
SENATE BILL 5405

State of Washington

61st Legislature

2009 Regular Session

By Senators Oemig, Zarelli, Kilmer, Shin, Murray, Hewitt, and Kohl-Welles

Read first time 01/21/09. Referred to Committee on Higher Education & Workforce Development.

1 AN ACT Relating to classification as a resident student; amending
2 RCW 28B.15.012; providing an effective date; and declaring an
3 emergency.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 28B.15.012 and 2004 c 128 s 1 are each amended to read
6 as follows:

7 Whenever used in chapter 28B.15 RCW:

8 (1) The term "institution" shall mean a public university, college,
9 or community college within the state of Washington.

10 (2) The term "resident student" shall mean:

11 (a) A financially independent student who has had a domicile in the
12 state of Washington for the period of one year immediately prior to the
13 time of commencement of the first day of the semester or quarter for
14 which the student has registered at any institution and has in fact
15 established a bona fide domicile in this state primarily for purposes
16 other than educational;

17 (b) A dependent student, if one or both of the student's parents or
18 legal guardians have maintained a bona fide domicile in the state of

1 Washington for at least one year immediately prior to commencement of
2 the semester or quarter for which the student has registered at any
3 institution;

4 (c) A student classified as a resident based upon domicile by an
5 institution on or before May 31, 1982, who was enrolled at a state
6 institution during any term of the 1982-1983 academic year, so long as
7 such student's enrollment (excepting summer sessions) at an institution
8 in this state is continuous;

9 (d) Any student who has spent at least seventy-five percent of both
10 his or her junior and senior years in high schools in this state, whose
11 parents or legal guardians have been domiciled in the state for a
12 period of at least one year within the five-year period before the
13 student graduates from high school, and who enrolls in a public
14 institution of higher education within six months of leaving high
15 school, for as long as the student remains continuously enrolled for
16 three quarters or two semesters in any calendar year;

17 (e) Any person who has completed the full senior year of high
18 school and obtained a high school diploma, both at a Washington public
19 high school or private high school approved under chapter 28A.195 RCW,
20 or a person who has received the equivalent of a diploma; who has lived
21 in Washington for at least three years immediately prior to receiving
22 the diploma or its equivalent; who has continuously lived in the state
23 of Washington after receiving the diploma or its equivalent and until
24 such time as the individual is admitted to an institution of higher
25 education under subsection (1) of this section; and who provides to the
26 institution an affidavit indicating that the individual will file an
27 application to become a permanent resident at the earliest opportunity
28 the individual is eligible to do so and a willingness to engage in any
29 other activities necessary to acquire citizenship, including but not
30 limited to citizenship or civics review courses;

31 (f) Any person who has lived in Washington, primarily for purposes
32 other than educational, for at least one year immediately before the
33 date on which the person has enrolled in an institution, and who holds
34 lawful nonimmigrant status pursuant to 8 U.S.C. Sec. (a)(15) (E)(iii),
35 (H)(i), or (L), or who holds lawful nonimmigrant status as the spouse
36 or child of a person having nonimmigrant status under one of those
37 subsections, or who, holding or having previously held such lawful

1 nonimmigrant status as a principal or derivative, has filed an
2 application for adjustment of status pursuant to 8 U.S.C. Sec. 1255(a);

3 (g) A student who is on active military duty stationed in the state
4 or who is a member of the Washington national guard;

5 ~~((g))~~ (h) A student who is the spouse or a dependent of a person
6 who is on active military duty stationed in the state. If the person
7 on active military duty is reassigned out-of-state, the student
8 maintains the status as a resident student so long as the student is
9 continuously enrolled in a degree program;

10 ~~((h))~~ (i) A student who resides in the state of Washington and is
11 the spouse or a dependent of a person who is a member of the Washington
12 national guard;

13 ~~((i))~~ (j) A student of an out-of-state institution of higher
14 education who is attending a Washington state institution of higher
15 education pursuant to a home tuition agreement as described in RCW
16 28B.15.725; or

17 ~~((j))~~ (k) A student who meets the requirements of RCW
18 28B.15.0131: PROVIDED, That a nonresident student enrolled for more
19 than six hours per semester or quarter shall be considered as attending
20 for primarily educational purposes, and for tuition and fee paying
21 purposes only such period of enrollment shall not be counted toward the
22 establishment of a bona fide domicile of one year in this state unless
23 such student proves that the student has in fact established a bona
24 fide domicile in this state primarily for purposes other than
25 educational.

26 (3) The term "nonresident student" shall mean any student who does
27 not qualify as a "resident student" under the provisions of this
28 section and RCW ~~((28B.15.012 and))~~ 28B.15.013. Except for students
29 qualifying under subsection (2)(e) or ~~((i))~~ (j) of this section, a
30 nonresident student shall include:

31 (a) A student attending an institution with the aid of financial
32 assistance provided by another state or governmental unit or agency
33 thereof, such nonresidency continuing for one year after the completion
34 of such semester or quarter.

35 (b) A person who is not a citizen of the United States of America
36 who does not have permanent or temporary resident status or does not
37 hold "Refugee-Parolee" or "Conditional Entrant" status with the United
38 States immigration and naturalization service or is not otherwise

1 permanently residing in the United States under color of law and who
2 does not also meet and comply with all the applicable requirements in
3 this section and RCW ((~~28B.15.012 and~~)) 28B.15.013.

4 (4) The term "domicile" shall denote a person's true, fixed and
5 permanent home and place of habitation. It is the place where the
6 student intends to remain, and to which the student expects to return
7 when the student leaves without intending to establish a new domicile
8 elsewhere. The burden of proof that a student, parent or guardian has
9 established a domicile in the state of Washington primarily for
10 purposes other than educational lies with the student.

11 (5) The term "dependent" shall mean a person who is not financially
12 independent. Factors to be considered in determining whether a person
13 is financially independent shall be set forth in rules and regulations
14 adopted by the higher education coordinating board and shall include,
15 but not be limited to, the state and federal income tax returns of the
16 person and/or the student's parents or legal guardian filed for the
17 calendar year prior to the year in which application is made and such
18 other evidence as the board may require.

19 (6) The term "active military duty" means the person is serving on
20 active duty in:

21 (a) The armed forces of the United States government; or

22 (b) The Washington national guard; or

23 (c) The coast guard, merchant mariners, or other nonmilitary
24 organization when such service is recognized by the United States
25 government as equivalent to service in the armed forces.

26 NEW SECTION. **Sec. 2.** This act is necessary for the immediate
27 preservation of the public peace, health, or safety, or support of the
28 state government and its existing public institutions, and takes effect
29 July 1, 2009.

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