

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021**

**SESSION LAW 2021-9
HOUSE BILL 53**

AN ACT TO AUTHORIZE STUDENT ATTENDANCE IN A LOCAL SCHOOL ADMINISTRATIVE UNIT FOR CHILDREN OF ACTIVE DUTY MILITARY DUE TO THE MILITARY ORDERS OF THE PARENT AND TO CLARIFY CONTINUOUS ENROLLMENT FOR HIGH SCHOOL STUDENTS WHO ARE DEPENDENTS OF MILITARY PERSONNEL ONCE THOSE STUDENTS ARE ADMITTED TO A STATE INSTITUTION OF HIGHER EDUCATION.

The General Assembly of North Carolina enacts:

PART I. AUTHORIZE STUDENT ATTENDANCE IN A LOCAL SCHOOL ADMINISTRATIVE UNIT FOR CHILDREN OF ACTIVE DUTY MILITARY DUE TO THE MILITARY ORDERS OF THE PARENT

SECTION 1.(a) G.S. 115C-366(a3) reads as rewritten:

"(a3) A student who is not a domiciliary of a local school administrative unit may attend, without the payment of tuition, the public schools of that unit if all of the following apply:

- (1) The student resides with an adult, who is a domiciliary of that unit, as a result of any one of the following:
 - a. The death, serious illness, or incarceration of a parent or legal guardian.
 - b. The abandonment by a parent or legal guardian of the complete control of the student as evidenced by the failure to provide substantial financial support and parental guidance.
 - c. Abuse or neglect by the parent or legal guardian.
 - d. The physical or mental condition of the parent or legal guardian is such that he or she cannot provide adequate care and supervision of the student.
 - e. The relinquishment of physical custody and control of the student by the student's parent or legal guardian upon the recommendation of the department of social services or the Division of Mental Health.
 - f. The loss or uninhabitability of the student's home as the result of a natural disaster.
 - g. The parent or legal guardian is one of the following:
 - ~~1. On active military duty and is deployed out of the local school administrative unit in which the student resides. For purposes of this sub-sub-subdivision, the term "active duty" does not include periods of active duty for training for less than 30 days.~~
 2. A member or veteran of the uniformed services who is severely injured and medically discharged or retired, but only for a period of one year after the medical discharge or retirement of the parent or guardian.
 3. A member of the uniformed services who dies on active duty or as a result of injuries sustained on active duty, but only for



a period of one year after death. For purposes of this sub-sub-subdivision, the term "active duty" is as defined in G.S. 115C-407.5

Assignment under this sub-subdivision is only available if some evidence of the deployment, medical discharge, retirement, or death is tendered with the affidavits required under subdivision (3) of this subsection.

- h. The parent or legal guardian is on active military duty, and the commanding officer of the parent or legal guardian provides in a signed letter that the parent or legal guardian's military orders prevent the parent or legal guardian from physically residing with the student. Assignment under this sub-subdivision is only available if the signed letter from the commanding officer of the parent or legal guardian is included with the affidavits required under subdivision (3) of this subsection, and the commanding officer indicates the time period that such military orders will be in effect. For purposes of this sub-subdivision, the term "active military duty" does not include periods of active duty for training for less than 30 days.
- (2) The student is:
 - a. Not currently under a term of suspension or expulsion from a school for conduct that could have led to a suspension or an expulsion from the local school administrative unit, or
 - b. Currently under a term of suspension or expulsion from a school for conduct that could have led to a suspension or an expulsion from the local school administrative unit and is identified as eligible for special education and related services under the Individuals with Disabilities Education Improvement Act, 20 U.S.C. § 1400, et seq., (2004). Assignment under this sub-subdivision is available only if evidence of current eligibility is tendered with the affidavit required under subdivision (3) of this subsection.
- (3) The caregiver adult and the student's parent, guardian, or legal custodian have each completed and signed separate affidavits that do all of the following:
 - a. Confirm the qualifications set out in this subsection establishing the student's residency.
 - b. Attest that the student's claim of residency in the unit is not primarily related to attendance at a particular school within the unit.
 - c. Attest that the caregiver adult has been given and accepts responsibility for educational decisions for the student.

If the student's parent, guardian, or legal custodian is unable, refuses, or is otherwise unavailable to sign the affidavit, then the caregiver adult shall attest to that fact in the affidavit. If the student is a minor, the caregiver adult must make educational decisions concerning the student and has the same legal authority and responsibility regarding the student as a parent or legal custodian would have even if the parent, guardian, or legal custodian does not sign the affidavit. The minor student's parent, legal guardian, or legal custodian retains liability for the student's acts.

Upon receipt of both affidavits or an affidavit from the caregiver adult that includes an attestation that the student's parent, guardian, or legal custodian is unable, refuses, or is otherwise unavailable to sign an affidavit, the local board shall admit and assign as soon as practicable the student to an appropriate school, as determined under the local board's school assignment policy, pending the results of any further procedures for verifying eligibility for attendance and assignment within the local school administrative unit. No requirement of legal guardianship by

the caregiver adult shall be required by a local board for a student to qualify for enrollment under this subsection.

If it is found that the information contained in either or both affidavits is false, then the local board may, unless the student is otherwise eligible for school attendance under other laws or local board policy, remove the student from school. If a student is removed from school, the board shall provide an opportunity to appeal the removal under the appropriate policy of the local board and shall notify any person who signed the affidavit of this opportunity. If it is found that a person willfully and knowingly provided false information in the affidavit, the maker of the affidavit shall be guilty of a Class 1 misdemeanor and shall pay to the local board an amount equal to the cost of educating the student during the period of enrollment. Repayment shall not include State funds.

Affidavits shall include, in large print, the penalty, including repayment of the cost of educating the student, for providing false information in an affidavit."

SECTION 1.(b) G.S. 115C-366 is amended by adding a new subsection to read:

"(a10) A student who is not a domiciliary of a local school administrative unit shall be permitted to register to enroll in the public schools of that unit if that student resides in that local school administrative unit with a parent, legal guardian, or legal custodian on active military duty who is assigned by official military order to a military installation or reservation in the State. Nothing in this subsection shall be construed to curtail a local school administrative unit's authority pursuant to G.S. 115C-366(a5)."

SECTION 1.(c) This section is effective when it becomes law and applies beginning with the 2021-2022 school year.

PART II. CLARIFY CONTINUOUS ENROLLMENT FOR HIGH SCHOOL STUDENTS WHO ARE DEPENDENTS OF MILITARY PERSONNEL ONCE THOSE STUDENTS ARE ADMITTED TO A STATE INSTITUTION OF HIGHER EDUCATION

SECTION 2.(a) G.S. 116-143.3 reads as rewritten:

"§ 116-143.3. Tuition of Armed Forces personnel and their dependents.

...

(c) Any dependent relative of a member of the Armed Forces who is abiding in this State incident to active military duty, as defined by the Board of Governors of The University of North Carolina and by the State Board of Community Colleges while sharing the abode of that member shall be eligible to be charged the in-State tuition rate, if the dependent relative qualifies for admission to an institution of higher education as defined in G.S. 116-143.1(a)(3). The dependent relatives shall comply with the requirements of the Selective Service System, if applicable, in order to be accorded this benefit. In the event the member of the Armed Forces is reassigned outside of North Carolina or retires, the dependent relative shall continue to be eligible for the in-State tuition rate and applicable mandatory fees so long as the dependent relative is continuously enrolled in the degree or other program in which the dependent relative was enrolled at the time the member is reassigned or retires. In the event the member of the Armed Forces receives an Honorable Discharge from military service, the dependent relative shall continue to be eligible for the in-State tuition rate and applicable mandatory fees so long as the dependent relative establishes residency within North Carolina within 30 days after the discharge and is continuously enrolled in the degree or other program in which the dependent relative was enrolled at the time the member is discharged.

(c1) A dependent relative who resides with a member of the Armed Forces who is reassigned outside of the State incident to active military duty shall remain eligible to be charged the in-State tuition rate if all of the following are met:

(1) At the time the dependent relative applies for admission to the institution of higher education, as defined in G.S. 116-143.1(a)(3), the dependent relative both:

- a. Is enrolled in a North Carolina high school.
- b. Meets the requirements of subsection (c) of this section.
- (2) Upon admission, the dependent relative enrolls in the institution of higher education no later than the fall academic semester immediately following notice of admission and remains continuously enrolled.

...."

SECTION 2.(b) This section is effective when it becomes law and applies to students admitted for the fall academic semester of 2021 and thereafter.

SECTION 2.5.(a) G.S. 116-281 reads as rewritten:

"§ 116-281. Eligibility requirements for scholarships.

In order to be eligible to receive a scholarship under this Article, a student seeking a degree, diploma, or certificate at an eligible private postsecondary institution must meet all of the following requirements:

...

- (3) The student must meet at least one of the following:
 - a. Qualify as a legal resident of North Carolina and as a resident for tuition purposes under the criteria set forth in G.S. 116-143.1 and in accordance with definitions of residency that may from time to time be adopted by the Board of Governors of The University of North Carolina.
 - b. Be a veteran provided the veteran's abode is in North Carolina and the veteran provides the eligible private postsecondary institution a letter of intent to establish residency in North Carolina.
 - c. Be an active duty member of the Armed Forces provided the member of the Armed Forces is abiding in this State incident to active military duty in this State.
 - d. Be the dependent relative of a veteran who is abiding in North Carolina while sharing an abode with the veteran and the dependent relative provides the eligible private postsecondary institution a letter of intent to establish residency in North Carolina.
 - e. Be the dependent relative of an active duty member of the Armed Forces who is abiding in North Carolina incident to active military duty while sharing an abode with the active duty member. The dependent relative shall remain eligible under this subdivision when the active duty member of the Armed Forces is reassigned outside the State if, at the time the dependent relative applies for admission to an eligible private postsecondary institution, the dependent relative both:
 - 1. Is enrolled in a North Carolina high school.
 - 2. Upon admission to an eligible private postsecondary institution, enrolls no later than the fall academic semester immediately following admission and remains continuously enrolled.
- (4) The student must meet enrollment standards by being admitted, enrolled, and classified as an undergraduate student in a matriculated status at an eligible private postsecondary institution.
- (5) In order to continue to be eligible for a scholarship for the student's second and subsequent academic years, the student must meet achievement standards by maintaining satisfactory academic progress in a course of study in accordance with the standards and practices used for federal Title IV programs by the eligible private postsecondary institution in which the student is enrolled.

(6) Repealed by Session Laws 2013-360, s. 11.15(e), effective for the 2014-2015 academic year and each subsequent academic year."

SECTION 2.5.(b) This section applies beginning with the award of scholarships for the 2021-2022 academic year.

PART III. EFFECTIVE DATE

SECTION 3. Except as otherwise provided herein, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 1st day of April, 2021.

s/ Philip E. Berger
President Pro Tempore of the Senate

s/ Tim Moore
Speaker of the House of Representatives

s/ Roy Cooper
Governor

Approved 10:38 a.m. this 9th day of April, 2021