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

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

AN ACT

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

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

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

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

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

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

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

3. A United States certificate of birth abroad.

4. A United States passport.

5. A foreign passport with a United States visa.

6. An I-94 form with a photograph.

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

8. A United States certificate of naturalization.


10. A tribal certificate of Indian blood.

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

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

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

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

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

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

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

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

I. For the purposes of this section, "state or local public benefit" has the same meaning prescribed in 8 United States Code section 1621, except that it does not include commercial or professional licenses, POSTSECONDARY EDUCATION, benefits provided by the public retirement systems and plans of this state or services widely available to the general population as a whole.
Sec. 2. Section 15-1803, Arizona Revised Statutes, is amended to read:

15-1803. Alien in-state student status; nonresident tuition exemption

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

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

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

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

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

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

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

Sec. 3. Repeal

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

2. The Secretary of State shall submit this proposition to the voters at the next general election as provided by article IV, part 1, section 1, Constitution of Arizona.
PASSED BY THE HOUSE MAY 10, 2021.
PASSED BY THE HOUSE MARCH 4, 2021.