

By Senator Wilson

33-29A-04

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A bill to be entitled
An act relating to determination of resident
status for tuition purposes; amending s.
1009.21, F.S.; classifying specified students
as residents for tuition purposes; providing an
effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 1009.21, Florida Statutes, is
amended to read:

1009.21 Determination of resident status for tuition
purposes; exemption.--Students shall be classified as
residents or nonresidents for the purpose of assessing tuition
in community colleges and state universities.

(1) As used in this section, the term:

(a) ~~The term~~ "Dependent child" means any person,
whether or not living with his or her parent, who is eligible
to be claimed by his or her parent as a dependent under the
federal income tax code.

(b) ~~The term~~ "Institution of higher education" means
any public community college or state university.

(c) ~~A~~ "Legal resident" or "resident" means is a person
who has maintained his or her residence in this state for the
preceding year, has purchased a home that ~~which~~ is occupied by
him or her as his or her residence, or has established a
domicile in this state pursuant to s. 222.17.

(d) "Nonresident for tuition purposes" means a person
who does not qualify for the in-state tuition rate.

(e) ~~(d)~~ ~~The term~~ "Parent" means the natural or adoptive
parent or legal guardian of a dependent child.

1 ~~(f)(e)~~ A "Resident for tuition purposes" means ~~is~~ a
2 person who qualifies as provided in subsection (2) for the
3 in-state tuition rate; ~~a "nonresident for tuition purposes" is~~
4 ~~a person who does not qualify for the in-state tuition rate.~~

5 (2)(a) To qualify as a resident for tuition purposes:

6 1. A person or, if that person is a dependent child,
7 his or her parent or parents must have established legal
8 residence in this state and must have maintained legal
9 residence in this state for at least 12 months immediately
10 prior to his or her qualification.

11 2. Every applicant for admission to an institution of
12 higher education must ~~shall be required to~~ make a statement as
13 to his or her length of residence in the state and, further,
14 must ~~shall~~ establish that his or her presence or, if the
15 applicant is a dependent child, the presence of his or her
16 parent or parents in the state currently is, and during the
17 requisite 12-month qualifying period was, for the purpose of
18 maintaining a bona fide domicile, rather than for the purpose
19 of maintaining a mere temporary residence or abode incident to
20 enrollment in an institution of higher education.

21 (b) However, ~~with respect to~~ a dependent child who
22 lives living with an adult relative other than the child's
23 parent, ~~such child~~ may qualify as a resident for tuition
24 purposes if the adult relative is a legal resident who has
25 maintained legal residence in this state for at least 12
26 months immediately prior to the child's qualification, if
27 ~~provided~~ the child has resided continuously with that ~~such~~
28 relative for the 5 years immediately prior to the child's
29 qualification, during which time the adult relative has
30 exercised day-to-day care, supervision, and control of the
31 child.

1 (c) The legal residence of a dependent child whose
2 parents are divorced, separated, or otherwise living apart is
3 considered ~~will be deemed~~ to be this state if either parent is
4 a legal resident of this state, regardless of which parent is
5 entitled to claim, and does in fact claim, the minor as a
6 dependent pursuant to federal individual income tax
7 provisions.

8 (3) An individual may ~~shall~~ not be classified as a
9 resident for tuition purposes and, thus, is ineligible ~~shall~~
10 ~~not be eligible~~ to receive the in-state tuition rate until he
11 or she has provided such evidence related to legal residence
12 and its duration as is ~~may be~~ required by officials of the
13 institution of higher education from which he or she seeks the
14 in-state tuition rate.

15 (4) ~~With respect to a dependent child,~~The legal
16 residence of a dependent child's ~~such individual's~~ parent or
17 parents is prima facie evidence of the child's ~~individual's~~
18 legal residence, which evidence may be reinforced or rebutted,
19 relative to the age and general circumstances of the
20 individual, by the other evidence of legal residence required
21 of or presented by the individual. However, the legal
22 residence of an individual whose parent or parents are
23 domiciled outside this state is not prima facie evidence of
24 the individual's legal residence if that individual has lived
25 in this state for 5 consecutive years prior to enrolling or
26 reregistering at the institution of higher education at which
27 resident status for tuition purposes is sought.

28 (5) In making a domiciliary determination related to
29 the classification of a person as a resident or nonresident
30 for tuition purposes, the domicile of a married person,
31 irrespective of sex, shall be determined, as in the case of an

1 unmarried person, by reference to all relevant evidence of
2 domiciliary intent. For the purposes of this section:

3 (a) A person may ~~shall~~ not be precluded from
4 establishing or maintaining legal residence in this state and
5 subsequently qualifying or continuing to qualify as a resident
6 for tuition purposes solely by reason of marriage to a person
7 domiciled outside this state, even when that person's spouse
8 continues to be domiciled outside ~~of~~ this state, if provided
9 such person maintains his or her legal residence in this
10 state.

11 (b) A person has ~~shall~~ not ~~be deemed to have~~
12 established or maintained a legal residence in this state and
13 has not subsequently ~~to have~~ qualified or continued to qualify
14 as a resident for tuition purposes solely by reason of
15 marriage to a person domiciled in this state.

16 (c) In determining the domicile of a married person,
17 irrespective of sex, the fact of the marriage and the place of
18 domicile of the ~~such~~ person's spouse is ~~shall be deemed~~
19 relevant evidence to be considered in ascertaining domiciliary
20 intent.

21 (6) Any nonresident person, irrespective of sex, who
22 marries a legal resident of this state or marries a person who
23 later becomes a legal resident may, upon becoming a legal
24 resident of this state, accede to the benefit of the spouse's
25 immediately precedent duration as a legal resident for
26 purposes of satisfying the 12-month durational requirement of
27 this section.

28 (7) A person does ~~shall~~ not lose his or her resident
29 status for tuition purposes solely by reason of serving, or,
30 if the ~~such~~ person is a dependent child, by reason of his or
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1 her parent's or parents' serving, in the Armed Forces outside
2 this state.

3 (8) A person who has been properly classified as a
4 resident for tuition purposes but who, while enrolled in an
5 institution of higher education in this state, loses his or
6 her resident tuition status because the person or, if he or
7 she is a dependent child, the person's parent or parents
8 establish domicile or legal residence elsewhere continues
9 ~~shall continue~~ to enjoy the in-state tuition rate for a
10 statutory grace period of 12 months, ~~to which period shall~~ be
11 measured from the date on which the circumstances arose which
12 ~~that~~ culminated in the loss of resident tuition status ~~and~~
13 ~~shall continue for 12 months~~. However, if the 12-month grace
14 period ends during a semester or academic term for which the
15 ~~such~~ former resident is enrolled, the ~~such~~ grace period shall
16 be extended to the end of that semester or academic term.

17 (9) Any person who ceases to be enrolled at or who
18 graduates from an institution of higher education while
19 classified as a resident for tuition purposes and who
20 subsequently abandons his or her domicile in this state shall
21 be permitted to reenroll at an institution of higher education
22 in this state as a resident for tuition purposes without the
23 necessity of meeting the 12-month durational requirement of
24 this section if that person has reestablished his or her
25 domicile in this state within 12 months after ~~of~~ such
26 abandonment and continuously maintains the reestablished
27 domicile during the period of enrollment. The benefit of this
28 subsection may ~~shall~~ not be accorded more than once to any one
29 person.

30 (10) The following persons shall be classified as
31 residents for tuition purposes:

1 (a) Active duty members of the Armed Services of the
2 United States residing or stationed in this state and, their
3 spouses, and dependent children, and active members of the
4 Florida National Guard who qualify under s. 250.10(7) and (8)
5 for the tuition assistance program.

6 (b) Active duty members of the Armed Services of the
7 United States and their spouses attending a public community
8 college or state university within 50 miles of the military
9 establishment where they are stationed, if the ~~such~~ military
10 establishment is within a county contiguous to Florida.

11 (c) United States citizens living on the Isthmus of
12 Panama, who have completed 12 consecutive months of college
13 work at the Florida State University Panama Canal Branch, and
14 their spouses and dependent children.

15 (d) Full-time instructional and administrative
16 personnel employed by state public schools, community
17 colleges, and institutions of higher education, as defined in
18 s. 1000.04, and their spouses and dependent children.

19 (e) Students from Latin America and the Caribbean who
20 receive scholarships from the federal or state government. Any
21 student classified pursuant to this paragraph must ~~shall~~
22 attend, ~~on a full-time basis~~, a Florida institution of higher
23 education.

24 (f) Southern Regional Education Board's Academic
25 Common Market graduate students attending Florida's state
26 universities.

27 (g) Full-time employees of state agencies or political
28 subdivisions of the state whose ~~when the~~ student fees are paid
29 by the state agency or political subdivision for the purpose
30 of job-related law enforcement or corrections training.

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1 (h) McKnight Doctoral Fellows and Finalists who are
2 United States citizens.

3 (i) United States citizens living outside the United
4 States who are teaching at a Department of Defense Dependent
5 School or in an American International School and who enroll
6 in a graduate level education program that ~~which~~ leads to a
7 Florida teaching certificate.

8 (j) Active duty members of the Canadian military
9 residing or stationed in this state under the North American
10 Air Defense (NORAD) agreement, and their spouses and dependent
11 children, attending a community college or state university
12 within 50 miles of the military establishment where they are
13 stationed.

14 (k) Students, other than nonimmigrant aliens within
15 the meaning of 8 U.S.C. s. 1101(a)(15), who have:

16 1. Resided in this state with a parent as defined in
17 paragraph (1)(e) for at least 3 consecutive years immediately
18 preceding the date the student received a high school diploma
19 or its equivalent and have attended a high school in this
20 state for at least 3 consecutive school years during such
21 time; and

22 2. Provided to a public community college or a state
23 university an affidavit stating that the student will file an
24 application to become a permanent resident of the United
25 States at the earliest opportunity he or she is eligible to do
26 so.

27 (11) The State Board of Education shall by rule
28 designate classifications of students as residents or
29 nonresidents for tuition purposes at community colleges and
30 state universities.

31 Section 2. This act shall take effect July 1, 2004.

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SENATE SUMMARY

Classifies certain students as residents of this state
for the purpose of assessing tuition in community
colleges and state universities.