

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

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HOUSE DRH70265-LT-106 (3/23)

Short Title: Clarify School Admissions Procedures. (Public)

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Sponsors: Representative Daughtry.

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Referred to:

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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, legal custodian, or custodial adult, as provided in subsection (a3) of this section, who is domiciled in the local school administrative unit, shall be the person to enroll the minor child or children in that school. This section shall not apply to preadoptive placement. 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 No child with special needs between the ages specified by G.S. 115C-109 shall be  
19 denied a free appropriate public education or be prevented from attending the public  
20 schools of the local educational agency in which he or his parents or legal guardian  
21 ~~resides~~ is domiciled or from which he receives services or from attending any other  
22 public program of free appropriate public education because he is a child with special  
23 needs. If it appears that a child should receive a program of free appropriate public  
24 education in a program operated by or under the supervision of the Department of  
25 Health and Human Services or the Department of Juvenile Justice and Delinquency  
26 Prevention, the local educational agency shall confer with the appropriate Department  
27 of Health and Human Services or Department of Juvenile Justice and Delinquency  
28 Prevention staff for their participation and determination of the appropriateness of  
29 placement in said program and development of the child's individualized education  
30 program. The individualized education program may then be challenged under the due  
31 process provisions of G.S. 115C-116. Every child with special needs shall be entitled to  
32 attend these nonresidential schools or programs and receive from them free appropriate  
33 public education."

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