

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE BILL 1074
Committee Substitute Favorable 5/10/05

Short Title: Clarify School Admissions Procedures. (Public)

Sponsors:

Referred to:

March 31, 2005

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE PROCEDURE FOR ENROLLING CHILDREN IN THE
PUBLIC SCHOOLS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-366 reads as rewritten:

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

(a) All students under the age of 21 years who are domiciled in a school administrative unit who have not been removed from school for cause, or who have not obtained a high school diploma, are entitled to all the privileges and advantages of the public schools to which they are assigned by the local boards of education. A parent or legal custodian of a student who is eligible for assignment to a public school under this subsection or under G.S. 115C-366.2 is the person who must enroll the minor child or children in that school. The previous sentence shall not apply to an emancipated student or to a student who resides in a preadoptive home. The custodial adult of a student eligible for assignment to a public school under subsection (a3) of this section is the person to enroll the minor child or children in that school. The assignment of students living in one local school administrative unit or district to a school located in another local school administrative unit or district, shall have no effect upon the right of the local school administrative unit or district to which the students are assigned to levy and collect any supplemental tax heretofore or hereafter voted in that local school administrative unit or district.

...

(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,

- 1 b. The abandonment by a parent or legal guardian of the complete
2 control of the student as evidenced by the failure to provide
3 substantial financial support and parental guidance,
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. The adult
27 under this subsection shall have the same legal authority,
28 responsibility, and liability regarding the student as a parent or
29 legal custodian would have.

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

34 If the student's parent, guardian, or legal custodian is unable, refuses, or is otherwise
35 unavailable to sign the affidavit, then the adult with whom the student is living shall
36 attest to that fact in the affidavit. The adult with whom the student is residing shall have
37 the same legal authority, responsibility, and liability as the parent or legal guardian,
38 even if the parent or legal custodian does not sign the above-mentioned affidavit.

39 Upon receipt of both affidavits or an affidavit from the adult with whom the student
40 is living that includes an attestation that the student's parent, guardian, or legal custodian
41 is unable, refuses, or is otherwise unavailable to sign an affidavit, the local board shall
42 admit and assign as soon as practicable the student to an appropriate school, as
43 determined under the local board's school assignment policy, pending the results of any

1 further procedures for verifying eligibility for attendance and assignment within the
2 local school administrative unit.

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

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

15"

16 **SECTION 2.** G.S. 115C-111 reads as rewritten:

17 "**§ 115C-111. Free appropriate education for all children with special needs.**

18 (a) No child with special needs between the ages specified by G.S. 115C-109
19 shall be denied a free appropriate public education or be prevented ~~from attending~~
20 from:

21 (1) Attending the public schools of the local educational agency school
22 administrative unit in which he or his parents or legal guardian resides
23 the child is eligible for assignment under G.S. 115C-366, 115C-366.1,
24 or 115C-366.2; or

25 (2) Attending the public schools of the local educational agency from
26 which he the child receives services-services; or

27 (3) ~~from attending~~ Attending any other public program of free appropriate
28 public education because he the child is a child with special needs.

29 (b) If it appears that a child should receive a program of free appropriate public
30 education in a program operated by or under the supervision of the Department of
31 Health and Human Services or the Department of Juvenile Justice and Delinquency
32 Prevention, the local educational agency shall confer with the appropriate Department
33 of Health and Human Services or Department of Juvenile Justice and Delinquency
34 Prevention staff for their participation and determination of the appropriateness of
35 placement in said program and development of the child's individualized education
36 program. The individualized education program may then be challenged under the due
37 process provisions of G.S. 115C-116. Every child with special needs shall be entitled to
38 attend these nonresidential schools or programs and receive from them free appropriate
39 public education."

40 **SECTION 3.** This act becomes effective July 1, 2005, and applies beginning
41 with the 2005-2006 school year.