

ESSB 5874 - H COMM AMD

By Committee on College & Workforce Development

NOT 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 educational before the
7 individual is admitted to an institution of higher education under
8 subsection (1) of this section; and who provides to the institution
9 an affidavit indicating that the individual will file an application
10 to become a permanent resident at the earliest opportunity the
11 individual is eligible to do so and a willingness to engage in any
12 other activities necessary to acquire citizenship, including but not
13 limited to citizenship or civics review courses;

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

24 (g) A student who is ~~((~~one~~))~~ one of the following:

25 (i) On active military duty ((stationed in the state or who is
26 a));

27 (ii) A member of the ((Washington)) army or air national guard as
28 defined in subsection (10) of this section, regardless of active
29 military status; or

30 (iii) A member of the reserve component of the United States
31 army, navy, air force, or marine corps;

32 ~~((A student who is on active military duty or a member of the~~
33 ~~Washington national guard who meets the following conditions:~~

34 ~~(i) Entered service as a Washington resident;~~

35 ~~(ii) Has maintained a Washington domicile; and~~

36 ~~(iii) Is stationed out-of-state;~~

37 ~~(i))~~ A student who is the spouse, state registered domestic
38 partner, or a dependent as defined in Title 10 U.S.C. Sec. 1072(2) as
39 it existed on January 18, 2022, or such subsequent date as the
40 student achievement council may determine by rule of a person defined

1 in (g) of this subsection (~~(. If the person defined in (g) of this~~
2 ~~subsection is reassigned out-of-state, the student maintains the~~
3 ~~status as a resident student so long as the student is either:~~

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

6 ~~(ii) Enrolled in an institution and remains continuously enrolled~~
7 ~~at the institution;~~

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

10 ~~(k) A student who is eligible or entitled to transferred federal~~
11 ~~post-9/11 veterans educational assistance act of 2008 (38 U.S.C. Sec.~~
12 ~~3301 et seq.) benefits based on the student's relationship as a~~
13 ~~spouse, former spouse, or child to an individual who is on active~~
14 ~~duty in the uniformed services;~~

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

18 ~~((m))~~ (i) A student who ~~((has separated from the uniformed~~
19 ~~services with any period of honorable service after at least ninety~~
20 ~~days of active duty service; is eligible for educational assistance~~
21 ~~benefits under Title 38 U.S.C.; and enters an institution of higher~~
22 ~~education in Washington within three years of the date of~~
23 ~~separation))~~ is eligible for veterans administration educational
24 assistance or rehabilitation benefits under Title 38 U.S.C. or
25 educational assistance under Title 10 U.S.C. chapter 1606 as those
26 titles existed on January 18, 2022, or such subsequent date as the
27 student achievement council may determine by rule;

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

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

1 ~~(p))~~ (j) A student who ~~((is the spouse or child to an individual~~
2 ~~who))~~ has separated or retired from the uniformed services with at
3 least ten years of honorable service and at least ninety days of
4 active duty service, and who enters an institution ~~((of higher~~
5 ~~education in Washington))~~ within three years of the service member's
6 date of separation or retirement;

7 ~~((q))~~ (k) A student who is the spouse, state registered
8 domestic partner, or child under the age of 26 years of an individual
9 who has separated or retired from the uniformed services with at
10 least 10 years of honorable service and at least 90 days of active
11 duty service, and who enters an institution within three years of the
12 service member's date of separation or retirement;

13 (l) A student who has separated from the uniformed services who
14 was discharged due to the student's sexual orientation or gender
15 identity or expression;

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

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

23 ~~(t))~~ (m) A student who is defined as a covered individual in 38
24 U.S.C. Sec. 3679(c)(2) as it existed on ~~((July 28, 2019))~~ January 18,
25 2022, or such subsequent date as the student achievement council may
26 determine by rule; or

27 ~~((u) A student of an out-of-state institution of higher~~
28 ~~education who is attending a Washington state institution of higher~~
29 ~~education pursuant to a home tuition agreement as described in RCW~~
30 ~~28B.15.725~~;

31 ~~(v))~~ (n) A student who meets the requirements of RCW 28B.15.0131
32 or 28B.15.0139: PROVIDED, That a nonresident student enrolled for
33 more than six hours per semester or quarter shall be considered as
34 attending for primarily educational purposes, and for tuition and fee
35 paying purposes only such period of enrollment shall not be counted
36 toward the establishment of a bona fide domicile of one year in this
37 state unless such student proves that the student has in fact
38 established a bona fide domicile in this state primarily for purposes
39 other than educational(~~+~~

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

5 ~~(x) A student who resides in Washington and is the spouse or a~~
6 ~~dependent of a person defined in (w) of this subsection. If the~~
7 ~~person defined in (w) of this subsection moves from Washington or is~~
8 ~~reassigned out of the Oregon counties of Columbia, Gilliam, Hood~~
9 ~~River, Multnomah, Clatsop, Clackamas, Morrow, Sherman, Umatilla,~~
10 ~~Union, Wallowa, Wasco, or Washington, the student maintains the~~
11 ~~status as a resident student so long as the student resides in~~
12 ~~Washington and is either:~~

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

15 ~~(ii) Enrolled in an institution and remains continuously enrolled~~
16 ~~at the institution).~~

17 (3) ~~((a))~~ A student who qualifies under subsection (2) ~~((k),~~
18 ~~(m), (n), (o), (p), (q), (r), (s), or (t))~~ (g) through (m) of this
19 section and who remains continuously enrolled at an institution of
20 higher education shall retain resident student status.

21 ~~((b) Nothing in subsection (2) (k), (m), (n), (o), (p), (q), (r),~~
22 ~~(s), or (t) of this section applies to students who have a~~
23 ~~dishonorable discharge from the uniformed services, or to students~~
24 ~~who are the spouse or child of an individual who has had a~~
25 ~~dishonorable discharge from the uniformed services, unless the~~
26 ~~student is receiving veterans administration educational assistance~~
27 ~~benefits.))~~

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

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

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

5 (i) A lawful permanent resident;

6 (ii) A temporary resident;

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

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

14 (v) A person who has been granted deferred action for childhood
15 arrival status before, on, or after June 7, 2018, regardless of
16 whether the person is no longer or will no longer be granted deferred
17 action for childhood arrival status due to the termination,
18 suspension, or modification of the deferred action for childhood
19 arrival program; or

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

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

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

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

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

40 (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.

4 (8) The term "active duty service" means full-time duty, other
5 than active duty for training, as a member of the uniformed services
6 of the United States. Active duty service as a national guard member
7 under Title 32 U.S.C. for the purpose of organizing, administering,
8 recruiting, instructing, or training and active service under Title
9 32 U.S.C. Sec. 502(f) for the purpose of responding to a national
10 emergency is recognized as active duty service.

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

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

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

28 (a) A legitimate child;

29 (b) An adopted child;

30 (c) A stepchild;

31 (d) A foster child; and

32 (e) A legal dependent."

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33 On page 1, line 1 of the title, after "military;" strike the
34 remainder of the title and insert "and amending RCW 28B.15.012."

EFFECT: Changes the date of reference to federal law from August 27, 2021 to January 18, 2022. Makes technical corrections fixing typos in the legislation.

--- END ---