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HOUSE BILL NO. 2591
Offered January 9, 2019
Prefiled January 9, 2019
A BILL to amend and reenact § 23.1-503 of the Code of Virginia, relating to public institutions of higher education; students; determination of domicile.

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Patron—Kory

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Referred to Committee on Education

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Be it enacted by the General Assembly of Virginia:
1. That § 23.1-503 of the Code of Virginia is amended and reenacted as follows:
    § 23.1-503. Determination of domicile; rules; presumptions.
    A. Students shall not ordinarily establish domicile by the performance of acts that are auxiliary to fulfilling educational objectives or are required or routinely performed by temporary residents of the Commonwealth. Students shall not establish domicile by mere physical presence or residence primarily for educational purposes.
    B. A married individual may establish domicile in the same manner as an unmarried individual.
    C. A nonmilitary student whose parent or spouse is a member of the Armed Forces of the United States may establish domicile in the same manner as any other student.
    D. Any alien holding an immigration visa or classified as a political refugee may establish domicile in the same manner as any other student. However, absent congressional intent to the contrary, any individual holding a student visa or another temporary visa does not have the capacity to intend to remain in the Commonwealth indefinitely and is therefore ineligible to establish domicile and receive in-state tuition charges.
    E. The domicile of a dependent student shall be rebuttably presumed to be the domicile of the parent or legal guardian (i) claiming him as an exemption on federal or state income tax returns currently and for the tax year prior to the date of the alleged entitlement or (ii) providing him with substantial financial support. The spouse of an active duty military service member, if such spouse has established domicile and claimed the dependent student on federal or state income tax returns, is not subject to minimum income tests or requirements.
    F. The domicile of an unemancipated minor or a dependent student 18 years old or older may be the domicile of either the parent with whom he resides, the parent who claims the student as a dependent for federal or Virginia income tax purposes for the tax year prior to the date of the alleged entitlement and is currently so claiming the student, or the parent who provides the student with substantial financial support. If there is no surviving parent or the whereabouts of the parents are unknown, then the domicile of an unemancipated minor shall be the domicile of the legal guardian of such unemancipated minor unless circumstances indicate that such guardianship was created primarily for the purpose of establishing domicile.
    G. Continuously enrolled non-Virginia students shall be presumed to be in the Commonwealth for educational purposes unless they rebut such presumption with clear and convincing evidence of domicile.
    H. A non-Virginia student is not eligible for reclassification as a Virginia student unless he applies for and is approved for such reclassification. Any such reclassification shall only be granted prospectively from the date such application is received.
    I. A student who knowingly provides erroneous information in an attempt to evade payment of out-of-state tuition charges shall be charged out-of-state tuition for each term, semester, or quarter attended and may be subject to dismissal from the institution. All disputes relating to the veracity of information provided to establish domicile in the Commonwealth are appealable as set forth in § 23.1-510.
    J. No student shall be deemed ineligible to establish domicile and receive in-state tuition charges solely on the basis of the immigration status of his parent.