

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2019**

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**HOUSE BILL 1047**

Short Title: Educ. Changes for Military-Connected Students. (Public)

Sponsors: Representatives Cleveland, Bell, and Martin (Primary Sponsors).

*For a complete list of sponsors, refer to the North Carolina General Assembly web site.*

Referred to: Homeland Security, Military, and Veterans Affairs, if favorable, Rules, Calendar, and Operations of the House

April 29, 2020

A BILL TO BE ENTITLED

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, TO REQUIRE IDENTIFICATION OF MILITARY-CONNECTED STUDENTS IN NONPUBLIC SCHOOLS, 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, AS RECOMMENDED BY THE NORTH CAROLINA MILITARY AFFAIRS COMMISSION.

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                    1.     ~~On active military duty and is deployed out of the local school~~
- 2                                ~~administrative unit in which the student resides. For purposes~~
- 3                                ~~of this sub-sub-subdivision, the term "active duty" does not~~
- 4                                ~~include periods of active duty for training for less than 30 days.~~
- 5                    2.     A member or veteran of the uniformed services who is severely
- 6                                injured and medically discharged or retired, but only for a
- 7                                period of one year after the medical discharge or retirement of
- 8                                the parent or guardian.
- 9                    3.     A member of the uniformed services who dies on active duty
- 10                               or as a result of injuries sustained on active duty, but only for
- 11                               a period of one year after death. For purposes of this
- 12                               sub-sub-subdivision, the term "active duty" is as defined in
- 13                               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.

18                   h.     The parent or legal guardian is on active military duty, and the  
 19                               commanding officer of the parent or legal guardian provides in a  
 20                               signed letter that the parent or legal guardian's military orders prevent  
 21                               the parent or legal guardian from physically residing with the student.  
 22                               Assignment under this sub-subdivision is only available if the signed  
 23                               letter from the commanding officer of the parent or legal guardian is  
 24                               included with the affidavits required under subdivision (3) of this  
 25                               subsection, and the commanding officer indicates the time period that  
 26                               such military orders will be in effect. For purposes of this  
 27                               sub-subdivision, the term "active military duty" does not include  
 28                               periods of active duty for training for less than 30 days.

- 29                   (2)     The student is:
- 30                               a.     Not currently under a term of suspension or expulsion from a school
- 31                                           for conduct that could have led to a suspension or an expulsion from
- 32                                           the local school administrative unit, or
- 33                               b.     Currently under a term of suspension or expulsion from a school for
- 34                                           conduct that could have led to a suspension or an expulsion from the
- 35                                           local school administrative unit and is identified as eligible for special
- 36                                           education and related services under the Individuals with Disabilities
- 37                                           Education Improvement Act, 20 U.S.C. § 1400, et seq., (2004).
- 38                                           Assignment under this sub-subdivision is available only if evidence of
- 39                                           current eligibility is tendered with the affidavit required under
- 40                                           subdivision (3) of this subsection.

- 41                   (3)     The caregiver adult and the student's parent, guardian, or legal custodian have
- 42                               each completed and signed separate affidavits that do all of the following:
- 43                               a.     Confirm the qualifications set out in this subsection establishing the
- 44                                           student's residency.
- 45                               b.     Attest that the student's claim of residency in the unit is not primarily
- 46                                           related to attendance at a particular school within the unit.
- 47                               c.     Attest that the caregiver adult has been given and accepts
- 48                                           responsibility for educational decisions for the student.

49                   If the student's parent, guardian, or legal custodian is unable, refuses, or is otherwise

50                   unavailable to sign the affidavit, then the caregiver adult shall attest to that fact in the affidavit.

51                   If the student is a minor, the caregiver adult must make educational decisions concerning the

1 student and has the same legal authority and responsibility regarding the student as a parent or  
2 legal custodian would have even if the parent, guardian, or legal custodian does not sign the  
3 affidavit. The minor student's parent, legal guardian, or legal custodian retains liability for the  
4 student's acts.

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

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

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

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

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

31 **SECTION 1.(c)** This section is effective when it becomes law and applies beginning  
32 with the 2020-2021 school year.

## 33 34 **PART II. REQUIRE IDENTIFICATION OF MILITARY-CONNECTED STUDENTS IN** 35 **NONPUBLIC SCHOOLS**

36 **SECTION 2.(a)** Part 1 of Article 39 of Chapter 115C of the General Statutes is  
37 amended by adding a new section to read:

38 **§ 115C-550.1. Reporting of military-connected students.**

39 (a) A private church school or school of religious charter shall annually report to the  
40 Division of Nonpublic Education, Department of Administration, in a manner established by the  
41 Division, on enrolled military-connected students. For purposes of this section, a  
42 "military-connected student" means a student enrolled in a private church school or school of  
43 religious charter who has a parent, stepparent, sibling, or any other person who resides in the  
44 same household serving in the active or reserve components of the Army, Navy, Air Force,  
45 Marine Corps, Coast Guard, or National Guard.

46 (b) The identification of military-connected students is not a public record within the  
47 meaning of G.S. 132-1 and shall not be made public by any person, except as follows:

48 (1) As permitted under the provisions of the Family Educational Rights and  
49 Privacy Act of 1974, 20 U.S.C. § 1232g.

1           (2) By the Division of Nonpublic Education to any school liaison in the State  
2           employed by the State, a local government, or the Armed Forces, as defined  
3           in G.S. 116-143.3."

4           **SECTION 2.(b)** Part 2 of Article 39 of Chapter 115C of the General Statutes is  
5 amended by adding a new section to read:

6 **"§ 115C-558.1. Reporting of military-connected students.**

7           (a) A qualified nonpublic school shall annually report to the Division of Nonpublic  
8 Education, Department of Administration, in a manner established by the Division, on enrolled  
9 military-connected students. For purposes of this section, a "military-connected student" means  
10 a student enrolled in a qualified nonpublic school who has a parent, stepparent, sibling, or any  
11 other person who resides in the same household serving in the active or reserve components of  
12 the Army, Navy, Air Force, Marine Corps, Coast Guard, or National Guard.

13           (b) The identification of military-connected students is not a public record within the  
14 meaning of G.S. 132-1 and shall not be made public by any person, except as follows:

15           (1) As permitted under the provisions of the Family Educational Rights and  
16 Privacy Act of 1974, 20 U.S.C. § 1232g.

17           (2) By the Division of Nonpublic Education to any school liaison in the State  
18 employed by the State, a local government, or the Armed Forces, as defined  
19 in G.S. 116-143.3."

20           **SECTION 2.(c)** G.S. 115C-564 reads as rewritten:

21 **"§ 115C-564. Qualifications and requirements.**

22           (a) A home school shall make the election to operate under the qualifications of either  
23 Part 1 or Part 2 of this Article and shall meet the requirements of the Part elected, except as  
24 follows:

25           (1) ~~that any~~ Any requirement related to safety and sanitation inspections shall be  
26 waived if the school operates in a private ~~residence and residence.~~

27           (2) ~~except that~~ The testing requirements in G.S. 115C-549 and G.S. 115C-557  
28 shall be on an annual basis.

29           (3) A home school shall annually report a notice of intent to operate to the  
30 Division of Nonpublic Education, and shall comply with the report on  
31 military-connected students required in G.S. 115C-550.1 and G.S. 115C-558  
32 in the notice of intent to operate. Continued operation of a home school with  
33 no changes from a prior notice of intent shall be indicated through a simplified  
34 process established by the Division of Nonpublic Education.

35           (b) The persons providing academic instruction in a home school shall hold at least a high  
36 school diploma or its equivalent."

37           **SECTION 2.(d)** The Division of Nonpublic Education shall establish, no later than  
38 August 1, 2020, a simplified process for home schools to annually update the notice of intent to  
39 operate if no changes are required to the information submitted previously to the Division, as  
40 required by G.S. 115C-564(a)(3), as amended by this act.

41           **SECTION 2.(e)** This section is effective when it becomes law and applies to all  
42 nonpublic schools beginning with the 2020-2021 school year.

43  
44 **PART III. CLARIFY CONTINUOUS ENROLLMENT FOR HIGH SCHOOL**  
45 **STUDENTS WHO ARE DEPENDENTS OF MILITARY PERSONNEL ONCE THOSE**  
46 **STUDENTS ARE ADMITTED TO A STATE INSTITUTION OF HIGHER EDUCATION**

47           **SECTION 3.(a)** G.S. 116-143.3 reads as rewritten:

48 **"§ 116-143.3. Tuition of Armed Forces personnel and their dependents.**

49 ...

50           (c) Any dependent relative of a member of the Armed Forces who is abiding in this State  
51 incident to active military duty, as defined by the Board of Governors of The University of North

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

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

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

21 a. Is enrolled in a North Carolina high school.

22 b. Meets the requirements of subsection (c) of this section.

23 (2) Upon admission, the dependent relative enrolls in the institution of higher  
24 education no later than the fall academic semester immediately following  
25 notice of admission and remains continuously enrolled.

26 ...."

27 **SECTION 3.(b)** This section is effective when it becomes law and applies to students  
28 admitted for the fall academic semester of 2020 and thereafter.

#### 30 **PART IV. EFFECTIVE DATE**

31 **SECTION 4.** Except as otherwise provided herein, this act is effective when it  
32 becomes law.