

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE BILL 1480

Short Title: Modify Requirements for School Admission.

(Public)

Sponsors: Representative Folwell.

Referred to: Education.

April 21, 2005

A BILL TO BE ENTITLED

1 AN ACT TO MODIFY THE REQUIREMENTS FOR SCHOOL ADMISSION IN
2 NORTH CAROLINA.
3

4 The General Assembly of North Carolina enacts:

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

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

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

17 "**§ 130A-109. Birth certificate as evidence.**

18 Certified copies of birth certificates shall be accepted by public school authorities in
19 this State as prima facie evidence of the age of children registering for school
20 attendance, and no other proof shall be required. In addition, certified copies of birth
21 certificates shall be required by all factory inspectors and employers of youthful labor,
22 as prima facie proof of age, and no other proof shall be required. However, when it is
23 not possible to secure a certified copy of a birth certificate, ~~school authorities,~~ factory
24 inspectors and employers may accept as secondary proof of age any competent evidence
25 by which the age of persons is usually ~~established.~~established; school authorities may
26 accept as secondary proof of age a certified copy of any medical record of the child's
27 birth issued by the treating physician or the hospital in which the child was born or a
28 certified copy of a birth certificate issued by a church, mosque, temple, or other
29 religious institution that maintains birth records of its members."

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

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

...

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

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

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

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

(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:

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

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~~ guidance. For the purpose of this subsection, abandonment is any willful or intentional conduct on the part of the parent that evidences a settled purpose to forego all parental duties and relinquish all parental claims to the child; abandonment is willful neglect and

1 refusal to perform the natural and legal obligations of parental
2 care and support.

- 3 c. Abuse or neglect by the parent or legal guardian,
4 d. The physical or mental condition of the parent or legal guardian
5 is such that he or she cannot provide adequate care and
6 supervision of the student, or
7 e. The loss or uninhabitability of the student's home as the result
8 of a natural disaster;

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

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

- 15 a. Confirm the qualifications set out in this subsection establishing
16 the student's residency,
17 b. Attest that the student's claim of residency in the unit is not
18 primarily related to attendance at a particular school within the
19 unit, and
20 c. Attest that the adult with whom the student is residing has been
21 given and accepts responsibility for educational decisions for
22 the child, including receiving notices of discipline under
23 G.S. 115C-391, attending conferences with school personnel,
24 granting permission for school-related activities, and taking
25 appropriate action in connection with student records.

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

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

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

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

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

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

8 ...

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

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

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

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