

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE DRH30254-LE-204 (4/13)

Short Title: Modify Requirements for School Admission.

(Public)

Sponsors: Representative Folwell.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE REQUIREMENTS FOR SCHOOL ADMISSION IN
NORTH CAROLINA.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-364(c) reads as rewritten:

"(c) The initial point of entry into the public school system shall be at the kindergarten level. If the principal of a school finds as fact subsequent to initial entry that a child, by reason of maturity can be more appropriately served in the first grade rather than in kindergarten, the principal may act under G.S. 115C-288 to implement this educational decision without regard to chronological age. The principal of any public school ~~may~~ shall require the parent or guardian of any child presented for admission for the first time to that school to furnish a certified copy of the child's birth certificate, which shall be furnished by the register of deeds of the county having on file the record of the birth of the child, or other satisfactory evidence of date of ~~birth~~ birth, as provided in Article 4 of Chapter 130A of the General Statutes."

SECTION 2. G.S. 130A-109 reads as rewritten:

"§ 130A-109. Birth certificate as evidence.

Certified copies of birth certificates shall be accepted by public school authorities in this State as prima facie evidence of the age of children registering for school attendance, and no other proof shall be required. In addition, certified copies of birth certificates shall be required by all factory inspectors and employers of youthful labor, as prima facie proof of age, and no other proof shall be required. However, when it is not possible to secure a certified copy of a birth certificate, ~~school authorities, factory inspectors and employers~~ may accept as secondary proof of age any competent evidence by which the age of persons is usually ~~established~~ established; ~~school authorities may~~ accept as secondary proof of age a certified copy of any medical record of the child's birth issued by the treating physician or the hospital in which the child was born or a

1 certified copy of a birth certificate issued by a church, mosque, temple, or other
2 religious institution that maintains birth records of its members."

3 **SECTION 3.** G.S. 115C-366 reads as rewritten:

4 **"§ 115C-366. Assignment of student to a particular school.**

5 ...

6 (a2) It is the policy of the State that every child of a homeless individual ~~and every~~
7 ~~homeless child domiciled in this State~~ have access to a free, appropriate public
8 education on the same basis as all children who are domiciled in this State. The local
9 board of education having jurisdiction where the child is actually living shall enroll the
10 child in the school administrative unit where the child is actually living. In no event
11 shall the child be denied enrollment because of uncertainty regarding his domiciliary
12 status, regardless of whether the ~~child is~~ child is:

13 (1) ~~living~~ Living with the homeless parents or

14 (2) ~~has been temporarily placed elsewhere by the parents.~~ Temporarily
15 living apart from the parents under circumstances under which the
16 child may attend school without the payment of tuition pursuant to
17 subsection (a3) of this section.

18 The local board shall not charge the homeless child, as defined in this subsection,
19 tuition for enrollment. The child's parent, guardian, or person standing in loco parentis
20 to the child, may apply to the State Board of Education for a determination of whether a
21 particular local board of education shall enroll the child, and this determination shall be
22 binding on the local board of education, subject to judicial review. As used in this
23 subsection, the term "homeless" refers to an individual who (i) lacks a fixed, regular,
24 and adequate nighttime residence or (ii) has a primary nighttime residence in a
25 supervised publicly or privately operated shelter for temporary accommodations, lives
26 in an institution providing temporary residence for individuals intended to be
27 institutionalized, or a public or private place not designated for, or ordinarily used as,
28 a regular sleeping accommodation for human beings. The term does not include persons
29 who are imprisoned or otherwise detained pursuant to federal or State ~~law.~~ law or
30 children temporarily placed by a parent, guardian, or person standing in loco parentis to
31 live with a friend, relative, or other person, except as provided in subsection (a3) of this
32 section.

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

35 (1) The student resides with an adult, who is a domiciliary of that unit, as
36 a result of:

37 a. The death, serious illness, or incarceration of a parent or legal
38 guardian,

39 b. The abandonment by a parent or legal guardian of the complete
40 control of the student as evidenced by the failure to provide
41 substantial financial support and parental ~~guidance.~~ guidance.
42 For the purpose of this subsection, abandonment is any willful
43 or intentional conduct on the part of the parent that evidences a
44 settled purpose to forego all parental duties and relinquish all

1 parental claims to the child; abandonment is willful neglect and
2 refusal to perform the natural and legal obligations of parental
3 care and support.

4 c. Abuse or neglect by the parent or legal guardian,

5 d. The physical or mental condition of the parent or legal guardian
6 is such that he or she cannot provide adequate care and
7 supervision of the student, or

8 e. The loss or uninhabitability of the student's home as the result
9 of a natural disaster;

10 (2) The student is not currently under a term of suspension or expulsion
11 from a school for conduct that could have led to a suspension or an
12 expulsion from the local school administrative unit; and

13 (3) The adult with whom the student resides and the student's parent,
14 guardian, or legal custodian have each completed and signed separate
15 affidavits that:

16 a. Confirm the qualifications set out in this subsection establishing
17 the student's residency,

18 b. Attest that the student's claim of residency in the unit is not
19 primarily related to attendance at a particular school within the
20 unit, and

21 c. Attest that the adult with whom the student is residing has been
22 given and accepts responsibility for educational decisions for
23 the child, including receiving notices of discipline under
24 G.S. 115C-391, attending conferences with school personnel,
25 granting permission for school-related activities, and taking
26 appropriate action in connection with student records.

27 For purposes of subdivision (1)c. of this subsection, a student shall be deemed to be
28 abused or neglected if there has been an adjudication of that issue. The State Board may
29 adopt an additional definition of abuse and neglect and that definition shall also apply to
30 this subsection.

31 If the student's parent, guardian, or legal custodian is unable, refuses, or is otherwise
32 unavailable to sign the affidavit, then the adult with whom the student is living shall
33 attest to that fact in the affidavit.

34 Upon receipt of both affidavits or an affidavit from the adult with whom the student
35 is living that includes an attestation that the student's parent, guardian, or legal custodian
36 is unable, refuses, or is otherwise unavailable to sign an affidavit, the local board shall
37 admit and assign as soon as practicable the student to an appropriate school, as
38 determined under the local board's school assignment policy, pending the results of any
39 further procedures for verifying eligibility for attendance and assignment within the
40 local school administrative unit.

41 If it is found that the information contained in either or both affidavits is false, then
42 the local board may, unless the student is otherwise eligible for school attendance under
43 other laws or local board policy, remove the student from school. If a student is
44 removed from school, the board shall provide an opportunity to appeal the removal

1 under the appropriate policy of the local board and shall notify any person who signed
2 the affidavit of this opportunity. If it is found that a person willfully and knowingly
3 provided false information in the affidavit, the maker of the affidavit shall be guilty of a
4 Class 1 misdemeanor and shall pay to the local board an amount equal to the cost of
5 educating the student during the period of enrollment. Repayment shall not include
6 State funds.

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

9 ...

10 (h) When a child first enrolls in or transfers into the public schools of a local
11 school administrative unit, the principal of the school to which the child is assigned
12 shall require the parent to state whether the child is a citizen or a national of the United
13 States, and if the child is not, the immigration status of the child. This information shall
14 be used only for fiscal analysis and shall not be used to deny admission to a child who is
15 a domiciliary of the local school administrative unit."

16 **SECTION 4.** G.S. 115C-110(i) reads as rewritten:

17 "(i) Each local educational agency shall provide free appropriate special
18 education and related services in accordance with the provisions of this Article for all
19 children with special needs who are ~~residents-domiciliaries~~ of, or whose parents or
20 guardians are ~~residents-domiciliaries~~ of, the agency's district, beginning with children
21 aged five. No matriculation or tuition fees or other fees or charges shall be required or
22 asked of children with special needs or their parents or guardians except those fees or
23 charges as are required uniformly of all public school pupils. The provision of free
24 appropriate special education within the facilities of the Department of Health and
25 Human Services and the Department of Juvenile Justice and Delinquency Prevention
26 shall not prevent that department from charging for other services or treatment."

27 **SECTION 5.** This act is effective when it becomes law and applies
28 beginning with the 2005-2006 school year.