

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Appropriations Subcommittee on Pre-K - 12 Education

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BILL: CS/SB 1090

INTRODUCER: Education Committee and Senator Young

SUBJECT: Enrollment of Dependent Children of Active Duty Military Personnel in the Florida Virtual School

DATE: February 7, 2018

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Bouck</u>	<u>Graf</u>	<u>ED</u>	<u>Fav/CS</u>
2.	<u>Sikes</u>	<u>Elwell</u>	<u>AED</u>	<u>Pre-meeting</u>
3.	_____	_____	<u>AP</u>	_____

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB1090 promotes the enrollment of dependent children of certain active duty military personnel in approved virtual instruction programs. Specifically, the bill:

- Adds dependent children of active duty military personnel not stationed in the state to the types of students to whom the Florida Virtual School (FLVS) must give priority for enrollment.
- Adds virtual instruction programs from approved providers to the special academic programs for which a dependent child of active duty military personnel must receive first preference for admission if the child meets the eligibility criteria for such programs. Approved providers include providers approved by the Department of Education, the FLVS, a franchise of the FLVS, or a Florida College System institution.
- Authorizes the FLVS to use the State of Legal Residence Certificate to verify residency for a dependent child of active duty military personnel and to serve such children directly.
- Requires that funding for participation by such children in the FLVS must be in accordance with the law.

The bill has no impact on state revenues and an indeterminate, though expected minimal, impact on state expenditures relating to the virtual instruction programs funded through the Florida Education Finance Program (FEFP).

The bill takes effect July 1, 2018.

## II. Present Situation:

The Florida Legislature has enacted legislation to deliver educational services to veterans and active duty military personnel and their families. Such policies remove barriers to educational success imposed on children of military families because of frequent moves and deployments.<sup>1</sup>

### **Enrollment Preference for Students from Military Families**

School-aged dependents of military personnel face numerous transitions during their formative years and relocation during the high school years provide special challenges to learning and future achievement.<sup>2</sup>

Dependent children of active duty military personnel<sup>3</sup> who otherwise meet the eligibility criteria for special academic programs offered through public schools are given first preference for admission to such programs even if the program is being offered through a public school other than the school to which the student would generally be assigned. Such special academic programs include:<sup>4</sup>

- Magnet schools,
- Advanced studies programs,
- Advanced placement,
- Dual enrollment,
- Advanced International Certificate of Education, and
- International Baccalaureate.

### **Legal Residence for Military Personnel**

#### *Home of Record*

The “Home of Record” (HOR) is defined as the state where a servicemember first enlisted or received a commission from one of the branches of armed services.<sup>5</sup> The HOR determines certain benefits, such as a travel allowance upon separation from the military.<sup>6</sup> The HOR is changed only to correct an error or after a break in military service.<sup>7</sup>

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<sup>1</sup> See s. 1000.36, F.S., the Interstate Compact on Educational Opportunity for Military Children, and ss. 1002.31(2)(c)1., and 1003.05, F.S., which provide preferential treatment in controlled open enrollment and preferential admissions to special academic programs for dependent children of active duty military personnel.

<sup>2</sup> Section 1003.05(1), F.S.

<sup>3</sup> Under the Interstate Compact on Educational Opportunity for Military Children, “Active duty” means the full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. ss. 1209 and 1211. Section 1000.36, Art. II(A), F.S.

<sup>4</sup> Section 1003.05(3), F.S.

<sup>5</sup> Military.com, *HOR vs. SLR: What’s the Difference?*, <https://www.military.com/money/personal-finance/taxes/home-of-legal-record-for-taxes.html> (last visited Jan. 12, 2018).

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

### ***State of Legal Residence Certificate – DD Form 2058***

The “State of Legal Residence” (SLR) is considered the servicemember’s permanent home, and where the servicemember intends to live after separation from the military.<sup>8</sup> The SLR is considered the legal residence for state income tax purposes, qualification for in-state tuition rates,<sup>9</sup> eligibility to vote for federal and state elections, and for a will to be probated.<sup>10</sup>

The purpose of the “State of Legal Residence Certificate” is to determine the correct state of legal residence for purposes of withholding state income taxes from military pay.<sup>11</sup> A change to the state of legal residence generally requires physical presence in the new state with the simultaneous intent of making that state the permanent home and abandoning the old state of legal residence.<sup>12</sup>

### **Virtual Instruction Programs**

A virtual instruction program is a program of academic instruction provided in an interactive learning environment created through technology in which students are separated from their teachers by time or space, or both.<sup>13</sup> Each school district must provide eligible students within its boundaries the option to participate in a virtual instruction program.<sup>14</sup>

An approved provider<sup>15</sup> of a virtual instruction program is:<sup>16</sup>

- A provider that is approved by the Department of Education;<sup>17</sup>
- The Florida Virtual School (FLVS);
- A franchise of the FLVS; or
- A Florida College System institution.

<sup>8</sup> *Id.*

<sup>9</sup> In Florida, active duty members of the Armed Services, their spouses and children, and active drilling members of the Florida National Guard are classified as residents for tuition purposes if they reside or are stationed in this state or, if they are not stationed in Florida, whose home of record or state of legal residence certificate, DD Form 2058, is Florida. *Guidelines on Florida Residency for Tuition Purposes*, (Oct. 28, 2015), available at <https://www.floridashines.org/documents/111597/112691/09.22.16+Florida+Tuition+Residency+Guidelines.pdf/e726c0fd-3784-428d-aa27-74cc04db218f> at 4.

<sup>10</sup> Military.com, *HOR vs. SLR: What’s the Difference?*, <https://www.military.com/money/personal-finance/taxes/home-of-legal-record-for-taxes.html> (last visited Jan. 12, 2018).

<sup>11</sup> United States Department of Defense, Executive Services Directorate, *State of Legal Residence Certificate*, available at <http://www.esd.whs.mil/Portals/54/Documents/DD/forms/dd/dd2058.pdf>.

<sup>12</sup> *Id.*

<sup>13</sup> Section 1002.45(1)(a)2., F.S.

<sup>14</sup> *Id.* at (b). To provide students with virtual instruction program options a school district may contract with the FLVS or establish a franchise of the FLVS, contract with an approved provider, enter into an agreement with another school district in that school district’s virtual instruction program, establish a school district operated part- or full-time virtual instruction program, or enter into an agreement with a virtual charter school. *Id.* at (c).

<sup>15</sup> Florida Department of Education, *List of Approved Program and Course Providers*, [www.fldoe.org/schools/school-choice/virtual-edu/approved-provider-resources/approved-providers/](http://www.fldoe.org/schools/school-choice/virtual-edu/approved-provider-resources/approved-providers/) (last visited January 17, 2018)

<sup>16</sup> Section 1002.45(1)(a)1., F.S. (1).

<sup>17</sup> To be approved by the Department of Education, a provider must document compliance with specified statutory requirements. Section 1002.45(2), F.S., see also Rule 6A-6.0981(3), F.A.C.

## Florida Virtual School

The FLVS is intended to develop and deliver online and distance learning education.<sup>18</sup> The mission of the FLVS is to provide students with technology-based educational opportunities to gain the knowledge and skills necessary to succeed.<sup>19</sup> The school must serve any student in the state who meets the profile for success<sup>20</sup> in the online educational environment and must give priority to:<sup>21</sup>

- Students who need expanded access to courses in order to meet their educational goals, such as home education students and students in inner-city and rural high schools who do not have access to higher-level courses.
- Students seeking accelerated access in order to obtain a high school diploma at least one semester early.

The FLVS is authorized to provide full-time and part-time instruction for students in kindergarten through grade 12.<sup>22</sup> Accordingly, the FLVS offers two programs for K-12 students in Florida:<sup>23</sup>

- FLVS Flex offers part-time instruction available to students enrolled in home education programs, district public and charter schools, and private schools in the state.<sup>24</sup>
- FLVS Full Time offers full-time instruction as the district and school of enrollment.<sup>25</sup>

### *Residency Requirements*

A student may participate in FLVS Flex if the student is:<sup>26</sup>

- Enrolled in a Florida traditional public school or charter school;
- Enrolled and in good standing as a homeschool student with a Florida public school district;
- Enrolled in an affiliated Florida private school and whose legal guardian is a representative of the school or a Florida resident; or
- The child of a parent who is stationed at a Florida military base.

For a student to participate in FLVS Full Time, a copy of one of the following documents must be provided to verify legal residence:<sup>27</sup>

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<sup>18</sup> Section 1002.37(1)(a), F.S.

<sup>19</sup> *Id.* at (b).

<sup>20</sup> The FLVS has identified hard and soft skills and other requirements that facilitate student success in online instruction. Such skills include written and oral communication, academic honesty, self-motivation, computer literacy, time management, reading competency, personal commitment, and access to technology. Email, Florida Virtual School (Jan. 9, 2018).

<sup>21</sup> *Id.*

<sup>22</sup> Section 1002.37(8)(a), F.S.

<sup>23</sup> Florida Virtual School, *FLVS Student Progression Plan, 2017-18 School Year* (August 2017), available at [https://www.flvs.net/docs/default-source/district/student-progression-plan.pdf?sfvrsn=d3437f2a\\_4](https://www.flvs.net/docs/default-source/district/student-progression-plan.pdf?sfvrsn=d3437f2a_4), at 9.

<sup>24</sup> Florida Virtual School, *FLVS Student Progression Plan, 2017-18 School Year* (August 2017), available at [https://www.flvs.net/docs/default-source/district/student-progression-plan.pdf?sfvrsn=d3437f2a\\_4](https://www.flvs.net/docs/default-source/district/student-progression-plan.pdf?sfvrsn=d3437f2a_4), at 12.

<sup>25</sup> *Id.* at 13.

<sup>26</sup> *Id.* at 23.

<sup>27</sup> *Id.* at 41 and 46. Alternative documentation may be used subject to FLVS approval. *Id.*

- Gas, electric, or water bill from the last 60 days that includes the name and service address; or a
- Mortgage statement or lease agreement.

Children of military families who are permanent Florida residents<sup>28</sup> currently residing outside the state may take FLVS courses free of charge through the FLVS Full Time option,<sup>29</sup> or through the FLVS Flex option by registering as homeschool students with their Florida district of record.<sup>30</sup>

### ***Funding***

Full-time equivalent student<sup>31</sup> credits completed through FLVS Flex and FLVS Full Time, including credits completed during the summer, are funded through the Florida Education Finance Program.<sup>32</sup>

### **III. Effect of Proposed Changes:**

The bill promotes the enrollment of dependent children of certain active duty military personnel in virtual instruction programs provided by approved providers. Specifically, the bill:

- Adds dependent children of active duty military personnel not stationed in the state to the types of students to whom the Florida Virtual School (FLVS) must give priority for enrollment.
- Adds virtual instruction programs from approved providers to the special academic programs for which a dependent child of active duty military personnel must receive first preference for admission if the child meets the eligibility criteria for such programs. Approved providers include providers approved by the Department of Education (DOE), the FLVS, a franchise of the FLVS, or a Florida College System institution.
- Authorizes the FLVS to use the State of Legal Residence Certificate to verify residency for a dependent child of active duty military personnel, and to serve such children directly.
- Requires that funding for participation by such children in the FLVS must be in accordance with the law.

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<sup>28</sup> Military families residing outside of Florida who do not have an established Florida residence are not eligible to take free courses through the FLVS Flex or FLVS Full Time options, but may enroll in the FLVS Global School, which is the tuition-based option. Florida Virtual School, *FLVS Flex Frequently Asked Questions*, <https://www.flvs.net/flex/faqs> (last visited Jan. 12, 2018).

<sup>29</sup> *Id.* at 44.

<sup>30</sup> *Id.* at 14. Students must submit documentation to prove Florida residency to the school district of residence in order to register as a home education student with that school district. Email, Florida Virtual School (Jan. 10, 2018). Military families residing outside of Florida who do not have an established Florida residence are not eligible to take free courses through the FLVS Flex or FLVS Full Time options, but may enroll in the FLVS Global School, which is the tuition-based option. *Id.*

<sup>31</sup> An FLVS full-time equivalent student consists of six full-credit completions or the prescribed level of content that counts toward promotion to the next grade in specified programs. Section 1011.62(1)(c)1.b.(V), F.S.

<sup>32</sup> Section 1002.37(3)(b), F.S. The FEFP is the primary mechanism for funding the operating costs of Florida school districts. Florida Department of Education. *2017-18 Funding for Florida School Districts*, available at <http://www.fldoe.org/core/fileparse.php/7507/urlt/Fefpdist.pdf>, at 1.

## **Enrollment Preference for Students from Military Families (Sections 1 and 2)**

Section 1 amends s. 1002.37, F.S., to add to the list of student groups who must receive priority for FLVS services. The FLVS must also give priority to dependent children of active duty military personnel not stationed in the state whose home of record is Florida or whose State of Legal Residence Certificate, the DD Form 2058, lists Florida.

Additionally, section 2 amends s. 1003.05, F.S., to add virtual instruction programs by approved providers to the list of special academic programs to which dependent children of active duty military personnel who meet eligibility criteria<sup>33</sup> must be given first preference for admission.

## **Legal Residence for Military Personnel (Section 1)**

Section 1 amends s. 1002.37, F.S., to provide additional options to demonstrate residency of dependent children of active duty military personnel to participate in the FLVS Flex and FLVS Full Time programs. For purposes of the enrollment of a dependent child of active duty military personnel as a part-time or full-time student in the FLVS, the FLVS may use the State of Legal Residence Certificate, DD Form 2058, to verify residency for the child and may serve the student directly.

Accordingly, a dependent child of active duty military personnel who participates in the:

- FLVS Flex program will not be required to demonstrate proof of residency to the school district and register as a home education student.<sup>34</sup> Such students may demonstrate proof of residency using the State of Legal Residence Certificate, DD Form 2058, and be served directly by the FLVS. This may reduce administrative barriers to participation in the FLVS by such students.<sup>35</sup>
- FLVS Full Time program may submit to the FLVS as proof of residency the State of Legal Residence Certificate, DD Form 2058, instead of a utilities or mortgage statement or lease agreement. This may expedite student participation in the FLVS by dependent children of active duty military personnel who are stationed out-of-state.

## **Funding (Section 1)**

Section 1 specifies that funding for such students be provided in accordance with the law regarding FLVS funding. Such students must be included in the reporting of full-time equivalent student credit completed for funding through the Florida Educational Finance Program.

The bill takes effect July 1, 2018.

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<sup>33</sup> Section 1002.455(4), F.S., specifies that all Florida students are eligible to participate in the FLVS. There are, however, additional eligibility criteria that include, but are not limited to, requirements that students be under age 19 (except for students with a disability) or need to earn more than 25 percent of their required credits for a standard high school diploma. Florida Virtual School, *FLVS Student Progression Plan, 2017-18 School Year* (August 2017), available at [https://www.flvs.net/docs/default-source/district/student-progression-plan.pdf?sfvrsn=d3437f2a\\_4](https://www.flvs.net/docs/default-source/district/student-progression-plan.pdf?sfvrsn=d3437f2a_4), at 23 and 44.

<sup>34</sup> Email, Florida Virtual School (Jan. 10, 2018).

<sup>35</sup> Email, Florida Virtual School (Jan. 10, 2018).

**IV. Constitutional Issues:**

## A. Municipality/County Mandates Restrictions:

None.

## B. Public Records/Open Meetings Issues:

None.

## C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

Additional dependent children of active duty military personnel will have the option of taking courses from the Florida Virtual School (FLVS) free of charge, which may provide a cost savings to certain military families.

## C. Government Sector Impact:

In 2016-2017, there were fewer than 10 instances of dependent children of active duty military personnel stationed out of state for whom residency considerations posed an issue for enrollment in the FLVS.<sup>36</sup> Most students take one full-year course.<sup>37</sup>

As an example, the enrollment of 10 students in the FLVS who take one full-year course may result in the reporting of less than two full-time equivalent students.<sup>38</sup> Accordingly, the impact is indeterminate but minimal.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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<sup>36</sup> Emails, Florida Virtual School (Jan. 10 and 12, 2018).

<sup>37</sup> *Id.*

<sup>38</sup> *Id.*

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 1002.37 and 1003.05.

**IX. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Education on January 16, 2018:**

The committee substitute adds virtual instruction programs by approved providers to the special academic programs in which dependent children of active duty military personnel must be given first preference for admission. Accordingly, first preference for admission must be given for such students in virtual instruction programs approved by the DOE, the Florida Virtual School (FLVS), a franchise of the FLVS, or a Florida College System institution.

- B. **Amendments:**

None.