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**ENGROSSED SUBSTITUTE SENATE BILL 5874**

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**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 educational before the  
18 individual is admitted to an institution of higher education under  
19 subsection (1) of this section; and who provides to the institution  
20 an affidavit indicating that the individual will file an application  
21 to become a permanent resident at the earliest opportunity the  
22 individual is eligible to do so and a willingness to engage in any  
23 other activities necessary to acquire citizenship, including but not  
24 limited to citizenship or civics review courses;

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

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

36 (i) On active military duty ~~((stationed in the state or who is~~  
37 ~~a));~~

38 (ii) A member of the ~~((Washington))~~ army or air national guard as  
39 defined in subsection (10) of this section, regardless of active  
40 military status; or

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

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

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

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

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

8 ~~(i)) A student who is the spouse, state registered domestic~~  
9 ~~partner, or a dependent as defined in Title 10 U.S.C. Sec. 1072(2) as~~  
10 ~~it existed on August 27, 2021, or such subsequent date as the student~~  
11 ~~achievement council may determine by rule of a person defined in (g)~~  
12 ~~of this subsection(~~. If the person defined in (g) of this subsection~~~~  
13 ~~is reassigned out-of-state, the student maintains the status as a~~  
14 ~~resident student so long as the student is either:~~

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

17 ~~(ii) Enrolled in an institution and remains continuously enrolled~~  
18 ~~at the institution;~~

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

21 ~~(k) A student who is eligible or entitled to transferred federal~~  
22 ~~post-9/11 veterans educational assistance act of 2008 (38 U.S.C. Sec.~~  
23 ~~3301 et seq.) benefits based on the student's relationship as a~~  
24 ~~spouse, former spouse, or child to an individual who is on active~~  
25 ~~duty in the uniformed services;~~

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

29 ~~((~~m~~)) (i) A student who ((has separated from the uniformed~~  
30 ~~services with any period of honorable service after at least ninety~~  
31 ~~days of active duty service; is eligible for educational assistance~~  
32 ~~benefits under Title 38 U.S.C.; and enters an institution of higher~~  
33 ~~education in Washington within three years of the date of~~  
34 ~~separation)) is eligible for veterans administration educational~~  
35 ~~assistance or rehabilitation benefits under Title 38 U.S.C. or~~  
36 ~~educational assistance under Title 10 U.S.C. chapter 1606 as the~~  
37 ~~existed on August 27, 2021, or such subsequent date as the student~~  
38 ~~achievement council may determine by rule;~~

39 ~~((~~n~~) A student who is on terminal, transition, or separation~~  
40 ~~leave pending separation, or release from active duty, from the~~

1 ~~uniformed services with any period of honorable service after at~~  
2 ~~least ninety days of active duty service and is eligible for~~  
3 ~~educational assistance benefits under Title 38 U.S.C.;~~

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

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

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

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

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

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

33 ~~(t))~~ (m) A student who is defined as a covered individual in 38  
34 U.S.C. Sec. 3679(c)(2) as it existed on ~~((July 28, 2019))~~ August 27,  
35 2021, or such subsequent date as the student achievement council may  
36 determine by rule; or

37 ~~((u) A student of an out-of-state institution of higher~~  
38 ~~education who is attending a Washington state institution of higher~~  
39 ~~education pursuant to a home tuition agreement as described in RCW~~  
40 ~~28B.15.725;~~

1       ~~(v))~~ (n) A student who meets the requirements of RCW 28B.15.0131  
2 or 28B.15.0139: PROVIDED, That a nonresident student enrolled for  
3 more than six hours per semester or quarter shall be considered as  
4 attending for primarily educational purposes, and for tuition and fee  
5 paying purposes only such period of enrollment shall not be counted  
6 toward the establishment of a bona fide domicile of one year in this  
7 state unless such student proves that the student has in fact  
8 established a bona fide domicile in this state primarily for purposes  
9 other than educational(~~+~~

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

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

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

24       ~~(ii) Enrolled in an institution and remains continuously enrolled~~  
25 ~~at the institution)).~~

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

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

37       (4) The term "nonresident student" shall mean any student who  
38 does not qualify as a "resident student" under the provisions of this  
39 section and RCW 28B.15.013. Except for students qualifying under

1 subsection (2)(e) (~~(or (u))~~) of this section, a nonresident student  
2 shall include:

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

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

14 (i) A lawful permanent resident;

15 (ii) A temporary resident;

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

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

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

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

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

38 (6) The term "dependent" shall mean a person who is not  
39 financially independent. Factors to be considered in determining  
40 whether a person is financially independent shall be set forth in

1 rules adopted by the student achievement council and shall include,  
2 but not be limited to, the state and federal income tax returns of  
3 the person and/or the student's parents or legal guardian filed for  
4 the calendar year prior to the year in which application is made and  
5 such other evidence as the council may require.

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

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

9 (b) The (~~Washington~~) national guard; or

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

13 (8) The term "active duty service" means full-time duty, other  
14 than active duty for training, as a member of the uniformed services  
15 of the United States. Active duty service as a national guard member  
16 under Title 32 U.S.C. for the purpose of organizing, administering,  
17 recruiting, instructing, or training and active service under Title  
18 32 U.S.C. Sec. 502(f) for the purpose of responding to a national  
19 emergency is recognized as active duty service.

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

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

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

37 (a) A legitimate child;

38 (b) An adopted child;

39 (c) A stepchild;

40 (d) A foster child; and

1 (e) A legal dependent.

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