because it creates a narrow pathway to allow a parent to decide where a child is educated. In the past they have had issues in which a dispute has come forward between two districts and a child was placed at Easter Seals by a third district. Upon being moved, there was no incentive for a school to take the child because they would be stuck with additional payments.

Lines 14 – 17 allows parents to involve themselves when superintendents don't step forward.

Hearing closed at 1:31pm.

TRP

[file: SB 37 report]  
Date: 2/2/2011

# Speakers



# Committee Report

STATE OF NEW HAMPSHIRE  
SENATE  
REPORT OF THE COMMITTEE

Date: February 8, 2011

THE COMMITTEE ON Education

to which was referred Senate Bill 37

AN ACT relative to the determination of residency for certain pupils.

Having considered the same, the committee recommends that the Bill:

**OUGHT TO PASS**

BY A VOTE OF: 5-0

AMENDMENT # 0s

Senator Nancy Stiles  
For the Committee

Tom Prasol 271-3093



## New Hampshire General Court - Bill Status System

**Docket of SB37**

Docket Abbreviations

**Bill Title:** relative to the determination of residency for certain pupils.*Official Docket of SB37:*

<b>Date</b>	<b>Body</b>	<b>Description</b>
1/19/2011	S	Introduced and Referred to Education, <b>SJ 3</b> , Pg.32
1/21/2011	S	Hearing: 2/01/11, Room 103, LOB, 1:00 p.m.
2/9/2011	S	Committee Report: Ought to Pass, 2/16/2011; <b>SC11</b>
2/16/2011	S	Ought to Pass, MA, VV; OT3rdg, <b>SJ 6</b> , Pg.54
2/16/2011	S	Passed by Third Reading Resolution, <b>SJ 6</b> , Pg.61
2/16/2011	H	Introduced and Referred to Education; <b>HJ 19</b> , Pg. 438
4/5/2011	H	Public Hearing: 4/14/2011 10:00 AM LOB 207
4/27/2011	H	Executive Session: 5/10/2011 1:30 PM LOB 207
5/12/2011	H	Committee Report: Ought to Pass with Amendment #1808h for May 18 (Vote 17-0; CC); <b>HC 39</b> , PG.1320
5/12/2011	H	Proposed Committee Amendment <b>#2011-1808h</b> ; <b>HC 39</b> , PG.1339
5/18/2011	H	Amendment #1808h Adopted, VV; <b>HJ 44</b> , PG.1533
5/18/2011	H	Ought to Pass with Amendment #1808h: MA VV; <b>HJ 44</b> , PG.1533
6/1/2011	S	Sen. Stiles Concurs with House Amendment #1808h, MA, VV; <b>SJ 19</b>
6/8/2011	H	Enrolled
6/8/2011	S	Enrolled
6/14/2011	S	Signed by the Governor on 06/14/2011; Effective 08/13/2011; Chapter 0178

NH House

NH Senate

# Other Referrals

# COMMITTEE REPORT FILE INVENTORY

SB37

ORIGINAL REFERRAL

RE-REFERRAL

1. THIS INVENTORY IS TO BE SIGNED AND DATED BY THE COMMITTEE AIDE AND PLACED INSIDE THE FOLDER AS THE FIRST ITEM IN THE COMMITTEE FILE.
2. PLACE ALL DOCUMENTS IN THE FOLDER FOLLOWING THE INVENTORY IN THE ORDER LISTED.
3. THE DOCUMENTS WHICH HAVE AN "X" BESIDE THEM ARE CONFIRMED AS BEING IN THE FOLDER.
4. THE COMPLETED FILE IS THEN DELIVERED TO THE CALENDAR CLERK.

- DOCKET (Submit only the latest docket found in Bill Status)
- COMMITTEE REPORT
- CALENDAR NOTICE
- HEARING REPORT
- HANDOUTS FROM THE PUBLIC HEARING
- PREPARED TESTIMONY AND OTHER SUBMISSIONS
- SIGN-UP SHEET(S)

ALL AMENDMENTS (passed or not) CONSIDERED BY COMMITTEE:

\_\_\_ - AMENDMENT # \_\_\_      \_\_\_ - AMENDMENT # \_\_\_  
\_\_\_ - AMENDMENT # \_\_\_      \_\_\_ - AMENDMENT # \_\_\_

ALL AVAILABLE VERSIONS OF THE BILL:

AS INTRODUCED      \_\_\_ AS AMENDED BY THE HOUSE  
 FINAL VERSION      \_\_\_ AS AMENDED BY THE SENATE

\_\_\_ OTHER (Anything else deemed important but not listed above, such as amended fiscal notes): \_\_\_\_\_

IF YOU HAVE A RE-REFERRED BILL, YOU ARE GOING TO MAKE UP A DUPLICATE FILE FOLDER

DATE DELIVERED TO SENATE CLERK

7/22/2011



BY COMMITTEE AIDE