

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
12 Arizona:

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

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

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

- 27 1. An Arizona driver license issued after 1996 or an
28 Arizona nonoperating identification license.
- 29 2. A birth certificate or delayed birth certificate
30 issued in any state, territory or possession of the United
31 States.
- 32 3. A United States certificate of birth abroad.
- 33 4. A United States passport.
- 34 5. A foreign passport with a United States visa.
- 35 6. An I-94 form with a photograph.
- 36 7. A United States citizenship and immigration services
37 employment authorization document or refugee travel document.
- 38 8. A United States certificate of naturalization.
- 39 9. A United States certificate of citizenship.
- 40 10. A tribal certificate of Indian blood.
- 41 11. A tribal or bureau of Indian affairs affidavit of
42 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
7 may allow tribal members, the elderly and persons with
8 disabilities or incapacity of the mind or body to provide
9 documentation as specified in section 6036 of the federal
10 deficit reduction act of 2005 (P.L. 109-171; 120 Stat. 81) and
11 related federal guidance in lieu of the documentation required
12 by this section.

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

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

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

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

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

39 I. For the purposes of this section, "state or local
40 public benefit" has the same meaning prescribed in 8 United
41 States Code section 1621, except that it does not include
42 commercial or professional licenses, POSTSECONDARY EDUCATION,
43 benefits provided by the public retirement systems and plans
44 of this state or services widely available to the general
45 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
6 in-state refugee student if ~~such~~ THE person has been granted
7 refugee status in accordance with all applicable laws of the
8 United States and has met all other requirements for domicile.

9 ~~B. In accordance with the illegal immigration reform
10 and immigrant responsibility act of 1996 (P.L. 104-208, 110
11 Stat. 3009), a person who was not a citizen or legal resident
12 of the United States or who is without lawful immigration
13 status is not entitled to classification as an in-state
14 student pursuant to section 15-1802 or entitled to
15 classification as a county resident pursuant to section
16 15-1802.01.~~

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

25 B. NOTWITHSTANDING ANY OTHER LAW, A STUDENT, OTHER THAN
26 A NONIMMIGRANT ALIEN AS DESCRIBED IN 8 UNITED STATES CODE
27 SECTION 1101(a)(15), WHO MEETS BOTH OF THE FOLLOWING
28 REQUIREMENTS IS ELIGIBLE FOR IN-STATE TUITION AT ANY
29 UNIVERSITY UNDER THE JURISDICTION OF THE ARIZONA BOARD OF
30 REGENTS OR AT ANY COMMUNITY COLLEGE AS DEFINED IN SECTION
31 15-1401:

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

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

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

42 Sec. 3. Repeal

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

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

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.