

ESSB 5874 - H COMM AMD
By Committee on Appropriations

ADOPTED 03/03/2022

1 Strike everything after the enacting clause and insert the
2 following:

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

5 Whenever used in this chapter:

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

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

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

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

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

26 (d) Any student who has spent at least seventy-five percent of
27 both his or her junior and senior years in high schools in this
28 state, whose parents or legal guardians have been domiciled in the
29 state for a period of at least one year within the five-year period
30 before the student graduates from high school, and who enrolls in a
31 public institution of higher education within six months of leaving

1 high school, for as long as the student remains continuously enrolled
2 for three quarters or two semesters in any calendar year;

3 (e) Any person who has completed and obtained a high school
4 diploma, or a person who has received the equivalent of a diploma;
5 who has continuously lived in the state of Washington for at least a
6 year primarily for purposes other than postsecondary education before
7 the individual is admitted to an institution of higher education
8 under subsection (1) of this section; and who provides to the
9 institution an affidavit indicating that the individual will file an
10 application to become a permanent resident at the earliest
11 opportunity the individual is eligible to do so and a willingness to
12 engage in any other activities necessary to acquire citizenship,
13 including but not limited to citizenship or civics review courses;

14 (f) Any person who has lived in Washington, primarily for
15 purposes other than (~~educational~~) postsecondary education, for at
16 least one year immediately before the date on which the person has
17 enrolled in an institution, and who holds lawful nonimmigrant status
18 pursuant to 8 U.S.C. Sec. (a) (15) (E) (iii), (H) (i), or (L), or who
19 holds lawful nonimmigrant status as the spouse or child of a person
20 having nonimmigrant status under one of those subsections, or who,
21 holding or having previously held such lawful nonimmigrant status as
22 a principal or derivative, has filed an application for adjustment of
23 status pursuant to 8 U.S.C. Sec. 1255(a);

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

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

28 (i) Entered service as a Washington resident;

29 (ii) Has maintained a Washington domicile; and

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

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

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

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

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

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

8 (i) Admitted to an institution before the reassignment and
9 enrolls in that institution for the term the student was admitted;
10 (~~(e)~~)

11 (ii) Enrolled in an institution and remains continuously enrolled
12 at the institution; or

13 (iii) Enrolled in an institution of higher education in
14 Washington within three years from the date of reassignment out-of-
15 state;

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

18 ~~(k) A student who is eligible or entitled to transferred federal~~
19 ~~post-9/11 veterans educational assistance act of 2008 (38 U.S.C. Sec.~~
20 ~~3301 et seq.) benefits based on the student's relationship as a~~
21 ~~spouse, former spouse, or child to an individual who is on active~~
22 ~~duty in the uniformed services;~~

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

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

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

36 ~~(o) A student who is entitled to veterans administration~~
37 ~~educational assistance benefits based on the student's relationship~~
38 ~~as a spouse, former spouse, or child to an individual who has~~
39 ~~separated from the uniformed services with any period of honorable~~
40 ~~service after at least ninety days of active duty service, and who~~

1 ~~enters an institution of higher education in Washington within three~~
2 ~~years of the service member's date of separation;~~

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

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

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

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

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

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

31 ~~((t))~~ (o) A student who is defined as a covered individual in 38
32 U.S.C. Sec. 3679(c)(2) as it existed on ~~((July 28, 2019))~~ January 18,
33 2022, or such subsequent date as the student achievement council may
34 determine by rule;

35 ~~((u))~~ (p) A student of an out-of-state institution of higher
36 education who is attending a Washington state institution of higher
37 education pursuant to a home tuition agreement as described in RCW
38 28B.15.725;

39 ~~((v))~~ (q) A student who meets the requirements of RCW
40 28B.15.0131 or 28B.15.0139: PROVIDED, That a nonresident student

1 enrolled for more than six hours per semester or quarter shall be
2 considered as attending for primarily educational purposes, and for
3 tuition and fee paying purposes only such period of enrollment shall
4 not be counted toward the establishment of a bona fide domicile of
5 one year in this state unless such student proves that the student
6 has in fact established a bona fide domicile in this state primarily
7 for purposes other than educational;

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

12 ~~((x))~~ (s) A student who resides in Washington and is the spouse
13 or a dependent of a person defined in ~~((w))~~ (r) of this subsection.
14 If the person defined in ~~((w))~~ (r) of this subsection moves from
15 Washington or is reassigned out of the Oregon counties of Columbia,
16 Gilliam, Hood River, Multnomah, Clatsop, Clackamas, Morrow, Sherman,
17 Umatilla, Union, Wallowa, Wasco, or Washington, the student maintains
18 the status as a resident student so long as the student resides in
19 Washington and is either:

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

22 (ii) Enrolled in an institution and remains continuously enrolled
23 at the institution.

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

28 (b) Nothing in subsection (2)(k), (l), (m), (n), or (o) ~~((, (p),~~
29 ~~(q), (r), (s), or (t)))~~ of this section applies to students who have
30 a dishonorable discharge from the uniformed services, or to students
31 who are the spouse or child of an individual who has had a
32 dishonorable discharge from the uniformed services, unless the
33 student is receiving veterans administration educational assistance
34 benefits.

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

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

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

12 (i) A lawful permanent resident;

13 (ii) A temporary resident;

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

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

21 (v) A person who has been granted deferred action for childhood
22 arrival status before, on, or after June 7, 2018, regardless of
23 whether the person is no longer or will no longer be granted deferred
24 action for childhood arrival status due to the termination,
25 suspension, or modification of the deferred action for childhood
26 arrival program; or

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

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

36 (6) The term "dependent" shall mean a person who is not
37 financially independent. Factors to be considered in determining
38 whether a person is financially independent shall be set forth in
39 rules adopted by the student achievement council and shall include,
40 but not be limited to, the state and federal income tax returns of

1 the person and/or the student's parents or legal guardian filed for
2 the calendar year prior to the year in which application is made and
3 such other evidence as the council may require.

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

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

7 (b) The Washington national guard; or

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

11 (8) The term "active duty service" means full-time duty, other
12 than active duty for training, as a member of the uniformed services
13 of the United States. Active duty service as a national guard member
14 under Title 32 U.S.C. for the purpose of organizing, administering,
15 recruiting, instructing, or training and active service under Title
16 32 U.S.C. Sec. 502(f) for the purpose of responding to a national
17 emergency is recognized as active duty service.

18 (9) The term "uniformed services" is defined by Title 10 U.S.C.;
19 subsequently structured and organized by Titles 14, 33, and 42
20 U.S.C.; consisting of the United States army, United States marine
21 corps, United States navy, United States air force, United States
22 coast guard, United States space force, United States public health
23 service commissioned corps, and the national oceanic and atmospheric
24 administration commissioned officer corps.

25 (10) "Washington national guard" means that part of the military
26 force of the state that is organized, equipped, and federally
27 recognized under the provisions of the national defense act of the
28 United States, and in the event the national guard is called into
29 federal service or in the event the state guard or any part or
30 individual member thereof is called into active state service by the
31 commander-in-chief. National guard service includes being subject to
32 call up for active duty under Title 32 U.S.C. or Title 10 U.S.C.
33 status or when called to state active service by the governor under
34 the provisions of RCW 38.08.040.

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

36 (a) A legitimate child;

37 (b) An adopted child;

38 (c) A stepchild;

39 (d) A foster child; and

1 (e) A legal dependent."

2 Correct the title.

EFFECT: (1) Removes the expansion of in-state residency to all active duty members, National Guard members, reservists, and their dependents, and reverts back to current law to require the individual to be either stationed in Washington, have entered service as a Washington resident and maintained a Washington domicile, or be living in Washington and stationed in an Oregon border county.

(2) Adds that an active duty military member can receive in-state residency if they are stationed out-of-state after being stationed in Washington, as long as the person is already enrolled, admitted to, or enrolls in an institution in Washington within three years of the reassignment out-of-state.

(3) Adds that a dependent of an active duty military member can receive in-state residency if the military member is stationed out-of-state, as long as the dependent enrolls in an institution in Washington within three years of the date of reassignment out-of-state.

(4) Adds back in the provision that in-state residency does not apply to any military member or a dependent if the military member has a dishonorable discharge, unless the individual is receiving federal veteran administration educational assistance benefits.

(5) Clarifies that a person must be in the state for one year prior to being admitted to an institution of higher education primarily for purposes other than postsecondary education, rather than just education, to qualify for in-state residency.

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