

Senate Bill 396

By: Senators James of the 35th, Seay of the 34th, Fort of the 39th, Henson of the 41st, Davenport of the 44th and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 20 of the Official Code of Georgia Annotated, relating to education, so as to  
2 provide for in-state tuition at units of the University System of Georgia and branches of the  
3 Technical College System of Georgia for youth who are from foster care or homeless  
4 situations; to provide a short title; to exclude foster care assistance from consideration as  
5 income for purposes of calculating financial aid; to provide for definitions; to provide for  
6 related matters; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 This Act shall be known and may be cited as the "Higher Education Access and Success for  
10 Homeless and Foster Youth Act."

11 **SECTION 2.**

12 Title 20 of the Official Code of Georgia Annotated, relating to education, is amended in  
13 Chapter 3, relating to postsecondary education, by revising Code Section 20-3-66, relating  
14 to the determination of in-state resident status of students for tuition or fees, to read as  
15 follows:

16 "20-3-66.

17 (a) As used in this Code section, the term:

18 (1) 'Dependent student' means an individual under the age of 24 who receives financial  
19 support from a parent or United States court appointed legal guardian.

20 (2) 'Emancipated' means a minor who, under certain circumstances, may be treated by  
21 the law as an adult. A student reaching the age of 18 shall not qualify for consideration  
22 of reclassification by virtue of having become emancipated unless he or she can  
23 demonstrate financial independence and domicile independent of his or her parents.

24 (3) 'Independent student' means an individual who is not claimed as a dependent on the  
25 federal or state income tax returns of a parent or United States court appointed legal

26 guardian and whose parent or guardian has ceased to provide support and right to that  
 27 individual's care, custody, and earnings.

28 (4) 'Student from a foster home situation' means an individual who:

29 (A) For a period of at least 12 consecutive months immediately preceding the first day  
 30 of enrollment has been committed to the Division of Family and Children Services  
 31 within the Department of Human Services under Code Section 15-11-212 and placed  
 32 in a family foster home or is placed in accordance with subparagraph (a)(2)(C) of Code  
 33 Section 15-11-212;

34 (B) For a period of at least 12 consecutive months immediately preceding the first day  
 35 of enrollment has been in an independent living program with the placement funded by  
 36 the Division of Family and Children Services; or

37 (C) Is an adopted child who was in the permanent legal custody of and placed for  
 38 adoption by the Division of Family and Children Services following his or her  
 39 fourteenth birthday.

40 (5) 'Student from a homeless situation' means an individual under the age of 24 who  
 41 currently lacks, or during the previous academic year lacked, a fixed, regular, and  
 42 adequate nighttime residence as described under the McKinney-Vento Homeless  
 43 Assistance Act, codified at 42 U.S.C. Section 11301, et seq., and who has evidence of  
 44 such status from a local educational agency homeless liaison as provided for by such act,  
 45 a shelter director, university staff, or other similar professional; provided, however, that  
 46 the term 'student from a homeless situation' shall not mean an individual who is, or for  
 47 any period within the last 12 consecutive months has been, incarcerated in any jail,  
 48 correctional institution, or similar facility for the detention of violators of laws of this  
 49 state.

50 (b)(1) An independent student who has established and maintained a domicile in the  
 51 State of Georgia for a period of at least 12 consecutive months immediately preceding the  
 52 first day of classes for the term shall be classified as in-state for tuition purposes. No  
 53 student shall gain or acquire in-state classification while attending any postsecondary  
 54 educational institution in this state without clear evidence of having established domicile  
 55 in Georgia for purposes other than attending a postsecondary educational institution in  
 56 this state.

57 (2) If an independent student classified as in-state for tuition purposes relocates out of  
 58 state temporarily but returns to the State of Georgia within 12 months of the relocation,  
 59 such student shall be entitled to retain his or her in-state tuition classification.

60 (c)(1) A dependent student shall be classified as in-state for tuition purposes if such  
 61 dependent student's parent has established and maintained domicile in the State of

62 Georgia for at least 12 consecutive months immediately preceding the first day of classes  
63 for the term and:

64 (A) The student has graduated from a Georgia high school; or

65 (B) The parent claimed the student as a dependent on the parent's most recent federal  
66 or state income tax return.

67 (2) A dependent student shall be classified as in-state for tuition purposes if such  
68 student's United States court appointed legal guardian has established and maintained  
69 domicile in the State of Georgia for at least 12 consecutive months immediately  
70 preceding the first day of classes for the term, provided that such appointment was not  
71 made to avoid payment of out-of-state tuition, and such guardian can provide clear  
72 evidence of having established and maintained domicile in the State of Georgia for a  
73 period of at least 12 consecutive months immediately preceding the first day of classes  
74 for the term.

75 (3) If the parent or United States court appointed legal guardian of a dependent student  
76 currently classified as in-state for tuition purposes establishes domicile outside of the  
77 State of Georgia after having established and maintained domicile in the State of Georgia,  
78 such student may retain his or her in-state tuition classification so long as such student  
79 remains continuously enrolled in a public postsecondary educational institution in this  
80 state, regardless of the domicile of such student's parent or United States court appointed  
81 legal guardian.

82 (d) Students from a foster home or homeless situation shall be classified as in-state for  
83 tuition purposes. Once the status of such students has been classified as in-state, such  
84 students shall maintain such classification until completion of a baccalaureate degree.

85 ~~(d)~~(e) Noncitizen students shall not be classified as in-state for tuition purposes unless the  
86 student is legally in this state and there is evidence to warrant consideration of in-state  
87 classification as determined by the board of regents. Lawful permanent residents, refugees,  
88 asylees, or other eligible noncitizens as defined by federal Title IV regulations may be  
89 extended the same consideration as citizens of the United States in determining whether  
90 they qualify for in-state classification. International students who reside in the United  
91 States under nonimmigrant status conditioned at least in part upon intent not to abandon  
92 a foreign domicile shall not be eligible for in-state classification."

93 **SECTION 3.**

94 Said title is further amended in said chapter by adding a new Code section to Subpart 1 of  
95 Part 3 of Article 7, relating to general provisions relative to the Georgia Student Finance  
96 Authority, to read as follows:

97 "20-3-330.

98 To the extent permitted by federal act, scholarships, loans, and grants provided for under  
 99 this part shall not consider state funded foster care assistance as income for purposes of  
 100 calculating financial aid or determining need."

101 **SECTION 4.**

102 Said title is further amended in Chapter 4, relating to vocational, technical, and adult  
 103 education, by revising Code Section 20-4-21, relating to tuition fees, to read as follows:

104 "20-4-21.

105 (a) As used in this Code section, the term:

106 (1) 'Student from a foster home situation' shall have the same meaning as provided for  
 107 in Code Section 20-3-66.

108 (2) 'Student from a homeless situation' shall have the same meaning as provided for in  
 109 Code Section 20-3-66.

110 ~~(a)~~(b) Any postsecondary technical school operated by a local board of education, an area  
 111 postsecondary technical education board, or the Technical College System of Georgia shall  
 112 be authorized to charge tuition fees in conformity with the rules and regulations  
 113 promulgated by the State Board of the Technical College System of Georgia; provided,  
 114 however, that students from a foster home or homeless situation shall be classified as  
 115 in-state for tuition purposes and once the status of such students has been classified as  
 116 in-state such students shall maintain such classification until the completion of a diploma,  
 117 certificate, or baccalaureate degree, whichever shall occur first, at a branch of the Technical  
 118 College System of Georgia.

119 ~~(b)~~(c) Tuition fees charged by postsecondary technical schools operated by local boards  
 120 of education, area postsecondary technical education boards, and the Technical College  
 121 System of Georgia shall not be used to supplant existing state or local funding but shall be  
 122 used for budgeted improvements not funded from existing state and local sources.

123 ~~(c)~~(d) The Technical College System of Georgia shall not withhold from any  
 124 postsecondary technical school which charges tuition fees as authorized by this Code  
 125 section any funds which would otherwise be payable by the Technical College System of  
 126 Georgia to such school by contract, grant, or otherwise."

127 **SECTION 5.**

128 All laws and parts of laws in conflict with this Act are repealed.