

1 H.561

2 Introduced by Representatives Olsen of Jamaica, Crawford of Burke and

3 Wilson of Manchester

4 Referred to Committee on

5 Date:

6 Subject: Taxation; income tax; domicile

7 Statement of purpose: This bill proposes to create a presumption that a  
8 custodial parent whose child is attending a Vermont public school or receiving  
9 tuition from a Vermont school district is domiciled in the state of Vermont for  
10 the purpose of paying Vermont's state income tax.

11 An act relating to the definition of domicile in Vermont's tax laws

12 It is hereby enacted by the General Assembly of the State of Vermont:

13 Sec. 1. 32 V.S.A. § 5401(14) is amended to read:

14 (14) "Domicile" means the principal dwelling of a person who has  
15 established permanent residence in the state. Intention to establish permanent  
16 residence is a factual determination to be made in the first instance by the  
17 commissioner. No one factor is conclusive of whether a dwelling is a  
18 permanent residence; the commissioner may consider any relevant factors,  
19 including but not limited to the following: formal and informal statements of  
20 the declarant; the location of residences owned or leased by the declarant;

1 where the declarant spends time; the declarant's place of employment and  
2 business connections; the location of items of significant value (either  
3 monetary or sentimental) to the declarant; where the declarant's family lives;  
4 place of voter registration; place of issuance of automobile registration and  
5 driver's license; previous permanent residency of the declarant; and address  
6 listed on federal and state income tax returns filed by the declarant; provided  
7 however, that for the purposes of this title, a custodial parent whose minor  
8 child attends a Vermont public school or for whom tuition is paid by a  
9 Vermont school district shall be presumed to be domiciled at the residence of  
10 the minor child.

11 Sec. 2. 16 V.S.A. § 1075(a) is amended to read:

12 (a) For the purpose of this title, except as otherwise set forth herein, the  
13 legal residence or residence of a pupil shall be as follows:

14 (1) in the case of a minor, legal residence is where his or her parents  
15 reside, except that:

16 (A) if the parents live apart, legal residence is where either parent  
17 resides, but if a parent with sole custody lives outside the state of Vermont the  
18 pupil does not have a legal residence in Vermont;

19 (B) if the minor is in the custody of a legal guardian appointed by a  
20 Vermont court or a court of competent jurisdiction in another state, territory, or  
21 country, legal residence is where the guardian resides;

1           (2) in the case of a student who has reached the age of majority, legal  
2 residence is where the student resides;

3           (3) for the purposes of this title, “resident” of the state and of a school  
4 district means a natural person who is domiciled in the school district and who,  
5 if temporarily absent, demonstrates an intent to maintain a principal dwelling  
6 place in the school district indefinitely and to return there, coupled with an act  
7 or acts consistent with that intent. The term “temporarily absent” includes  
8 those special cases listed in 17 V.S.A. § 2122(a). The term “residence” is  
9 synonymous with the term “domicile.” A married person may have a domicile  
10 independent of the domicile of his or her spouse. If a person removes to  
11 another town with the intention of remaining there indefinitely, that person  
12 shall be considered to have lost residence in the town in which the person  
13 originally resided even though the person intends to return at some future time.  
14 A person may have only one residence at a given time.

15           (4)(A) In determining residency, a school board may adopt a policy  
16 requiring custodial parents and guardians of each school student to provide the  
17 school board with:

18                   (i) the name, legal address, and mailing address of each parent;

19                   (ii) the Social Security number of each custodial parent and  
20 guardian;

1                   (iii) a declaration of whether each parent had filed a Vermont  
2 income tax return in the most recent year, along with the filing status of each  
3 parent and guardian.

4                   (B) If a school board adopts a policy under subdivision (A) of this  
5 subdivision (4), it shall forward the information it receives from the custodial  
6 parent or guardian to the department of taxes and inform the custodial parent or  
7 guardian of his or her potential liability for Vermont income taxes under  
8 chapter 151 of this title and 32 V.S.A. § 5401(14).

9                   Sec. 2. EFFECTIVE DATE

10                   This act shall take effect on July 1, 2012.