

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

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HOUSE BILL 1279

Short Title: UNC System/In-State Residency Requirement. (Public)

Sponsors: Representatives Allred; Bowie, Gulley, Justus, Warner, Edwards, and Davis.

Referred to: Education.

April 12, 2001

A BILL TO BE ENTITLED

AN ACT TO CHANGE THE RESIDENCY REQUIREMENT TO QUALIFY FOR IN-STATE TUITION FROM ONE YEAR TO THREE YEARS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 116-143.1 reads as rewritten:

"§ 116-143.1. Provisions for determining resident status for tuition purposes.

(a) As defined under this section:

- (1) A "legal resident" or "resident" is a person who qualifies as a domiciliary of North Carolina; a "nonresident" is a person who does not qualify as a domiciliary of North Carolina.
- (2) A "resident for tuition purposes" is a person who qualifies for the in-State tuition rate; a "nonresident for tuition purposes" is a person who does not qualify for the in-State tuition rate.
- (3) "Institution of higher education" means any of the constituent institutions of the University of North Carolina and the community colleges under the jurisdiction of the State Board of Community Colleges.

(b) To qualify as a resident for tuition purposes, a person must have established legal residence (domicile) in North Carolina and maintained that legal residence for at least ~~12 months~~ three years immediately prior to his or her classification as a resident for tuition purposes. Every applicant for admission shall be required to make a statement as to his length of residence in the State.

(c) To be eligible for classification as a resident for tuition purposes, a person must establish that his or her presence in the State currently is, and during the requisite ~~12-month~~ three-year qualifying period was, for purposes of maintaining a bona fide domicile rather than of maintaining a mere temporary residence or abode incident to enrollment in an institution of higher education.

1 (d) An individual shall not be classified as a resident for tuition purposes and,
2 thus, not rendered eligible to receive the in-State tuition rate, until he or she has
3 provided such evidence related to legal residence and its duration as may be required by
4 officials of the institution of higher education from which the individual seeks the
5 in-State tuition rate.

6 (e) When an individual presents evidence that the individual has living parent(s)
7 or court-appointed guardian of the person, the legal residence of such parent(s) or
8 guardian shall be prima facie evidence of the individual's legal residence, which may be
9 reinforced or rebutted relative to the age and general circumstances of the individual by
10 the other evidence of legal residence required of or presented by the individual;
11 provided, that the legal residence of an individual whose parents are domiciled outside
12 this State shall not be prima facie evidence of the individual's legal residence if the
13 individual has lived in this State the five consecutive years prior to enrolling or
14 reregistering at the institution of higher education at which resident status for tuition
15 purposes is sought.

16 (f) In making domiciliary determinations related to the classification of persons
17 as residents or nonresidents for tuition purposes, the domicile of a married person,
18 irrespective of sex, shall be determined, as in the case of an unmarried person, by
19 reference to all relevant evidence of domiciliary intent. For purposes of this section:

20 (1) No person shall be precluded solely by reason of marriage to a person
21 domiciled outside North Carolina from establishing or maintaining
22 legal residence in North Carolina and subsequently qualifying or
23 continuing to qualify as a resident for tuition purposes;

24 (2) No persons shall be deemed solely by reason of marriage to a person
25 domiciled in North Carolina to have established or maintained a legal
26 residence in North Carolina and subsequently to have qualified or
27 continued to qualify as a resident for tuition purposes;

28 (3) In determining the domicile of a married person, irrespective of sex,
29 the fact of marriage and the place of domicile of his or her spouse shall
30 be deemed relevant evidence to be considered in ascertaining
31 domiciliary intent.

32 (g) Any nonresident person, irrespective of sex, who marries a legal resident of
33 this State or marries one who later becomes a legal resident, may, upon becoming a
34 legal resident of this State, accede to the benefit of the spouse's immediately precedent
35 duration as a legal resident for purposes of satisfying the ~~12-month~~ three-year durational
36 requirement of this section.

37 (h) No person shall lose his or her resident status for tuition purposes solely by
38 reason of serving in the armed forces outside this State.

39 (i) A person who, having acquired bona fide legal residence in North Carolina,
40 has been classified as a resident for tuition purposes but who, while enrolled in a State
41 institution of higher education, loses North Carolina legal residence, shall continue to
42 enjoy the in-State tuition rate for a statutory grace period. This grace period shall be
43 measured from the date on which the culminating circumstances arose that caused loss
44 of legal residence and shall continue for 12 months; provided, that a resident's marriage

1 to a person domiciled outside of North Carolina shall not be deemed a culminating
2 circumstance even when said resident's spouse continues to be domiciled outside of
3 North Carolina; and provided, further, that if the 12-month period ends during a
4 semester or academic term in which such a former resident is enrolled at a State
5 institution of higher education, such grace period shall extend, in addition, to the end of
6 that semester or academic term.

7 (j) Notwithstanding the prima facie evidence of legal residence of an individual
8 derived pursuant to subsection (e), notwithstanding the presumptions of the legal
9 residence of a minor established by common law, and notwithstanding the authority of a
10 judicially determined custody award of a minor, for purposes of this section, the legal
11 residence of a minor whose parents are divorced, separated, or otherwise living apart
12 shall be deemed to be North Carolina for the time period relative to which either parent
13 is entitled to claim and does in fact claim the minor as a dependent for North Carolina
14 individual income tax purposes. The provisions of this subsection shall pertain only to a
15 minor who is claimed as a dependent by a North Carolina legal resident.

16 Any person who immediately prior to his or her eighteenth birthday would have
17 been deemed under this subsection a North Carolina legal resident but who achieves
18 majority before enrolling at an institution of higher education shall not lose the benefit
19 of this subsection if that person:

- 20 (1) Upon achieving majority, acts, to the extent that the person's degree of
21 actual emancipation permits, in a manner consistent with bona fide
22 legal residence in North Carolina; and
- 23 (2) Begins enrollment at an institution of higher education not later than
24 the fall academic term next following completion of education
25 prerequisite to admission at such institution.

26 (k) Notwithstanding other provisions of this section, a minor who satisfies the
27 following conditions immediately prior to commencement of an enrolled term at an
28 institution of higher education, shall be accorded resident tuition status for that term:

- 29 (1) The minor has lived for five or more consecutive years continuing to
30 such term in North Carolina in the home of an adult relative other than
31 a parent, domiciled in this State; and
- 32 (2) The adult relative has functioned during those years as a de facto
33 guardian of the minor and exercised day-to-day care, supervision, and
34 control of the minor.

35 A person who immediately prior to his or her eighteenth birthday qualified for or
36 was accorded resident status for tuition purposes pursuant to this subsection shall be
37 deemed upon achieving majority to be a legal resident of North Carolina of at least ~~12~~
38 ~~months~~three years duration; provided, that the legal residence of such an adult person
39 shall be deemed to continue in North Carolina only so long as the person does not
40 abandon legal residence in this State.

41 (l) Any person who ceases to be enrolled at or graduates from an institution of
42 higher education while classified as a resident for tuition purposes and subsequently
43 abandons North Carolina domicile shall be permitted to reenroll at an institution of
44 higher education as a resident for tuition purposes without necessity of meeting the ~~12-~~

1 ~~month-three-year~~ durational requirement of this section if the person reestablishes North
2 Carolina domicile within 12 months of abandonment of North Carolina domicile and
3 continuously maintains the reestablished North Carolina domicile at least through the
4 beginning of the academic term(s) for which in-State tuition status is sought. The
5 benefit of this subsection shall be accorded not more than once to any one person."

6 **SECTION 2.** This act is effective when it becomes law and applies to
7 persons applying for admission for academic periods beginning on or after July 1, 2001.
8 This act does not apply to a person already enrolled as a full-time student at a
9 constituent institution of The University of North Carolina before July 1, 2001.