

STATE OF OKLAHOMA

2nd Session of the 44th Legislature (1994)

HOUSE BILL NO. 1877

By: Peltier

AS INTRODUCED

An Act relating to schools; amending 70 O.S. 1991, Section 3218.12, as amended by Section 5, Chapter 348, O.S.L. 1993 (70 O.S. Supp. 1993, Section 3218.12), which relates to certain fee and tuition waivers; limiting certain nonresident waivers; amending 70 O.S. 1991, Section 3226, which relates to nonresident tuition waivers; limiting such waivers; prohibiting certain nonresident tuition waivers; defining terms relating to student general enrollment fees, tuition and fee waivers in relation to student residency and nonresidency; specifying the establishment of legal residence; providing for certain presumptions concerning residency; providing for the establishment of new domicile in Oklahoma; requiring spouses to establish own domicile; authorizing certain persons to establish residency under certain circumstances; placing burden of establishing own domicile on individual desiring such domicile; providing certain circumstances for certain persons to be classified as resident students; providing for certain changes in classification; specifying certain evidence for domiciliary and nondomiciliary status; specifying certain evidence for independent

and dependent person status; authorizing certain exceptions to nonresidence status and providing for procedures related thereto; requiring the designation of an admissions officer or other person for purposes of administration of this act; requiring the compilation and filing of certain report; providing for codification; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 70 O.S. 1991, Section 3218.12, as amended by Section 5, Chapter 348, O.S.L. 1993 (70 O.S. Supp. 1993, Section 3218.12), is amended to read as follows:

Section 3218.12 A. Fees for student activity purposes shall not exceed Five Dollars and fifteen cents (\$5.15) per semester credit hour or, if charged by semester, Forty-two Dollars (\$42.00) per semester at institutions and constituent agencies in The Oklahoma State System of Higher Education. Fees for student activity purposes shall not exceed Three Dollars (\$3.00) per semester credit hour at higher education centers in The Oklahoma State System of Higher Education. Such fees for higher education centers shall be administered for student activity purposes as authorized by the Oklahoma State Regents for Higher Education. Fees for student service facilities, such as student union, infirmary, and stadium, shall not exceed Four Dollars and thirty cents (\$4.30) per semester credit hour or, if charged by semester, Forty Dollars (\$40.00) per semester at institutions and constituent agencies in The Oklahoma State System of Higher Education.

B. Additional student activity and service facility fees shall not exceed the limit provided:

Student Health Care Fee	\$46.00 per semester
Cultural and Recreation Services Fee	\$12.50 per semester

C. Institutions in The Oklahoma State System of Higher Education may charge each enrolled nonresident alien student an international-student-status-maintenance fee of Fifteen Dollars (\$15.00) per semester and Ten Dollars (\$10.00) per summer session. The fee shall be for the administrative services rendered by the institution in processing, maintaining, and storing certificates of eligibility, work permits, practical training permits, transfer forms, visa extensions and expirations, and other immigration papers.

D. State educational institutions may be authorized by the State Regents to contract for, charge, collect, receive, and use any and all fees, tuition, charges, grants, and allowances available through the United States Veterans Administration, or any other federal agency, for the education and training of veterans.

E. The State Regents are hereby authorized to establish a system of student fee waiver scholarships for each institution in The Oklahoma State System of Higher Education to be administered by the Board of Regents of the institution. ~~Said~~ Except as otherwise provided by law, no student fee waiver scholarship shall be authorized for nonresident students for any institution in The Oklahoma State System of Higher Education. The fee waiver system shall include resident and nonresident students provided for in the Oklahoma State Regents Academic Scholars Program. Any institution may waive fees for such students in the Oklahoma State Regents Academic Scholars Program as determined by the institution.

F. The institutions comprising The Oklahoma State System of Higher Education are hereby authorized to establish an educational assistance program whereby such institutions may administer and utilize state funds when federal student loan programs require institutional matching funds.

G. Any institution, constituent agency or higher education center within The Oklahoma State System of Higher Education is authorized to establish a program for payment by consumer credit card of tuition, enrollment fees, and any other higher education fee authorized by law.

SECTION 2. AMENDATORY 70 O.S. 1991, Section 3226, is amended to read as follows:

Section 3226. ~~Any institution~~ A. For the 1995-96 academic year, the following institutions in The Oklahoma State System of Higher Education may award a scholarship that includes a waiver of nonresident tuition: Northeastern State University, Northwestern Oklahoma State University, Southeastern Oklahoma State University, Oklahoma Panhandle State University, Carl Albert State College, Northeastern Oklahoma Agricultural and Mechanical College, Northern Oklahoma College and Western Oklahoma State College. Beginning with the 1996-97 academic year and thereafter, such institutions may waive nonresident tuition for a student enrolled in such institution if such student is domiciled outside the boundaries of Oklahoma in a state which provides for an equal nonresident tuition or fee waiver to residents of Oklahoma.

B. For the 1994-95 academic year, any institution in The Oklahoma State System of Higher Education may award a scholarship that includes a waiver of nonresident tuition. Except as otherwise provided by law, beginning with the 1995-96 academic year and thereafter, no institution in The Oklahoma State System of Higher Education may waive nonresident tuition for a student domiciled outside the boundaries of Oklahoma.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3218.13 of Title 70, unless there is created a duplication in numbering, reads as follows:

For purposes of student general enrollment fees, tuition and fee waivers as specified in the provisions of the Oklahoma Higher

Education Code, Section 3101 et seq. of this title, the following provisions concerning student residency and nonresidency shall apply.

As used in this act:

1. "Domicile" means a person's true, fixed and permanent home and place of habitation. It is the place where that person intends to remain and to which the person expects to return when the person leaves without intending to establish a new domicile elsewhere. A person can have more than one residence, but only one domicile;

2. "Resident" means a person who has been domiciled continuously in Oklahoma for at least twelve (12) months' duration immediately preceding enrollment at an institution in The Oklahoma State System of Higher Education for any semester or session for which resident classification is claimed and whose domicile is in Oklahoma. Attendance at any institution of higher education, public or private, within Oklahoma shall not alone be sufficient to qualify for domicile in Oklahoma;

3. "Institution" means an institution within The Oklahoma State System of Higher Education;

4. "Independent or independent person" means a person who enjoys majority privileges or is legally emancipated from the parental domicile and who is responsible for such person's own care, custody and support; and

5. "Dependent or dependent person" means a person who is under the care, custody and support of a parent or other legally sanctioned parental surrogate.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3218.14 of Title 70, unless there is created a duplication in numbering, reads as follows:

Legal residence shall be established as follows:

1. If a person enjoying majority privileges and who is independent of parental domicile can provide adequate and

satisfactory proof of such person having come to Oklahoma with the intention of establishing domicile, such person may be granted resident student classification at the next enrollment occurring after expiration of twelve (12) months following the establishment of domicile in Oklahoma;

2. The legal residence of a dependent person is that of such person's parent, either father or mother, or, if both parents are dead, that of such person's legally appointed guardian or anyone else with whom the person habitually resides in the absence of formal legal designation. A dependent person may become emancipated through marriage, formal court action, abandonment by parents, or positive action on the person's own part evidential of the person's alienation of parental domicile. To qualify under the latter category, a dependent person must have completely separated from the parental domicile and have proved that such separation is complete and permanent. Mere absence from the parental domicile is not proof of its complete abandonment. If an applicant can provide adequate and satisfactory proof of complete emancipation and the person having come to Oklahoma with the intention of establishing domicile, the person may be granted resident student classification at the next enrollment occurring after expiration of twelve (12) months following establishment of domicile in Oklahoma;

3. Legal residence can only be the residence of a dependent person with a guardian if the court appointing such guardian who has legal custody of the dependent person certifies to the enrolling institution that the primary purpose of such appointment is not to qualify such dependent as a resident of Oklahoma.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3218.15 of Title 70, unless there is created a duplication in numbering, reads as follows:

Unless the contrary appears to the satisfaction of the enrolling authority of the institution at which a student is enrolling, it shall be presumed that:

1. A person does not gain or lose resident status by reason of the person's presence in any state or country while a member of the armed forces of the United States; but a member of the armed forces may be eligible to obtain resident status after being domiciled in Oklahoma for twelve (12) continuous months and complying with the provisions of this act or, notwithstanding the length of such person's residency, upon moving to Oklahoma on a permanent change-of-station basis. Such resident status shall not apply to members of the armed forces of the United States who attend education programs on military bases and such resident status shall also be subject to the limitations in this section. A member of the armed forces may also apply for resident classification for general enrollment fee and tuition purposes for his or her dependent upon meeting the requirements of this section; and

2. The governing board of each institution of higher education may grant resident status for general enrollment fee and tuition purposes to members of the armed forces or their dependents pursuant to the criteria set forth in this act.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3218.16 of Title 70, unless there is created a duplication in numbering, reads as follows:

A. The establishment of a new domicile in Oklahoma by an independent person formerly domiciled in another state has occurred if such person is physically present in Oklahoma without a present intention to return to such other state or to acquire a domicile at some other place outside of Oklahoma. Once established, a domicile has not been lost by mere absence unaccompanied by intention to establish a new domicile. The establishment of an Oklahoma domicile for twelve (12) continuous months in accordance with the provisions

of this act by the parent of a dependent student shall entitle the student to resident general enrollment fees.

B. After a student has enrolled at an institution, such person's classification for general enrollment fee purposes shall remain unchanged in the absence of clear and convincing evidence to the contrary. Such evidence shall be reduced to writing and filed with the enrolling authority of the institution. Changes in classification established by such evidence, whether from nonresident to resident or the reverse, shall be in writing, signed by the enrolling authority of the institution and given effect at the time of the student's next enrollment. No person may establish a domicile in Oklahoma solely for the purpose of changing a student's classification for tuition purposes from nonresident to resident. Any student who is classified for tuition purposes as a nonresident student at the time of enrollment at an institution and who personally or through such person's parent, such person's guardian, or the person who provides substantial support to the student seeks to establish Oklahoma domicile while enrolled shall be presumed to seek to establish Oklahoma domicile solely for tuition purposes in the absence of clear and convincing evidence to the contrary.

C. All married persons shall be treated as equal under the provisions of this act. Therefore, each spouse in a family shall establish such person's own residence status on a separate basis, except as otherwise provided for in this act.

D. A person who provides evidence of having come to Oklahoma to practice a profession on a full-time basis, conduct a business full-time or work on a full-time basis shall be declared an Oklahoma resident along with such person's spouse and dependent children so long as that person continues in such full-time employment capacity.

E. The establishment of an Oklahoma domicile shall be the burden of the person seeking to establish domicile. Only an

independent person can establish a domicile. The enrolling authority of any state institution of higher education shall require the individual seeking to establish domicile to support the claim by clear and convincing evidence of the validity of the claim. The enrolling authority may require the individual seeking to establish domicile to complete forms prepared by the Oklahoma State Regents for Higher Education for the purpose of aiding such person in the determination and to provide such documentation as may be required to support the classification.

F. Any person who himself or herself or, if a dependent person, through such person's parent or legal guardian has had an established domicile in this state for not less than one (1) year shall not be considered to have lost such domicile for tuition purposes unless such person would be classified as a resident student for tuition purposes in another state if the presumptions in this section for classification as a resident student were applied in such other state to such person.

G. Any dependent person who remains in Oklahoma when such person's parent or legal guardian who was domiciled in Oklahoma for at least the four (4) immediately preceding years moves from this state shall be classified as a resident student until such person attains the degree or certificate for which he or she enrolled if:

1. The dependent person matriculates at an Oklahoma institution within eight (8) months after receipt of evidence of secondary school graduation or the equivalent thereof; and
2. Such person attends such institution during a majority of its academic terms during any twelve-month period.

H. A dependent person qualifies for a change in such person's classification to resident student for tuition purposes only if either of such person's parents, regardless of custody, or such person's legal guardian has completed the requirements for establishing an Oklahoma domicile. Eligibility for classification

as a resident student for tuition purposes shall be lost if both of such person's parents, regardless of custody, or the legal guardian has lost eligibility. An independent person or adult who has enrolled as a student does not qualify for a change in classification to resident student for tuition purposes unless such person has established and maintained a domicile for twelve (12) continuous months in this state. In addition to other criteria provided by law, an independent person seeking to be reclassified as a resident of Oklahoma must meet the following criteria for the current and immediately preceding year:

1. The person must not have been claimed as an exemption for state and federal tax purposes by such person's nonresident parents;
2. The person must be self-supporting as evidenced by having provided the majority of funds for such person's own upkeep; and
3. The person must have maintained a continuous residence in Oklahoma as provided in this act.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3218.17 of Title 70, unless there is created a duplication in numbering, reads as follows:

The following may be considered evidence of domicile even though no one of these criteria, if taken alone, may be considered as conclusive evidence of domicile:

1. Employment in Oklahoma other than that normally provided on a temporary basis to students by an institution of higher education or other temporary employment;
2. Ownership of residential real property in Oklahoma;
3. Payment of Oklahoma income tax;
4. Graduation from a high school located in Oklahoma;
5. Continued residence in this state during periods when not enrolled as a student or during periods between semesters;
6. Acceptance of future employment in the state of Oklahoma;
7. Motor vehicle registration in Oklahoma;

8. Voter registration in Oklahoma; and

9. Any other factor peculiar to the individual which tends to establish the necessary intent to make Oklahoma a permanent home.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3218.18 of Title 70, unless there is created a duplication in numbering, reads as follows:

The following may be considered as evidence of domicile in another state even though no one of these criteria, if taken alone, may be considered as conclusive evidence of domicile in another state:

1. Failure to comply with any law imposing a mandatory duty upon a domiciliary or resident of this state;

2. Maintenance of a home in another state;

3. Nonpayment of Oklahoma income tax by a person whose income is sufficient to be taxed;

4. Prolonged absence from Oklahoma except in military or government service or except when the absence is due to a relocation required as a condition of employment which the employer does not intend to make permanent;

5. Return to one's former residence for a substantial portion of the time during periods when not enrolled as a student or between semesters;

6. Motor vehicle registration in another state; and

7. Any other factor peculiar to the individual which tends to establish the fact that his or her permanent home is in another state.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3218.19 of Title 70, unless there is created a duplication in numbering, reads as follows:

A. The following may be considered as evidence of independent person status for the purposes of this act even though no one of

these criteria, if taken alone, may be considered as conclusive evidence of independent person status:

1. An affidavit of the parents stating their relinquishment of any claim or right to the care, custody and earnings of the person as well as the duty to support the person;

2. Entry into the military service by the person;

3. Failure of the parents to provide financial support to the person coupled with the evidence that the person is independently able to meet his or her own financial obligations, including the costs of education; and

4. Any other factor peculiar to the individual which tends to establish that such person is independent of such person's parents and is providing his or her own support.

B. The following may be considered as evidence of dependent person status for the purpose of this act even though no one of these criteria, if taken alone, may be considered as conclusive evidence of dependent person status:

1. The claiming of a person as a dependent for the purposes of income taxation;

2. Receipt of gifts or loans by a person regardless of the date of receipt thereof which the person depends upon for financial support, whether the gifts or loans are made by the parents, any other relative or a friend of the person;

3. Residence in the home of the person's parents except for temporary visits;

4. Any other factor peculiar to the individual which tends to establish that such person lacks independence and is dependent upon his or her parents.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3218.20 of Title 70, unless there is created a duplication in numbering, reads as follows:

A. Upon the application and request of an institution, the State Regents may make reasonable and appropriate exceptions to the provisions of this act and classify a student for tuition purposes as a resident where classification as nonresident is due to unusual or exceptional family circumstances and would contravene the purpose of this act or place an undue hardship on such person. Such persons include, but are not limited to, a dependent person who has maintained a continued residence in this state through graduation from an Oklahoma high school and whose parents are not domiciled in Oklahoma or a dependent person who becomes the ward of a legal guardian not domiciled in Oklahoma as a result of the death of the dependent person's parent or legal guardian who had been domiciled in Oklahoma.

B. Any exception made under this section may be made only when such person has graduated or will graduate from an Oklahoma high school and has not established a domicile in another state.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3218.21 of Title 70, unless there is created a duplication in numbering, reads as follows:

Each institution should designate the admissions officer or some other individual to be responsible for administration of the law, and should make appropriate provision for a student's appeal of an adverse decision.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3218.22 of Title 70, unless there is created a duplication in numbering, reads as follows:

The State Regents shall annually compile a report which shows the number of resident and nonresident students according to general enrollment fee and tuition paid at institutions in The Oklahoma State System of Higher Education and the number of nonresident students for whom tuition fee waivers have been granted along with the amount of such waivers. Copies of such report shall be filed

with the Office of the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives and in the academic library at each institution of higher education.

SECTION 13. This act shall become effective July 1, 1994.

SECTION 14. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

44-2-8018

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