

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2021

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HOUSE BILL 53  
Committee Substitute Favorable 3/10/21

Short Title: Educ. Changes for Military-Connected Students.

(Public)

Sponsors:

Referred to:

February 4, 2021

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

8 The General Assembly of North Carolina enacts:

9  
10 **PART I. AUTHORIZE STUDENT ATTENDANCE IN A LOCAL SCHOOL**  
11 **ADMINISTRATIVE UNIT FOR CHILDREN OF ACTIVE DUTY MILITARY DUE TO**  
12 **THE MILITARY ORDERS OF THE PARENT**

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

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

16 (1) The student resides with an adult, who is a domiciliary of that unit, as a result  
17 of any one of the following:

- 18 a. The death, serious illness, or incarceration of a parent or legal  
19 guardian.  
20 b. The abandonment by a parent or legal guardian of the complete control  
21 of the student as evidenced by the failure to provide substantial  
22 financial support and parental guidance.  
23 c. Abuse or neglect by the parent or legal guardian.  
24 d. The physical or mental condition of the parent or legal guardian is such  
25 that he or she cannot provide adequate care and supervision of the  
26 student.  
27 e. The relinquishment of physical custody and control of the student by  
28 the student's parent or legal guardian upon the recommendation of the  
29 department of social services or the Division of Mental Health.  
30 f. The loss or uninhabitability of the student's home as the result of a  
31 natural disaster.  
32 g. The parent or legal guardian is one of the following:  
33 1. ~~On active military duty and is deployed out of the local school~~  
34 ~~administrative unit in which the student resides. For purposes~~  
35 ~~of this sub-sub-subdivision, the term "active duty" does not~~  
36 ~~include periods of active duty for training for less than 30 days.~~



1 2. A member or veteran of the uniformed services who is severely  
2 injured and medically discharged or retired, but only for a  
3 period of one year after the medical discharge or retirement of  
4 the parent or guardian.

5 3. A member of the uniformed services who dies on active duty  
6 or as a result of injuries sustained on active duty, but only for  
7 a period of one year after death. For purposes of this  
8 sub-sub-subdivision, the term "active duty" is as defined in  
9 G.S. 115C-407.5

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

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

25 (2) The student is:

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

37 (3) The caregiver adult and the student's parent, guardian, or legal custodian have  
38 each completed and signed separate affidavits that do all of the following:

- 39 a. Confirm the qualifications set out in this subsection establishing the  
40 student's residency.  
41 b. Attest that the student's claim of residency in the unit is not primarily  
42 related to attendance at a particular school within the unit.  
43 c. Attest that the caregiver adult has been given and accepts  
44 responsibility for educational decisions for the student.

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

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

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

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

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

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

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

29  
30 **PART II. CLARIFY CONTINUOUS ENROLLMENT FOR HIGH SCHOOL STUDENTS**  
31 **WHO ARE DEPENDENTS OF MILITARY PERSONNEL ONCE THOSE STUDENTS**  
32 **ARE ADMITTED TO A STATE INSTITUTION OF HIGHER EDUCATION**

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

34 "**§ 116-143.3. Tuition of Armed Forces personnel and their dependents.**

35 ...

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

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

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

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

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

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

12       ...."

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

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

16       "**§ 116-281. Eligibility requirements for scholarships.**

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

20       ...

21       (3) The student must meet at least one of the following:

22           a. Qualify as a legal resident of North Carolina and as a resident for  
23 tuition purposes under the criteria set forth in G.S. 116-143.1 and in  
24 accordance with definitions of residency that may from time to time  
25 be adopted by the Board of Governors of The University of North  
26 Carolina.

27           b. Be a veteran provided the veteran's abode is in North Carolina and the  
28 veteran provides the eligible private postsecondary institution a letter  
29 of intent to establish residency in North Carolina.

30           c. Be an active duty member of the Armed Forces provided the member  
31 of the Armed Forces is abiding in this State incident to active military  
32 duty in this State.

33           d. Be the dependent relative of a veteran who is abiding in North Carolina  
34 while sharing an abode with the veteran and the dependent relative  
35 provides the eligible private postsecondary institution a letter of intent  
36 to establish residency in North Carolina.

37           e. Be the dependent relative of an active duty member of the Armed  
38 Forces who is abiding in North Carolina incident to active military  
39 duty while sharing an abode with the active duty member. The  
40 dependent relative shall remain eligible under this subdivision  
41 notwithstanding reassignment of the active duty member of the Armed  
42 Forces outside the State if, at the time the dependent relative applies  
43 for admission to an eligible private postsecondary institution, the  
44 dependent relative both:

45           1. Is enrolled in a North Carolina high school.

46           2. Upon admission to an eligible private postsecondary  
47 institution, enrolls no later than the fall academic semester  
48 immediately following establishment of eligibility and remains  
49 continuously enrolled.

- 1           (4)     The student must meet enrollment standards by being admitted, enrolled, and  
2           classified as an undergraduate student in a matriculated status at an eligible  
3           private postsecondary institution.  
4           (5)     In order to continue to be eligible for a scholarship for the student's second  
5           and subsequent academic years, the student must meet achievement standards  
6           by maintaining satisfactory academic progress in a course of study in  
7           accordance with the standards and practices used for federal Title IV programs  
8           by the eligible private postsecondary institution in which the student is  
9           enrolled.  
10          (6)     Repealed by Session Laws 2013-360, s. 11.15(e), effective for the 2014-2015  
11          academic year and each subsequent academic year."

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

14  
15          **PART III. EFFECTIVE DATE**

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