

**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 Higher Education Committee

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BILL: SB 1018

INTRODUCER: Senator Garcia

SUBJECT: Resident Status for Tuition Purposes

DATE: January 30, 2012

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Harkey	deMarsh-Mathues	HE	<b>Pre-meeting</b>
2.	_____	_____	BC	_____
3.	_____	_____	RC	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

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**I. Summary:**

This bill would add to the list of persons who are residents for tuition purposes a United States citizen who attends a Florida high school for at least 2 consecutive years and submits his or her high school transcript to, and enrolls in, an institution of higher education within 12 months of graduating from a Florida high school.

This bill amends s. 1009.21, Florida Statutes.

**II. Present Situation:**

Florida law provides for determination of resident status for tuition purposes in s. 1009.21, F.S. Florida residents pay in-state tuition rates, and students who cannot document Florida residency must pay out-of-state tuition. The first question to be answered in determining residency for tuition purposes is whether the student is dependent or independent. A student who is dependent on his or her parents for financial support, according to the parent's latest tax return, is evaluated for residency status in terms of his or her parent's documented residency. An independent student is evaluated according to his or her own residency.

To qualify as a resident for tuition purposes the student, or student's parent, must have maintained legal residence in Florida for at least 12 consecutive months immediately prior to his or her initial enrollment in an institution of higher education.<sup>1</sup> Under s. 1009.21(1)(d), F.S., a legal resident is defined as a person who has maintained his or her residence in Florida for the preceding year and either has purchased a home in Florida where he or she resides or has

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<sup>1</sup> s. 1009.21(2)(a), F.S.

established a domicile in Florida by filing a sworn statement with the clerk of the circuit court pursuant to s. 222.17, F.S., Dependent children whose parents cannot document legal residency cannot themselves be considered residents for tuition purposes.

The statute provides exceptions to the requirement that a parent's residency determines the dependent child's residency. Section 1009.21(2)(b), F.S., provides that a dependent child living with an adult relative other than the child's parent, may qualify as a resident for tuition purposes if the adult relative is a legal resident who has maintained legal residence in Florida for at least 12 consecutive months immediately prior to the child's initial enrollment in an institution of higher education, provided the child has resided continuously with such relative for the 5 years immediately prior to the child's initial enrollment in an institution of higher education, during which time the adult relative has exercised day-to-day care, supervision, and control of the child.

Section 1009.21(10), F.S., provides a list of persons who will be classified as residents for tuition purposes. The following persons are classified as residents without having to establish residency under the criteria described above:

- Active duty members of the Armed Services of the United States residing or stationed in Florida, their spouses, and dependent children, and active drilling members of the Florida National Guard;
- Active duty members of the Armed Services of the United States and their spouses and dependents attending a Florida College System institution or state university within 50 miles of the military establishment where they are stationed, if such military establishment is within a county contiguous to Florida;
- United States citizens living on the Isthmus of Panama, who have completed 12 consecutive months of college work at the Florida State University Panama Canal Branch, and their spouses and dependent children;
- Full-time instructional and administrative personnel employed by state public schools and institutions of higher education and their spouses and dependent children;
- Students from Latin America and the Caribbean who receive scholarships from the federal or state government and who attend a Florida institution of higher education on a full-time basis;
- Southern Regional Education Board's Academic Common Market graduate students attending Florida's state universities;
- Full-time employees of state agencies or political subdivisions of the state when the student fees are paid by the state agency or political subdivision for the purpose of job-related law enforcement or corrections training;
- McKnight Doctoral Fellows and Finalists who are United States citizens;
- United States citizens living outside the United States who are teaching at a Department of Defense Dependent School or in an American International School and who enroll in a graduate level education program which leads to a Florida teaching certificate;
- Active duty members of the Canadian military residing or stationed in Florida under the North American Air Defense (NORAD) agreement, and their spouses and dependent children, attending a Florida College System institution or state university within 50 miles of the military establishment where they are stationed; and

- Active duty members of a foreign nation's military who are serving as liaison officers and are residing or stationed in Florida, and their spouses and dependent children, attending a Florida College System institution or state university within 50 miles of the military establishment where the foreign liaison officer is stationed.

### III. Effect of Proposed Changes:

This bill would add to the list of persons who are residents for tuition purposes a United States citizen who attends a Florida high school for at least 2 consecutive years and submits his or her high school transcript to, and enrolls in, an institution of higher education within 12 months of graduating from a Florida high school. The bill would provide residency status for tuition purposes to U.S. born children of undocumented immigrant parents as well as to other children who met the requirements of the bill, regardless of where their parents lived.

The bill requires the State Board of Education to adopt rules and the Board of Governors to adopt regulations to implement the bill.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

#### B. Public Records/Open Meetings Issues:

None.

#### C. Trust Funds Restrictions:

None.

#### D. Other Constitutional Issues:

On October 19, 2011, the Commissioner of Education and the Chancellor of the State University System were sued<sup>2</sup> in Federal court (Southern District) in a case which challenges the denial of residency for tuition purposes (in-state tuition) on behalf of a number of plaintiffs, all of whom are U.S. born, but are children of undocumented aliens. This bill would grant resident status for tuition purposes to at least a portion of the plaintiff class in this lawsuit.

### V. Fiscal Impact Statement:

#### A. Tax/Fee Issues:

None.

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<sup>2</sup>, *Ruiz v. Robinson and Brogan*, U.S.D.C. (S.D. FL) (Case No. 1:11-cv-23776-KMM),

**B. Private Sector Impact:**

An indeterminate number of U.S. born children of undocumented alien parents as well as other U.S. born children, would qualify for in-state tuition at Florida College System institutions and state universities if they attended a Florida high school for at least two years, graduated from the high school, and enrolled in a Florida postsecondary institution with one year of high school graduation. In-state tuition at a Florida College System institution is \$2,987, and out-of-state tuition is \$11,082, providing students affected by the bill a savings of \$8,095 per year in tuition costs.<sup>3</sup> A non-resident, undergraduate state university student in 2011-2012 would pay an estimated \$25,233 in tuition and fees whereas, a resident undergraduate student would pay an estimated \$5,363.<sup>4</sup> A state university student made eligible for in-state tuition under the provisions of this bill would save approximately \$20,000 per year in tuition costs.

Being a state resident for at least one year is a prerequisite for receiving state financial aid.<sup>5</sup> Students given residency status by the bill could potentially be eligible for state financial aid programs, including Bright Futures Scholarships, Florida Resident Access Grants, and Access to Better Learning and Education grants.

**C. Government Sector Impact:**

To the extent that students who are currently charged out-of-state tuition became eligible for in-state tuition, colleges and universities would lose revenue. The amount of revenue is indeterminate because the number of students who could become eligible for residency for tuition purposes is not known.

To the extent that more students became eligible for state financial aid, the state would incur the cost of the increased financial aid.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

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<sup>3</sup> Florida Department of Education Legislative bill analysis, November 7, 2011, on file with the committee.

<sup>4</sup> Board of Governors Legislative bill analysis, December 8, 2011, on file with the committee.

<sup>5</sup> s. 1009.40(1)(a)2., F.S.

B. Amendments:

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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