

1983 WL 182052 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

November 10, 1983

*1 Mr. Hoyt B. Hill, Jr.

Director

South Carolina Department of Veterans Affairs

227 Brown Building

1205 Pendleton Street

Columbia, South Carolina 29201

Dear Mr. Hill:

You have requested that this office advise you as to whether a particular claimant is entitled to free tuition under [§ 59-111-20 of the Code of Laws of South Carolina \(1976\)](#), as amended. According to the information that you have provided, this claimant is the child of a veteran who lived in South Carolina for over 19 years before moving to Washington, D.C. where he first entered military service. The veteran completed his service, was declared disabled and died without ever re-establishing residence in South Carolina.

The pertinent parts of [§ 59-111-20](#) read as follows:

A child of a veteran who was a resident of this state at the time of entry into service and during service or who has been a resident of this state for at least eighteen years and, in the event the veteran is disabled, still resides in this state . . . may upon application to and approval by the South Carolina Department of Veterans Affairs, be admitted to any State supported . . . institution free of tuition'

The question here is whether the veteran's years of residence in South Carolina qualifies his child for free tuition under the eighteen year residency provision. Because the statute applies to the child of a 'veteran . . . who has been a resident . . .' (emphasis added), the intent appears to be to apply the eighteen year provision only to persons who resided in South Carolina for at least some period of time while a veteran. Moreover, if the law were construed to apply here, it would give this child greater benefits than the child of a living, disabled veteran who had recently moved out of state after residing in South Carolina for many years before, during and for over eighteen years after military service. See [§ 59-111-20](#) as quoted, supra.¹

Although a liberal construction has been applied to [§ 59-111-20](#) in the past (Ops. Atty. Gen. June 30, 1980, by Richard B. Kale, Jr., Senior Assistant Attorney General), such a construction does not warrant a conclusion that [§ 59-111-20](#) is applicable here. For the reasons noted above, this law demonstrates no intent to apply to a veteran whose entire residency in South Carolina ended before he entered service and whose residency never resumed again.

Although we conclude that this statute is not applicable here, we express no opinion as to how the eighteen years of residence may be counted and applied under different circumstances which might be best handled on a case-by-case basis. Legislation clarification of that provision may be desirable. If we may be of other assistance, please contact us.

Yours very truly,

J. Emory Smith, Jr.

Assistant Attorney General

Footnotes

1 We express no opinion as to the validity of the residency restrictions imposed by this statute. See eg. [Shapiro v. Thompson](#), 394 US 618 and [Memorial Hospital v. Maricopa County](#), 415 US 250.
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