

**VETERANS DEFINITION**

2015 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Paul Ray**

Senate Sponsor: Peter C. Knudson

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**LONG TITLE**

**General Description:**

This bill makes coordinating changes to the definition of veteran.

**Highlighted Provisions:**

This bill:

- ▶ adds the term "veteran" to the general definitions for the Utah Code;
- ▶ makes coordinating changes to the definition of veteran; and
- ▶ makes other technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:**

AMENDS:

**26-8a-106**, as last amended by Laws of Utah 2011, Chapter 181

**53B-8-102**, as last amended by Laws of Utah 2014, Chapter 216

**53B-13b-102**, as enacted by Laws of Utah 2014, Chapter 87

**68-3-12.5**, as last amended by Laws of Utah 2011, Chapter 366

**71-7-3**, as last amended by Laws of Utah 2013, Chapter 214

**71-8-1**, as last amended by Laws of Utah 2014, Chapter 85

**71-12-102**, as enacted by Laws of Utah 2014, Chapter 91

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*Be it enacted by the Legislature of the state of Utah:*

30 Section 1. Section **26-8a-106** is amended to read:

31 **26-8a-106. Waiver of rules.**

32 (1) Upon application, the committee or department may waive the requirements of a  
33 rule it has adopted if:

34 (a) the person applying for the waiver satisfactorily demonstrates that:

35 (i) the waiver is necessary for a pilot project to be undertaken by the applicant;

36 (ii) in the particular situation, the requirement serves no beneficial public purpose; or

37 (iii) circumstances warrant that waiver of the requirement outweighs the public benefit  
38 to be gained by adherence to the rule; and

39 (b) for a waiver granted under Subsection (1)(a)(ii) or (iii), the committee or  
40 department:

41 (i) extends the waiver to similarly situated persons upon application; or

42 (ii) amends the rule to be consistent with the waiver.

43 (2) A waiver of education, licensing, or certification requirements may be granted to a  
44 veteran, as defined in Section ~~[71-8-1]~~ [68-3-12.5](#), if the veteran:

45 (a) provides to the committee or department documentation showing military education  
46 and training in the field in which certification or licensure is sought; and

47 (b) successfully passes any examination required.

48 (3) No waiver may be granted under this section that is inconsistent with the provisions  
49 of this chapter.

50 Section 2. Section **53B-8-102** is amended to read:

51 **53B-8-102. Definitions -- Resident student status -- Exceptions.**

52 (1) As used in this section:

53 (a) "Immediate family member" means an individual's spouse or child.

54 (b) "Military servicemember" means:

55 (i) an individual who is serving on active duty in the United States Armed Forces  
56 within the state of Utah;

57 (ii) an individual who is a member of a reserve component of the United States Armed

58 Forces assigned in Utah; or  
59 (iii) an individual who is a member of the Utah National Guard.  
60 [~~(c) "Military veteran" means an individual who:~~  
61 [~~(i) has served on active duty:~~  
62 [~~(A) in the United States Armed Forces for at least 180 consecutive days or was a~~  
63 ~~member of a reserve component and has been separated or retired with an honorable or general~~  
64 ~~discharge; or]~~  
65 [~~(B) in the National Guard and has been separated or retired with an honorable or~~  
66 ~~general discharge; or]~~  
67 [~~(ii) incurred an actual service-related injury or disability in the line of duty regardless~~  
68 ~~of whether that person completed 180 days of active duty.]~~  
69 (c) "Military veteran" has the same meaning as veteran in [Section 68-3-12.5](#).  
70 (d) "Parent" means a student's biological or adoptive parent.  
71 (2) The meaning of "resident student" is determined by reference to the general law on  
72 the subject of domicile, except as provided in this section.  
73 (3) (a) Institutions within the state system of higher education may grant resident  
74 student status to any student who has come to Utah and established residency for the purpose of  
75 attending an institution of higher education, and who, prior to registration as a resident student:  
76 (i) has maintained continuous Utah residency status for one full year;  
77 (ii) has signed a written declaration that the student has relinquished residency in any  
78 other state; and  
79 (iii) has submitted objective evidence that the student has taken overt steps to establish  
80 permanent residency in Utah and that the student does not maintain a residence elsewhere.  
81 (b) Evidence to satisfy the requirements under Subsection (3)(a)(iii) includes:  
82 (i) a Utah high school transcript issued in the past year confirming attendance at a Utah  
83 high school in the past 12 months;  
84 (ii) a Utah voter registration dated a reasonable period prior to application;  
85 (iii) a Utah driver license or identification card with an original date of issue or a

86 renewal date several months prior to application;

87 (iv) a Utah vehicle registration dated a reasonable period prior to application;

88 (v) evidence of employment in Utah for a reasonable period prior to application;

89 (vi) proof of payment of Utah resident income taxes for the previous year;

90 (vii) a rental agreement showing the student's name and Utah address for at least 12  
91 months prior to application; and

92 (viii) utility bills showing the student's name and Utah address for at least 12 months  
93 prior to application.

94 (c) A student who is claimed as a dependent on the tax returns of a person who is not a  
95 resident of Utah is not eligible to apply for resident student status.

96 (4) Except as provided in Subsection (8), an institution within the state system of  
97 higher education may establish stricter criteria for determining resident student status.

98 (5) If an institution does not have a minimum credit-hour requirement, that institution  
99 shall honor the decision of another institution within the state system of higher education to  
100 grant a student resident student status, unless:

101 (a) the student obtained resident student status under false pretenses; or

102 (b) the facts existing at the time of the granting of resident student status have changed.

103 (6) Within the limits established in Title 53B, Chapter 8, Tuition Waiver and  
104 Scholarships, each institution within the state system of higher education may, regardless of its  
105 policy on obtaining resident student status, waive nonresident tuition either in whole or in part,  
106 but not other fees.

107 (7) In addition to the waivers of nonresident tuition under Subsection (6), each  
108 institution may, as athletic scholarships, grant full waiver of fees and nonresident tuition, up to  
109 the maximum number allowed by the appropriate athletic conference as recommended by the  
110 president of each institution.

111 (8) Notwithstanding Subsection (3), an institution within the state system of higher  
112 education shall grant resident student status for tuition purposes to:

113 (a) a military servicemember, if the military servicemember provides:

114 (i) the military servicemember's current United States military identification card; and  
115 (ii) a statement from the military servicemember's current commander, or equivalent,  
116 stating that the military servicemember is assigned in Utah;

117 (b) a military servicemember's immediate family member, if the military  
118 servicemember's immediate family member provides:

119 (i) one of the following:

120 (A) the military servicemember's current United States military identification card; or

121 (B) the immediate family member's current United States military identification card;

122 and

123 (ii) a statement from the military servicemember's current commander, or equivalent,  
124 stating that the military servicemember is assigned in Utah;

125 (c) a military veteran, regardless of whether the military veteran served in Utah, if the  
126 military veteran provides:

127 (i) evidence of an honorable or general discharge;

128 (ii) a signed written declaration that the military veteran has relinquished residency in  
129 any other state and does not maintain a residence elsewhere;

130 (iii) objective evidence that the military veteran has taken overt steps to relinquish  
131 residency in any other state and establish residency in Utah, which may include any one of the  
132 following:

133 (A) a Utah voter registration card;

134 (B) a Utah driver license or identification card;

135 (C) a Utah vehicle registration;

136 (D) evidence of employment in Utah;

137 (E) a rental agreement showing the military veteran's name and Utah address; or

138 (F) utility bills showing the military veteran's name and Utah address; and

139 (d) a military veteran's immediate family member, regardless of whether the military  
140 veteran served in Utah, if the military veteran's immediate family member provides:

141 (i) evidence of the military veteran's honorable or general discharge within the last five

142 years;

143 (ii) a signed written declaration that the military veteran's immediate family member  
144 has relinquished residency in any other state and does not maintain a residence elsewhere; and

145 (iii) objective evidence that the military veteran's immediate family member has taken  
146 overt steps to relinquish residency in any other state and establish residency in Utah, which  
147 may include any one of the items described in Subsection (8)(c)(iii).

148 (9) (a) Aliens who are present in the United States on visitor, student, or other visas  
149 which authorize only temporary presence in this country, do not have the capacity to intend to  
150 reside in Utah for an indefinite period and therefore are classified as nonresidents.

151 (b) Aliens who have been granted immigrant or permanent resident status in the United  
152 States are classified for purposes of resident student status according to the same criteria  
153 applicable to citizens.

154 (10) Any American Indian who is enrolled on the tribal rolls of a tribe whose  
155 reservation or trust lands lie partly or wholly within Utah or whose border is at any point  
156 contiguous with the border of Utah, and any American Indian who is a member of a federally  
157 recognized or known Utah tribe and who has graduated from a high school in Utah, is entitled  
158 to resident student status.

159 (11) A Job Corps student is entitled to resident student status if the student:

160 (a) is admitted as a full-time, part-time, or summer school student in a program of  
161 study leading to a degree or certificate; and

162 (b) submits verification that the student is a current Job Corps student.

163 (12) A person is entitled to resident student status and may immediately apply for  
164 resident student status if the person:

165 (a) marries a Utah resident eligible to be a resident student under this section; and

166 (b) establishes his or her domicile in Utah as demonstrated by objective evidence as  
167 provided in Subsection (3).

168 (13) Notwithstanding Subsection (3)(c), a dependent student who has at least one  
169 parent who has been domiciled in Utah for at least 12 months prior to the student's application

170 is entitled to resident student status.

171 (14) (a) A person who has established domicile in Utah for full-time permanent  
172 employment may rebut the presumption of a nonresident classification by providing substantial  
173 evidence that the reason for the individual's move to Utah was, in good faith, based on an  
174 employer requested transfer to Utah, recruitment by a Utah employer, or a comparable  
175 work-related move for full-time permanent employment in Utah.

176 (b) All relevant evidence concerning the motivation for the move shall be considered,  
177 including:

178 (i) the person's employment and educational history;

179 (ii) the dates when Utah employment was first considered, offered, and accepted;

180 (iii) when the person moved to Utah;

181 (iv) the dates when the person applied for admission, was admitted, and was enrolled  
182 as a postsecondary student;

183 (v) whether the person applied for admission to an institution of higher education  
184 sooner than four months from the date of moving to Utah;

185 (vi) evidence that the person is an independent person who is:

186 (A) at least 24 years of age; or

187 (B) not claimed as a dependent on someone else's tax returns; and

188 (vii) any other factors related to abandonment of a former domicile and establishment  
189 of a new domicile in Utah for purposes other than to attend an institution of higher education.

190 (15) (a) A person who is in residence in Utah to participate in a United States Olympic  
191 athlete training program, at a facility in Utah, approved by the governing body for the athlete's  
192 Olympic sport, shall be entitled to resident status for tuition purposes.

193 (b) Upon the termination of the athlete's participation in the training program, the  
194 athlete shall be subject to the same residency standards applicable to other persons under this  
195 section.

196 (c) Time spent domiciled in Utah during the Olympic athlete training program in Utah  
197 counts for Utah residency for tuition purposes upon termination of the athlete's participation in

198 a Utah Olympic athlete training program.

199 (16) (a) A person who has established domicile in Utah for reasons related to divorce,  
200 the death of a spouse, or long-term health care responsibilities for an immediate family  
201 member, including the person's spouse, parent, sibling, or child, may rebut the presumption of a  
202 nonresident classification by providing substantial evidence that the reason for the individual's  
203 move to Utah was, in good faith, based on the long-term health care responsibilities.

204 (b) All relevant evidence concerning the motivation for the move shall be considered,  
205 including:

206 (i) the person's employment and educational history;

207 (ii) the dates when the long-term health care responsibilities in Utah were first  
208 considered, offered, and accepted;

209 (iii) when the person moved to Utah;

210 (iv) the dates when the person applied for admission, was admitted, and was enrolled  
211 as a postsecondary student;

212 (v) whether the person applied for admission to an institution of higher education  
213 sooner than four months from the date of moving to Utah;

214 (vi) evidence that the person is an independent person who is:

215 (A) at least 24 years of age; or

216 (B) not claimed as a dependent on someone else's tax returns; and

217 (vii) any other factors related to abandonment of a former domicile and establishment  
218 of a new domicile in Utah for purposes other than to attend an institution of higher education.

219 (17) The board, after consultation with the institutions, shall make rules not  
220 inconsistent with this section:

221 (a) concerning the definition of resident and nonresident students;

222 (b) establishing procedures for classifying and reclassifying students;

223 (c) establishing criteria for determining and judging claims of residency or domicile;

224 (d) establishing appeals procedures; and

225 (e) other matters related to this section.



226 (18) A student shall be exempt from paying the nonresident portion of total tuition if  
227 the student:

- 228 (a) is a foreign national legally admitted to the United States;
- 229 (b) attended high school in this state for three or more years; and
- 230 (c) graduated from a high school in this state or received the equivalent of a high  
231 school diploma in this state.

232 Section 3. Section **53B-13b-102** is amended to read:

233 **53B-13b-102. Definitions.**

234 As used in this chapter:

235 (1) "Federal program" means the Post-9/11 Veterans Educational Assistance Act of  
236 2008, Pub. L. No. 110-252.

237 (2) "Institution of higher education" or "institution" means a:

238 (a) credit-granting higher education institution within the state system of higher  
239 education; or

240 (b) an institution of higher learning, as defined in the federal program, that is located in  
241 the state.

242 (3) "Program" means the Veterans Tuition Gap Program created in this chapter.

243 (4) (a) "Qualifying military veteran" means [~~an individual~~] a veteran, as defined in  
244 Section 68-3-12.5, who:

245 (i) is a resident student under Section **53B-8-102** and rules of the board;

246 (ii) is accepted into an institution and enrolled in a program leading to a bachelor's  
247 degree;

248 (iii) has qualified for the federal program;

249 (iv) has maximized the federal benefit under the federal program; and

250 (v) has not completed a bachelor's degree.

251 (b) "Qualifying military veteran" does not include a family member.

252 Section 4. Section **68-3-12.5** is amended to read:

253 **68-3-12.5. Definitions for Utah Code.**

- 254 (1) The definitions listed in this section apply to the Utah Code, unless:  
255 (a) the definition is inconsistent with the manifest intent of the Legislature or repugnant  
256 to the context of the statute; or  
257 (b) a different definition is expressly provided for the respective title, chapter, part,  
258 section, or subsection.
- 259 (2) "Adjudicative proceeding" means:  
260 (a) an action by a board, commission, department, officer, or other administrative unit  
261 of the state that determines the legal rights, duties, privileges, immunities, or other legal  
262 interests of one or more identifiable persons, including an action to grant, deny, revoke,  
263 suspend, modify, annul, withdraw, or amend an authority, right, or license; and  
264 (b) judicial review of an action described in Subsection (2)(a).
- 265 (3) "Administrator" includes "executor" when the subject matter justifies the use.
- 266 (4) "Advisory board," "advisory commission," and "advisory council" mean a board,  
267 commission, committee, or council that:  
268 (a) is created by, and whose duties are provided by, statute or executive order;  
269 (b) performs its duties only under the supervision of another person as provided by  
270 statute; and  
271 (c) provides advice and makes recommendations to another person that makes policy  
272 for the benefit of the general public.
- 273 (5) "County executive" means:  
274 (a) the county commission, in the county commission or expanded county commission  
275 form of government established under Title 17, Chapter 52, Changing Forms of County  
276 Government;  
277 (b) the county executive, in the county executive-council optional form of government  
278 authorized by Section [17-52-504](#); or  
279 (c) the county manager, in the council-manager optional form of government  
280 authorized by Section [17-52-505](#).
- 281 (6) "County legislative body" means:

282 (a) the county commission, in the county commission or expanded county commission  
283 form of government established under Title 17, Chapter 52, Changing Forms of County  
284 Government;

285 (b) the county council, in the county executive-council optional form of government  
286 authorized by Section 17-52-504; and

287 (c) the county council, in the council-manager optional form of government authorized  
288 by Section 17-52-505.

289 (7) "Depose" means to make a written statement made under oath or affirmation.

290 (8) "Executor" includes "administrator" when the subject matter justifies the use.

291 (9) "Guardian" includes a person who:

292 (a) qualifies as a guardian of a minor or incapacitated person pursuant to testamentary  
293 or court appointment; or

294 (b) is appointed by a court to manage the estate of a minor or incapacitated person.

295 (10) "Highway" includes:

296 (a) a public bridge;

297 (b) a county way;

298 (c) a county road;

299 (d) a common road; and

300 (e) a state road.

301 (11) "Intellectual disability" means a significant, subaverage general intellectual  
302 functioning that:

303 (a) exists concurrently with deficits in adaptive behavior; and

304 (b) is manifested during the developmental period as defined in the current edition of  
305 the Diagnostic and Statistical Manual of Mental Disorders, published by the American  
306 Psychiatric Association.

307 (12) "Intermediate care facility for people with an intellectual disability" means an  
308 intermediate care facility for the mentally retarded, as defined in Title XIX of the Social  
309 Security Act.

- 310 (13) "Land" includes:
- 311 (a) land;
- 312 (b) a tenement;
- 313 (c) a hereditament;
- 314 (d) a water right;
- 315 (e) a possessory right; and
- 316 (f) a claim.
- 317 (14) "Month" means a calendar month, unless otherwise expressed.
- 318 (15) "Oath" includes "affirmation."
- 319 (16) "Person" means:
- 320 (a) an individual;
- 321 (b) an association;
- 322 (c) an institution;
- 323 (d) a corporation;
- 324 (e) a company;
- 325 (f) a trust;
- 326 (g) a limited liability company;
- 327 (h) a partnership;
- 328 (i) a political subdivision;
- 329 (j) a government office, department, division, bureau, or other body of government;
- 330 and
- 331 (k) any other organization or entity.
- 332 (17) "Personal property" includes:
- 333 (a) money;
- 334 (b) goods;
- 335 (c) chattels;
- 336 (d) effects;
- 337 (e) evidences of a right in action;

338 (f) a written instrument by which a pecuniary obligation, right, or title to property is  
339 created, acknowledged, transferred, increased, defeated, discharged, or diminished; and

340 (g) a right or interest in an item described in Subsections (17)(a) through (f).

341 (18) "Personal representative," "executor," and "administrator" include:

342 (a) an executor;

343 (b) an administrator;

344 (c) a successor personal representative;

345 (d) a special administrator; and

346 (e) a person who performs substantially the same function as a person described in  
347 Subsections (18)(a) through (d) under the law governing the person's status.

348 (19) "Policy board," "policy commission," or "policy council" means a board,  
349 commission, or council that:

350 (a) is authorized to make policy for the benefit of the general public;

351 (b) is created by, and whose duties are provided by, the constitution or statute; and

352 (c) performs its duties according to its own rules without supervision other than under  
353 the general control of another person as provided by statute.

354 (20) "Population" is shown by the most recent state or national census, unless expressly  
355 provided otherwise.

356 (21) "Process" means a writ or summons issued in the course of a judicial proceeding.

357 (22) "Property" includes both real and personal property.

358 (23) "Real estate" or "real property" includes:

359 (a) land;

360 (b) a tenement;

361 (c) a hereditament;

362 (d) a water right;

363 (e) a possessory right; and

364 (f) a claim.

365 (24) "Review board," "review commission," and "review council" mean a board,

366 commission, committee, or council that:

367 (a) is authorized to approve policy made for the benefit of the general public by another  
368 body or person;

369 (b) is created by, and whose duties are provided by, statute; and

370 (c) performs its duties according to its own rules without supervision other than under  
371 the general control of another person as provided by statute.

372 (25) "Road" includes:

373 (a) a public bridge;

374 (b) a county way;

375 (c) a county road;

376 (d) a common road; and

377 (e) a state road.

378 (26) "Signature" includes a name, mark, or sign written with the intent to authenticate  
379 an instrument or writing.

380 (27) "State," when applied to the different parts of the United States, includes a state,  
381 district, or territory of the United States.

382 (28) "Swear" includes "affirm."

383 (29) "Testify" means to make an oral statement under oath or affirmation.

384 (30) "United States" includes each state, district, and territory of the United States of  
385 America.

386 (31) "Utah Code" means the 1953 recodification of the Utah Code, as amended, unless  
387 the text expressly references a portion of the 1953 recodification of the Utah Code as it existed:

388 (a) on the day on which the 1953 recodification of the Utah Code was enacted; or

389 (b) (i) after the day described in Subsection (31)(a); and

390 (ii) before the most recent amendment to the referenced portion of the 1953  
391 recodification of the Utah Code.

392 (32) "Vessel," when used with reference to shipping, includes a steamboat, canal boat,  
393 and every structure adapted to be navigated from place to place.

394 (33) (a) "Veteran" means an individual who:  
 395 (i) has served in the United States Armed Forces for at least 180 days:  
 396 (A) on active duty; or  
 397 (B) in a reserve component, to include the National Guard; or  
 398 (ii) has incurred an actual service-related injury or disability while in the United States  
 399 Armed Forces regardless of whether the individual completed 180 days; and  
 400 (iii) was separated or retired under conditions characterized as honorable or general.  
 401 (b) This definition is not intended to confer eligibility for benefits.

402 [~~33~~] (34) "Will" includes a codicil.

403 [~~34~~] (35) "Writ" means an order or precept in writing, issued in the name of:

- 404 (a) the state;
- 405 (b) a court; or
- 406 (c) a judicial officer.

407 [~~35~~] (36) "Writing" includes:

- 408 (a) printing;
- 409 (b) handwriting; and
- 410 (c) information stored in an electronic or other medium if the information is retrievable
- 411 in a perceivable format.

412 Section 5. Section 71-7-3 is amended to read:

413 **71-7-3. Development, operation, and maintenance of Utah Veterans' Cemetery**  
 414 **and Memorial Park -- Responsibilities of Department of Veterans' and Military Affairs --**  
 415 **Costs -- Definition.**

416 (1) The Department of Veterans' and Military Affairs, in consultation with the  
 417 Veterans' Memorial Park Board, shall develop, operate, and maintain a veterans' cemetery and  
 418 memorial park.

419 (2) To help pay the costs of developing, constructing, operating, and maintaining a  
 420 veterans' cemetery and memorial park, the Department of Veterans' and Military Affairs may:

- 421 (a) by following the procedures and requirements of Title 63J, Chapter 5, Federal

422 Funds Procedures Act, receive federal funds, and may receive state funds, contributions from  
423 veterans' organizations, and other private donations; and

424 (b) charge fees for at least the cost of the burial of veterans' spouses and other persons,  
425 whom the department and the Veterans' Memorial Park Board determines are eligible to be  
426 buried in a veterans' cemetery established by the state.

427 (3) ~~[As used in this chapter, "veteran" has the same meaning as in Section 71-8-1]~~  
428 "Veteran" has the same meaning as defined in Section [68-3-12.5](#).

429 Section 6. Section **71-8-1** is amended to read:

430 **71-8-1. Definitions.**

431 As used in this ~~[chapter]~~ title:

432 (1) "Contractor" means a person who is or may be awarded a government entity  
433 contract.

434 (2) "Council" means the Veterans' Advisory Council.

435 (3) "Department" means the Department of Veterans' and Military Affairs.

436 (4) "Executive director" means the executive director of the Department of Veterans'  
437 and Military Affairs.

438 (5) "Government entity" means the state and any county, municipality, local district,  
439 special service district, and any other political subdivision or administrative unit of the state,  
440 including state institutions of education.

441 (6) "Specialist" means a full-time employee of a government entity who is tasked with  
442 responding to, and assisting, veterans who are employed by the entity or come to the entity for  
443 assistance.

444 ~~[(7) "Veteran" means:]~~

445 ~~[(a) an individual who has served on active duty in the armed forces for at least 180~~  
446 ~~consecutive days or was a member of a reserve component, and who has been was separated or~~  
447 ~~retired under honorable or general conditions; or]~~

448 ~~[(b) any individual incurring an actual service-related injury or disability in the line of~~  
449 ~~duty whether or not that person completed 180 days of active duty.]~~



450           (7) "Veteran" has the same meaning as defined in Section [68-3-12.5](#).

451           Section 7. Section **71-12-102** is amended to read:

452           **71-12-102. Definitions.**

453           As used in this chapter:

454           (1) "Council" means the Veterans' Advisory Council as created in Section [71-8-4](#).

455           (2) "Department" means the Department of Veterans' and Military Affairs as created in

456 Section [71-8-2](#).

457           (3) "Donor" means an individual or entity that provides material goods, services, or  
458 labor without charge to veterans in accordance with this chapter.

459           (4) "Recipient" means a veteran as defined in Section [~~71-8-1~~] [68-3-12.5](#), or a veteran's  
460 dependent spouse and children.

461           Section 8. **Effective date.**

462           This bill takes effect on July 1, 2016.