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SENATE BILL 5087

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State of Washington

63rd Legislature

2013 Regular Session

By Senators Benton and Sheldon

Read first time 01/17/13. Referred to Committee on Higher Education .

1 AN ACT Relating to preventing illegal aliens from qualifying as  
2 resident students for purposes of in-state tuition and financial aid;  
3 and amending RCW 28B.15.012.

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

5 **Sec. 1.** RCW 28B.15.012 and 2012 c 229 s 521 are each amended to  
6 read as follows:

7 Whenever used in this chapter:

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

1 lawful 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))~~ (f) A student who is on active military duty stationed in  
4 the state or who is a member of the Washington national guard;  
5 ~~((h))~~ (g) 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 ~~((i))~~ (h) 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 ~~((j))~~ (i) 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;  
17 ~~((k))~~ (j) 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 ~~((l))~~ (k) A student who resides in Washington and is on active  
27 military duty stationed in the Oregon counties of Columbia, Gilliam,  
28 Hood River, Multnomah, Clatsop, Clackamas, Morrow, Sherman, Umatilla,  
29 Union, Wallowa, Wasco, or Washington; or  
30 ~~((m))~~ (l) A student who resides in Washington and is the spouse  
31 or a dependent of a person who resides in Washington and is on active  
32 military duty stationed in the Oregon counties of Columbia, Gilliam,  
33 Hood River, Multnomah, Clatsop, Clackamas, Morrow, Sherman, Umatilla,  
34 Union, Wallowa, Wasco, or Washington. If the person on active military  
35 duty moves from Washington or is reassigned out of the Oregon counties  
36 of Columbia, Gilliam, Hood River, Multnomah, Clatsop, Clackamas,  
37 Morrow, Sherman, Umatilla, Union, Wallowa, Wasco, or Washington, the

1 student maintains the status as a resident student so long as the  
2 student resides in Washington and is continuously enrolled in a degree  
3 program.

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

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

13 (b) A person who is not a citizen of the United States of America  
14 who does not have permanent or temporary resident status or does not  
15 hold "Refugee-Parolee" or "Conditional Entrant" status with the United  
16 States citizenship immigration services or is not otherwise permanently  
17 residing in the United States under color of law and who does not also  
18 meet and comply with all the applicable requirements in this section  
19 and RCW 28B.15.013.

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

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

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

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

38 (b) The Washington national guard; or

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

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