

Senate Engrossed

tuition; postsecondary education

State of Arizona
Senate
Fifty-fifth Legislature
First Regular Session
2021

SENATE CONCURRENT RESOLUTION 1044

A CONCURRENT RESOLUTION

ENACTING AND ORDERING THE SUBMISSION TO THE PEOPLE OF A MEASURE RELATING TO
THE CLASSIFICATION OF STUDENTS FOR TUITION PURPOSES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it resolved by the Senate of the State of Arizona, the House of
2 Representatives concurring:

3 1. Under the power of the referendum, as vested in the Legislature,
4 the following measure, relating to the classification of students for
5 tuition purposes, is enacted to become valid as a law if approved by the
6 voters and on proclamation of the Governor:

7 AN ACT

8 AMENDING SECTIONS 1-502 AND 15-1803, ARIZONA REVISED STATUTES;
9 REPEALING SECTION 15-1825, ARIZONA REVISED STATUTES; RELATING
10 TO THE CLASSIFICATION OF STUDENTS FOR TUITION PURPOSES.

11 Be it enacted by the Legislature of the State of Arizona:

12 Section 1. Section 1-502, Arizona Revised Statutes, is
13 amended to read:

14 1-502. Eligibility for state or local public
15 benefits; documentation; violations;
16 classification; citizen suits; court costs
17 and attorney fees; definition

18 A. Notwithstanding any other state law and to the extent
19 ~~permitted~~ ALLOWED by federal law, any agency of this state or a
20 political subdivision of this state that administers any state
21 or local public benefit shall require each natural person who
22 applies for the state or local public benefit to submit at least
23 one of the following documents to the entity that administers
24 the state or local public benefit demonstrating lawful presence
25 in the United States:

26 1. An Arizona driver license issued after 1996 or an
27 Arizona nonoperating identification license.

28 2. A birth certificate or delayed birth certificate
29 issued in any state, territory or possession of the United
30 States.

31 3. A United States certificate of birth abroad.

32 4. A United States passport.

33 5. A foreign passport with a United States visa.

34 6. An I-94 form with a photograph.

35 7. A United States citizenship and immigration services
36 employment authorization document or refugee travel document.

37 8. A United States certificate of naturalization.

38 9. A United States certificate of citizenship.

39 10. A tribal certificate of Indian blood.

40 11. A tribal or bureau of Indian affairs affidavit of
41 birth.

1 B. For the purposes of administering the Arizona health
2 care cost containment system, documentation of citizenship and
3 legal residence shall conform with the requirements of title
4 XIX of the social security act.

5 C. To the extent ~~permitted~~ ALLOWED by federal law, an
6 agency of this state or political subdivision of this state may
7 allow tribal members, the elderly and persons with disabilities
8 or incapacity of the mind or body to provide documentation as
9 specified in section 6036 of the federal deficit reduction act
10 of 2005 (P.L. 109-171; 120 Stat. 81) and related federal
11 guidance in lieu of the documentation required by this section.

12 D. Any person who applies for state or local public
13 benefits shall sign a sworn affidavit stating that the documents
14 presented pursuant to subsection A of this section are true
15 under penalty of perjury.

16 E. Failure to report discovered violations of federal
17 immigration law by an employee of an agency of this state or a
18 political subdivision of this state that administers any state
19 or local public benefit is a class 2 misdemeanor. If that
20 employee's supervisor knew of the failure to report and failed
21 to direct the employee to make the report, the supervisor is
22 guilty of a class 2 misdemeanor.

23 F. This section shall be enforced without regard to race,
24 color, religion, sex, age, disability or national origin.

25 G. Any person who is a resident of this state has
26 standing in any court of record to bring suit against any agent
27 or agency of this state or its political subdivisions to remedy
28 any violation of any provision of this section, including an
29 action for mandamus. Courts shall give preference to actions
30 brought under this section over other civil actions or
31 proceedings pending in the court.

32 H. The court may award court costs and reasonable
33 attorney fees to any person or any official or agency of this
34 state or a county, city, town or other political subdivision of
35 this state that prevails by an adjudication on the merits in a
36 proceeding brought pursuant to this section.

37 I. For the purposes of this section, "state or local
38 public benefit" has the same meaning prescribed in 8 United
39 States Code section 1621, except that it does not include
40 commercial or professional licenses, POSTSECONDARY EDUCATION,
41 benefits provided by the public retirement systems and plans of
42 this state or services widely available to the general
43 population as a whole.

1 Sec. 2. Section 15-1803, Arizona Revised Statutes, is
2 amended to read:

3 15-1803. Alien in-state student status: nonresident
4 tuition exemption

5 A. An alien is entitled to classification as an in-state
6 refugee student if ~~such~~ THE person has been granted refugee
7 status in accordance with all applicable laws of the United
8 States and has met all other requirements for domicile.

9 ~~B. In accordance with the illegal immigration reform and~~
10 ~~immigrant responsibility act of 1996 (P.L. 104-208; 110 Stat.~~
11 ~~3009), a person who was not a citizen or legal resident of the~~
12 ~~United States or who is without lawful immigration status is~~
13 ~~not entitled to classification as an in-state student pursuant~~
14 ~~to section 15-1802 or entitled to classification as a county~~
15 ~~resident pursuant to section 15-1802.01.~~

16 ~~C. Each community college and university shall report on~~
17 ~~December 31 and June 30 of each year to the joint legislative~~
18 ~~budget committee the total number of students who were entitled~~
19 ~~to classification as an in-state student and the total number~~
20 ~~of students who were not entitled to classification as an in-~~
21 ~~state student under this section because the student was not a~~
22 ~~citizen or legal resident of the United States or is without~~
23 ~~lawful immigration status.~~

24 B. NOTWITHSTANDING ANY OTHER LAW, A STUDENT, OTHER THAN
25 A NONIMMIGRANT ALIEN AS DESCRIBED IN 8 UNITED STATES CODE
26 SECTION 1101(a)(15), WHO MEETS BOTH OF THE FOLLOWING
27 REQUIREMENTS IS ELIGIBLE FOR IN-STATE TUITION AT ANY UNIVERSITY
28 UNDER THE JURISDICTION OF THE ARIZONA BOARD OF REGENTS OR AT
29 ANY COMMUNITY COLLEGE AS DEFINED IN SECTION 15-1401:

30 1. ATTENDED ANY PUBLIC OR PRIVATE HIGH SCHOOL OPTION OR
31 HOMESCHOOL EQUIVALENT PURSUANT TO SECTION 15-802 WHILE
32 PHYSICALLY PRESENT IN THIS STATE FOR AT LEAST TWO YEARS.

33 2. GRADUATED FROM ANY PUBLIC OR PRIVATE HIGH SCHOOL
34 OPTION OR HOMESCHOOL EQUIVALENT PURSUANT TO SECTION 15-802 WHILE
35 PHYSICALLY PRESENT IN THIS STATE OR OBTAINED A HIGH SCHOOL
36 EQUIVALENCY DIPLOMA IN THIS STATE.

37 C. PERSONS WITHOUT LAWFUL IMMIGRATION STATUS ARE
38 ELIGIBLE FOR IN-STATE TUITION PURSUANT TO SUBSECTION B OF THIS
39 SECTION.

40 Sec. 3. Repeal

41 Section 15-1825, Arizona Revised Statutes, is repealed.

42 2. The Secretary of State shall submit this proposition to the voters
43 at the next general election as provided by article IV, part 1, section 1,
44 Constitution of Arizona.

S.C.R. 1044

PASSED BY THE HOUSE MAY 10, 2021.

PASSED BY THE HOUSE MARCH 4, 2021.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 13, 2021.