

CERTIFICATION OF ENROLLMENT

ENGROSSED SUBSTITUTE SENATE BILL 5874

Chapter 249, Laws of 2022

67th Legislature
2022 Regular Session

HIGHER EDUCATION TUITION—MILITARY RESIDENCY—MODIFICATION

EFFECTIVE DATE: June 9, 2022

Passed by the Senate March 9, 2022
Yeas 49 Nays 0

DENNY HECK

President of the Senate

Passed by the House March 3, 2022
Yeas 97 Nays 0

LURIE JINKINS

**Speaker of the House of
Representatives**

Approved March 30, 2022 3:07 PM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Sarah Bannister, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 5874** as passed by the Senate and the House of Representatives on the dates hereon set forth.

SARAH BANNISTER

Secretary

FILED

March 31, 2022

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE SENATE BILL 5874

AS AMENDED BY THE HOUSE

Passed Legislature - 2022 Regular Session

State of Washington 67th Legislature 2022 Regular Session

By Senate Higher Education & Workforce Development (originally sponsored by Senators Nobles, Randall, Conway, Keiser, Lovelett, Lovick, Nguyen, Stanford, Van De Wege, and C. Wilson)

READ FIRST TIME 01/28/22.

1 AN ACT Relating to students affiliated with the military; and
2 amending RCW 28B.15.012.

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

4 **Sec. 1.** RCW 28B.15.012 and 2021 c 272 s 9 are each amended to
5 read as follows:

6 Whenever used in this chapter:

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

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

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

17 (b) A dependent student, if one or both of the student's parents
18 or legal guardians have maintained a bona fide domicile in the state
19 of Washington for at least one year immediately prior to commencement
20 of the semester or quarter for which the student has registered at
21 any institution;

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

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

14 (e) Any person who has completed and obtained a high school
15 diploma, or a person who has received the equivalent of a diploma;
16 who has continuously lived in the state of Washington for at least a
17 year primarily for purposes other than postsecondary education before
18 the individual is admitted to an institution of higher education
19 under subsection (1) of this section; and who provides to the
20 institution an affidavit indicating that the individual will file an
21 application to become a permanent resident at the earliest
22 opportunity the individual is eligible to do so and a willingness to
23 engage in any other activities necessary to acquire citizenship,
24 including but not limited to citizenship or civics review courses;

25 (f) Any person who has lived in Washington, primarily for
26 purposes other than (~~educational~~) postsecondary education, for at
27 least one year immediately before the date on which the person has
28 enrolled in an institution, and who holds lawful nonimmigrant status
29 pursuant to 8 U.S.C. Sec. (a) (15) (E) (iii), (H) (i), or (L), or who
30 holds lawful nonimmigrant status as the spouse or child of a person
31 having nonimmigrant status under one of those subsections, or who,
32 holding or having previously held such lawful nonimmigrant status as
33 a principal or derivative, has filed an application for adjustment of
34 status pursuant to 8 U.S.C. Sec. 1255(a);

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

37 (h) A student who is on active military duty or a member of the
38 Washington national guard who meets the following conditions:

39 (i) Entered service as a Washington resident;

40 (ii) Has maintained a Washington domicile; and

1 (iii) Is stationed out-of-state;

2 (i) A student who is on active military duty who is stationed
3 out-of-state after having been stationed in Washington and is either:

4 (i) Admitted to an institution of higher education in Washington
5 before the reassignment and enrolls in that institution for the term
6 the student was admitted;

7 (ii) Enrolled in an institution of higher education in Washington
8 and remains continuously enrolled at the institution; or

9 (iii) Enrolls in an institution of higher education in Washington
10 within three years from the date of reassignment out-of-state;

11 (j) A student who is the spouse, state registered domestic
12 partner, or a dependent as defined in Title 10 U.S.C. Sec. 1072(2) as
13 it existed on January 18, 2022, or such subsequent date as the
14 student achievement council may determine by rule of a person defined
15 in (g) or (h) of this subsection. If the person defined in (g) of
16 this subsection is reassigned out-of-state, the student maintains the
17 status as a resident student so long as the student is either:

18 (i) Admitted to an institution before the reassignment and
19 enrolls in that institution for the term the student was admitted;

20 ((~~o~~))

21 (ii) Enrolled in an institution and remains continuously enrolled
22 at the institution; or

23 (iii) Enrolled in an institution of higher education in
24 Washington within three years from the date of reassignment out-of-
25 state;

26 ~~((j) A student who is the spouse or a dependent of a person~~
27 ~~defined in (h) of this subsection;~~

28 ~~(k) A student who is eligible or entitled to transferred federal~~
29 ~~post-9/11 veterans educational assistance act of 2008 (38 U.S.C. Sec.~~
30 ~~3301 et seq.) benefits based on the student's relationship as a~~
31 ~~spouse, former spouse, or child to an individual who is on active~~
32 ~~duty in the uniformed services;~~

33 ~~(l) A student who resides in the state of Washington and is the~~
34 ~~spouse or a dependent of a person who is a member of the Washington~~
35 ~~national guard;~~

36 ~~(m) A student who has separated from the uniformed services with~~
37 ~~any period of honorable service after at least ninety days of active~~
38 ~~duty service; is eligible for educational assistance benefits under~~
39 ~~Title 38 U.S.C.; and enters an institution of higher education in~~
40 ~~Washington within three years of the date of separation;~~

1 ~~(n) A student who is on terminal, transition, or separation leave~~
2 ~~pending separation, or release from active duty, from the uniformed~~
3 ~~services with any period of honorable service after at least ninety~~
4 ~~days of active duty service and is eligible for educational~~
5 ~~assistance benefits under Title 38 U.S.C.;~~

6 ~~(o) A student who is entitled to veterans administration~~
7 ~~educational assistance benefits based on the student's relationship~~
8 ~~as a spouse, former spouse, or child to an individual who has~~
9 ~~separated from the uniformed services with any period of honorable~~
10 ~~service after at least ninety days of active duty service, and who~~
11 ~~enters an institution of higher education in Washington within three~~
12 ~~years of the service member's date of separation;~~

13 ~~(p))~~ (k) A student who is eligible for veterans administration
14 educational assistance or rehabilitation benefits under Title 38
15 U.S.C. or educational assistance under Title 10 U.S.C. chapter 1606
16 as the titles existed on January 18, 2022, or such subsequent date as
17 the student achievement council may determine by rule;

18 (l) A student who ((is the spouse or child to an individual who))
19 has separated or retired from the uniformed services with at least
20 ((ten))10 years of honorable service and at least ((ninety))90 days
21 of active duty service, and who enters an institution of higher
22 education in Washington within three years of the ((service
23 member's)) date of separation or retirement;

24 ~~((q))~~ (m) A student who is the spouse, state registered domestic
25 partner, or child under the age of 26 years of an individual who has
26 separated or retired from the uniformed services with at least 10
27 years of honorable service and at least 90 days of active duty
28 service, and who enters an institution of higher education in
29 Washington within three years of the service member's date of
30 separation or retirement;

31 (n) A student who has separated from the uniformed services who
32 was discharged due to the student's sexual orientation or gender
33 identity or expression;

34 ~~((r) A student who is entitled to veterans administration~~
35 ~~educational assistance benefits based on the student's relationship~~
36 ~~with a deceased member of the uniformed services who died in the line~~
37 ~~of duty;~~

38 ~~(s) A student who is entitled to federal vocational~~
39 ~~rehabilitation and employment services for veterans with service-~~
40 ~~connected disabilities under 38 U.S.C. Sec. 3102(a);~~

1 ~~(t)~~) (o) A student who is defined as a covered individual in 38
2 U.S.C. Sec. 3679(c)(2) as it existed on (~~July 28, 2019~~) January 18,
3 2022, or such subsequent date as the student achievement council may
4 determine by rule;

5 (~~(u)~~) (p) A student of an out-of-state institution of higher
6 education who is attending a Washington state institution of higher
7 education pursuant to a home tuition agreement as described in RCW
8 28B.15.725;

9 (~~(v)~~) (q) A student who meets the requirements of RCW
10 28B.15.0131 or 28B.15.0139: PROVIDED, That a nonresident student
11 enrolled for more than six hours per semester or quarter shall be
12 considered as attending for primarily educational purposes, and for
13 tuition and fee paying purposes only such period of enrollment shall
14 not be counted toward the establishment of a bona fide domicile of
15 one year in this state unless such student proves that the student
16 has in fact established a bona fide domicile in this state primarily
17 for purposes other than educational;

18 (~~(w)~~) (r) A student who resides in Washington and is on active
19 military duty stationed in the Oregon counties of Columbia, Gilliam,
20 Hood River, Multnomah, Clatsop, Clackamas, Morrow, Sherman, Umatilla,
21 Union, Wallowa, Wasco, or Washington; or

22 (~~(x)~~) (s) A student who resides in Washington and is the spouse
23 or a dependent of a person defined in (~~(w)~~) (r) of this subsection.
24 If the person defined in (~~(w)~~) (r) of this subsection moves from
25 Washington or is reassigned out of the Oregon counties of Columbia,
26 Gilliam, Hood River, Multnomah, Clatsop, Clackamas, Morrow, Sherman,
27 Umatilla, Union, Wallowa, Wasco, or Washington, the student maintains
28 the status as a resident student so long as the student resides in
29 Washington and is either:

- 30 (i) Admitted to an institution before the reassignment and
31 enrolls in that institution for the term the student was admitted; or
32 (ii) Enrolled in an institution and remains continuously enrolled
33 at the institution.

34 (3)(a) A student who qualifies under subsection (2)(k), (l), (m),
35 (n), or (o) (~~(, (p), (q), (r), (s), or (t))~~) of this section and who
36 remains continuously enrolled at an institution of higher education
37 shall retain resident student status.

38 (b) Nothing in subsection (2)(k), (l), (m), (n), or (o) (~~(, (p),~~
39 ~~(q), (r), (s), or (t))~~) of this section applies to students who have
40 a dishonorable discharge from the uniformed services, or to students

1 who are the spouse or child of an individual who has had a
2 dishonorable discharge from the uniformed services, unless the
3 student is receiving veterans administration educational assistance
4 benefits.

5 (4) The term "nonresident student" shall mean any student who
6 does not qualify as a "resident student" under the provisions of this
7 section and RCW 28B.15.013. Except for students qualifying under
8 subsection (2)(e) or ~~((+u))~~(p) of this section, a nonresident
9 student shall include:

10 (a) A student attending an institution with the aid of financial
11 assistance provided by another state or governmental unit or agency
12 thereof, such nonresidency continuing for one year after the
13 completion of such semester or quarter. This condition shall not
14 apply to students from Columbia, Multnomah, Clatsop, Clackamas, or
15 Washington county, Oregon participating in the border county pilot
16 project under RCW 28B.76.685, 28B.76.690, and 28B.15.0139.

17 (b) A person who is not a citizen of the United States of
18 America, unless the person meets and complies with all applicable
19 requirements in this section and RCW 28B.15.013 and is one of the
20 following:

21 (i) A lawful permanent resident;

22 (ii) A temporary resident;

23 (iii) A person who holds "refugee-parolee," "conditional
24 entrant," or U or T nonimmigrant status with the United States
25 citizenship and immigration services;

26 (iv) A person who has been issued an employment authorization
27 document by the United States citizenship and immigration services
28 that is valid as of the date the person's residency status is
29 determined;

30 (v) A person who has been granted deferred action for childhood
31 arrival status before, on, or after June 7, 2018, regardless of
32 whether the person is no longer or will no longer be granted deferred
33 action for childhood arrival status due to the termination,
34 suspension, or modification of the deferred action for childhood
35 arrival program; or

36 (vi) A person who is otherwise permanently residing in the United
37 States under color of law, including deferred action status.

38 (5) The term "domicile" shall denote a person's true, fixed and
39 permanent home and place of habitation. It is the place where the
40 student intends to remain, and to which the student expects to return

1 when the student leaves without intending to establish a new domicile
2 elsewhere. The burden of proof that a student, parent or guardian has
3 established a domicile in the state of Washington primarily for
4 purposes other than educational lies with the student.

5 (6) The term "dependent" shall mean a person who is not
6 financially independent. Factors to be considered in determining
7 whether a person is financially independent shall be set forth in
8 rules adopted by the student achievement council and shall include,
9 but not be limited to, the state and federal income tax returns of
10 the person and/or the student's parents or legal guardian filed for
11 the calendar year prior to the year in which application is made and
12 such other evidence as the council may require.

13 (7) The term "active military duty" means the person is serving
14 on active duty in:

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

16 (b) The Washington national guard; or

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

20 (8) The term "active duty service" means full-time duty, other
21 than active duty for training, as a member of the uniformed services
22 of the United States. Active duty service as a national guard member
23 under Title 32 U.S.C. for the purpose of organizing, administering,
24 recruiting, instructing, or training and active service under Title
25 32 U.S.C. Sec. 502(f) for the purpose of responding to a national
26 emergency is recognized as active duty service.

27 (9) The term "uniformed services" is defined by Title 10 U.S.C.;
28 subsequently structured and organized by Titles 14, 33, and 42
29 U.S.C.; consisting of the United States army, United States marine
30 corps, United States navy, United States air force, United States
31 coast guard, United States space force, United States public health
32 service commissioned corps, and the national oceanic and atmospheric
33 administration commissioned officer corps.

34 (10) "Washington national guard" means that part of the military
35 force of the state that is organized, equipped, and federally
36 recognized under the provisions of the national defense act of the
37 United States, and in the event the national guard is called into
38 federal service or in the event the state guard or any part or
39 individual member thereof is called into active state service by the
40 commander-in-chief. National guard service includes being subject to

1 call up for active duty under Title 32 U.S.C. or Title 10 U.S.C.
2 status or when called to state active service by the governor under
3 the provisions of RCW 38.08.040.

4 (11) "Child" includes, but is not limited to:

5 (a) A legitimate child;

6 (b) An adopted child;

7 (c) A stepchild;

8 (d) A foster child; and

9 (e) A legal dependent.

Passed by the Senate March 9, 2022.

Passed by the House March 3, 2022.

Approved by the Governor March 30, 2022.

Filed in Office of Secretary of State March 31, 2022.

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