



SENATE BILL 836

By Watson

AN ACT to amend Tennessee Code Annotated, Title 4 and Title 49, relative to persons unlawfully present in the United States.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 49, Chapter 6, Part 30, is amended by adding the following as a new section:

Notwithstanding another law to the contrary, an LEA or public charter school may enroll, or refuse to enroll, a student who is unlawfully present in the United States.

SECTION 2. This act takes effect upon becoming a law, the public welfare requiring it.

Amendment No. 1 to SB0836

White
Signature of Sponsor

AMEND Senate Bill No. 836

House Bill No. 793*

by deleting all language after the caption and substituting instead the following:

WHEREAS, in *Plyler v. Doe*, 457 U.S. 202 (1982), the United States Supreme Court held that illegal alien children living in the United States could not be excluded from a free public education based upon their immigration status; and

WHEREAS, the Tennessee General Assembly finds that both the volume of illegal immigration, and its commensurate drain on State resources, as well as federal immigration policy have materially changed since 1982, when *Plyler* was decided; and

WHEREAS, the Tennessee General Assembly finds that data from the U.S. Immigration and Naturalization Service, Office of Policy and Planning, *Estimates of the Unauthorized Immigrant Population Residing in the United States: 1990 to 2000*, shows the "many States . . . had relatively few unauthorized residents" when *Plyler* was decided, but have subsequently "experienced rapid growth of the unauthorized population"; and

WHEREAS, the Tennessee General Assembly finds that data from the U.S. Department of Homeland Security shows that the number of illegal aliens present in the United States has nearly quadrupled in the past thirty years. The data estimates 10,990,000 were present in 2022. This number represents a material change in the illegal immigration environment that existed when *Plyler* was decided; and

WHEREAS, the Tennessee General Assembly finds that the sole focus of this act, individuals who have "exhausted all available appeals" and are therefore subject to a valid final order of removal, is a large population. At the end of fiscal year 2023, according to U.S.

Immigration and Customs Enforcement, *Fiscal Year 2023 ICE Annual Report*, 1,292,830 aliens had "completed the legal process and ha[d] been ordered removed"; and

WHEREAS, the Tennessee General Assembly finds that, unlike the statute at issue in *Plyler*, because this act only applies to individuals "who[se] proceedings have been completed", it is intended to "operate harmoniously within the federal program" of immigration enforcement; and

WHEREAS, the Tennessee General Assembly finds that given the 1,292,830 individuals who have been ordered removed by a final order, there no longer is an "inchoate federal permission to remain" that was present in *Plyler v. Doe*; rather, these 1,292,830 final orders of removal are a "fairly discernable" "national policy that supports the State in" implementing this act; and

WHEREAS, Tennessee is best suited to determine the educational needs of its citizenry; in fact, unlike the United States Constitution, the Tennessee Constitution in Article XI, Section 12 requires that the General Assembly "provide for the maintenance, support and eligibility standards of a system of free public schools"; and

WHEREAS, the General Assembly seeks to fully effectuate its own constitutional mandate in Article XI, Section 12 of the Tennessee Constitution to provide for the maintenance, support, and eligibility standards of a system of free public schools by establishing an eligibility standard for Tennessee public schools; and

WHEREAS, it is fitting and proper for the Tennessee General Assembly to fully exercise its constitutional powers and duties in light of the exponential growth in the population of illegal aliens in this State, and to utilize public funds for Tennessee citizens who are lawfully present in the United States, and to remove the burden of providing a free publicly funded education for illegal alien children from Tennessee taxpayers; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 49, Chapter 6, Part 30, is amended by adding the following as a new section:

(a)

(1)

(A) Notwithstanding any other law to the contrary, an LEA or public charter school shall enroll a school-age student who resides within the geographic boundaries of the LEA or public charter school and who provides documentation establishing that the student:

- (i) Is a citizen of the United States;
- (ii) Is in the process of obtaining citizenship; or
- (iii) Holds a legal immigration or visa status.

(B) An LEA or public charter school shall require that each student who seeks to enroll in the LEA or public charter school provide documentation to establish that the student meets one (1) of the criteria in subdivisions (a)(1)(A)(i)-(iii) prior to enrolling the student.

(2) If a student or the parent or guardian of a student is unable to provide documentation to establish that the student meets one (1) of the criteria in subdivisions (a)(1)(A)(i)-(iii), and has exhausted all available appeals pursuant to subsection (c), then the LEA or public charter school may elect not to enroll the student without the student or the parent or guardian of the student paying tuition as prescribed in this section. An LEA or public charter school is not required to charge a student who does not meet one (1) of the criteria in subdivisions (a)(1)(A)(i)-(iii) tuition in order to enroll in the LEA or public charter school. An LEA or public charter school shall not refuse to enroll any such student in the LEA or public charter school without first allowing the student to enroll upon payment of tuition in accordance with subsection (b).

(b) Notwithstanding chapter 6 or 13 of this title to the contrary, each LEA and public charter school that elects to enroll students upon payment of tuition who do not meet one (1) of the criteria in subdivisions (a)(1)(A)(i)-(iii) shall annually establish a

uniform tuition amount for such students. Except as otherwise provided in this section, the uniform tuition amount must:

- (1) Be no less than the base funding amount, as defined in § 49-3-104(2), for the respective school year;
- (2) Not exceed the total average per pupil funding amount for the LEA for the respective school year; and
- (3) Be paid in full before the student is enrolled.

(c)

(1) If an LEA or public charter school determines that the documentation provided by a student or a student's parent or guardian does not establish that the student meets one (1) of the criteria in subdivisions (a)(1)(A)(i)-(iii) and that the student is not eligible to enroll in the LEA or a public charter school without paying tuition, then the LEA or public charter school may refuse to enroll the student if tuition is not paid. The LEA or public charter school shall immediately notify the student or the student's parent or guardian in writing of its decision and of the student's or the parent's or guardian's right to appeal the LEA's or public charter school's decision to the department of education no later than twenty-one (21) days from the date of the LEA's or public charter school's decision.

(2)

(A) The student or the parent or guardian of a student who is being denied enrollment without first paying tuition pursuant to this subsection (c) may appeal the LEA's or public charter school's decision to the department no later than twenty-one (21) days from the date of the LEA's or public charter school's decision.

(B) The party who files an appeal with the department is entitled to an expedited hearing before the department and bears the burden of

proving by a preponderance of the evidence that the student meets one (1) of the criteria in subdivisions (a)(1)(A)(i)-(iii).

(C) Notwithstanding this section to the contrary, a student shall not be denied enrollment, even without first paying tuition, during the twenty-one-day window for appealing the LEA's or public charter school's decision or during the appeal proceedings before the department. If the student is enrolled in an LEA or public charter school during either of those times, then the LEA or public charter school shall not remove the student from school during either of those times.

(D) If the department determines on appeal that the student does not meet one (1) of the criteria in subdivisions (a)(1)(A)(i)-(iii), then the department shall notify the student, or the student's parent or guardian, and the LEA or public charter school of its determination.

(3) If the student or the student's parent or guardian does not appeal the LEA's or public charter school's decision that the student does not meet one (1) of the criteria in subdivisions (a)(1)(A)(i)-(iii), or if the department determines on appeal that the student does not meet one (1) of the criteria in subdivisions (a)(1)(A)(i)-(iii), then:

(A) The LEA or public charter school may condition the student's enrollment or continued enrollment in the LEA or public charter school on the payment of tuition by the student or the student's parent or guardian. Tuition must be determined pursuant to subsection (b) and may be prorated based on the number of days the student will be enrolled, if enrollment is not for a full school year; or

(B) If the student is enrolled in the LEA or public charter school when the student's twenty-one-day appeal period expires or when the department's determination on appeal is issued, and if the LEA or public

charter school requires payment of tuition for the student's enrollment, then the LEA or public charter school may remove the student from school, but only for nonpayment of tuition.

(d) Notwithstanding title 10, chapter 7, all records relating to the legality of a student's presence in the United States and all correspondence between an LEA or public charter school and the department for purposes of this section are confidential records.

SECTION 2. The state board of education shall promulgate rules, including emergency rules, to effectuate this act. The rules must, at a minimum, establish the appeal process required in this act, and must be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

SECTION 3. This act takes effect July 1, 2025, the public welfare requiring it, and applies to the 2025-2026 school year and subsequent school years.

Amendment No. 2 to SB0836

Watson
Signature of Sponsor

AMEND Senate Bill No. 836

House Bill No. 793*

by deleting subdivision (a)(1) in SECTION 1 of the bill as amended by amendment draft number 004412 and substituting instead the following:

(a)

(1) Notwithstanding any other law to the contrary, an LEA or public charter school shall enroll a school-age student who resides within the geographic boundaries of the LEA or public charter school and who provides documentation establishing that the student:

- (A) Is a citizen of the United States;
- (B) Is in the process of obtaining citizenship; or
- (C) Holds a legal immigration or visa status.

AND FURTHER AMEND by deleting the language "one (1) of the criteria in subdivisions (a)(1)(A)(i)-(iii)" wherever it appears in SECTION 1 of the bill as amended by amendment draft number 004412 and substituting instead the language "one (1) of the criteria in subdivision (a)(1)".

Amendment No. 2 to HB0793

Hicks G
Signature of Sponsor

AMEND Senate Bill No. 836

House Bill No. 793*

by deleting all language after the caption and substituting:

WHEREAS, in *Plyler v. Doe*, 457 U.S. 202 (1982), the United States Supreme Court held that illegal alien children living in the United States could not be excluded from a free public education based upon their immigration status; and

WHEREAS, the Tennessee General Assembly finds that both the volume of illegal immigration, and its commensurate drain on State resources, as well as federal immigration policy have materially changed since 1982, when *Plyler* was decided; and

WHEREAS, the Tennessee General Assembly finds that data from the U.S. Immigration and Naturalization Service, Office of Policy and Planning, *Estimates of the Unauthorized Immigrant Population Residing in the United States: 1990 to 2000*, shows the "many States . . . had relatively few unauthorized residents" when *Plyler* was decided, but have subsequently "experienced rapid growth of the unauthorized population"; and

WHEREAS, the Tennessee General Assembly finds that data from the U.S. Department of Homeland Security shows that the number of illegal aliens present in the United States has nearly quadrupled in the past thirty years. The data estimates 10,990,000 were present in 2022. This number represents a material change in the illegal immigration environment that existed when *Plyler* was decided; and

WHEREAS, Tennessee is best suited to determine the educational needs of its citizenry; in fact, unlike the United States Constitution, the Tennessee Constitution in Article XI, Section 12 requires that the General Assembly "provide for the maintenance, support and eligibility standards of a system of free public schools"; and

WHEREAS, the Tennessee General Assembly finds it appropriate and necessary for this State to collect data from the publicly funded schools and school systems to ascertain the full scope and effect of illegal immigration on the public schools of this State; now, therefore, BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 49, Chapter 6, Part 30, is amended by adding the following as a new section:

(a) Notwithstanding another law to the contrary, beginning with the 2026-2027 school year, each LEA and public charter school shall require all school-age students enrolled in the LEA or public charter school, or who seek to register or enroll in the LEA or public charter school, to produce documentation to establish that the student:

- (1) Is a citizen of the United States;
- (2) Is in the process of obtaining United States citizenship;
- (3) Holds a valid legal immigration or visa status; or
- (4) Is subject to pending immigration proceedings in which a final order of removal has not been issued.

(b)

(1) Each LEA and public charter school shall, for the 2026-2027 school year and for each school year thereafter, report to the department of education the number of students who:

- (A) Enrolled in the LEA or public charter school;
- (B) Produced documentation sufficient to establish that the student meets one (1) of the criteria in subsection (a);
- (C) Failed or refused to produce documentation pursuant to subsection (a), including in the report the reason provided by the student or the student's parent for their failure or refusal to comply;
- (D) Produced documentation insufficient to establish that the student meets one (1) of the criteria in subsection (a), including in the

report a brief description of why the documentation was insufficient to establish the student's lawful presence in the United States; and

(E) Produced documentation establishing that the student meets one (1) of the criteria in subsection (a), including in the report a list of the types of forms or documents produced that were sufficient to establish the student's lawful presence in the United States.

(2) An LEA or public charter school shall not include in any report submitted pursuant to this subsection (b) any personally identifiable information for a student or a student's parent. Any personally identifiable information collected for purposes of this section must be aggregated into summary statistics before the information is reported in accordance with this subsection (b).

(3) The department of education shall compile the information received from each LEA and public charter school pursuant to subdivision (b)(1) and report the same to the department of finance and administration, the centralized immigration enforcement division within the department of safety, the governor, the speaker of the senate, and the speaker of the house of representatives no later than July 1, 2027, for the 2026-2027 school year. All subsequent reports must be submitted no later than July 1 for the immediately preceding school year.

(c) Notwithstanding another law to the contrary, an LEA or public school, including a public charter school, that enrolls a student who failed or refused to produce the documentation described in subsection (a), or who produced documentation insufficient to establish that the student meets one (1) of the criteria in subsection (a) is not implementing a sanctuary policy as that term is defined in § 7-68-102.

SECTION 2. This act takes effect upon becoming a law, the public welfare requiring it.