

The Senate Education and Youth Committee offered the following substitute to SB 618:

A BILL TO BE ENTITLED  
AN ACT

1 To amend Part 1 of Article 6 of Chapter 2 of Title 20 of the Official Code of Georgia  
2 Annotated, relating to the short title and purpose of the "Quality Basic Education Act," so  
3 as to change certain provisions relating to eligibility of enrollment for children in the custody  
4 of the Department of Juvenile Justice or the Department of Human Resources; to provide for  
5 related matters; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

7  
8 Part 1 of Article 6 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated,  
9 relating to the short title and purpose of the "Quality Basic Education Act," is amended by  
10 striking Code Section 20-2-133, relating to free public instruction, and inserting in lieu  
11 thereof the following:

12 "20-2-133.

13 (a) Admission to the instructional programs funded under this article shall be free to all  
14 eligible children and youth who enroll in such programs within the local school system in  
15 which they reside and to children as provided in subsection (b) of this Code section.  
16 Therefore, a local school system shall not charge resident students tuition or fees, nor shall  
17 such students be required to provide materials or equipment except for items specified by  
18 the State Board of Education, as a condition of enrollment or full participation in any  
19 instructional program. However, a local school system is authorized to charge nonresident  
20 students tuition or fees or a combination thereof; provided, however, that such charges to  
21 a student shall not exceed the average locally financed per student cost for the preceding  
22 year, excluding the local five mill share funds required pursuant to Code Section 20-2-164;  
23 provided, further, that no child placed in a placement operated by the Department of  
24 Human Resources or for which payment is made by the Department of Juvenile Justice or  
25 the Department of Human Resources or any of its divisions ~~in a facility by or under~~  
26 ~~contract with the Department of Juvenile Justice or the Department of Human Resources~~

1 who remains in that facility for more than 60 continuous days and no child who is a patient  
 2 in a facility licensed by this state to deliver intermediate care for the mentally retarded who  
 3 remains in that facility for more than 60 continuous days as described in paragraph (1) of  
 4 subsection (b) of this Code section and no child who is in the physical or legal custody of  
 5 the Department of Juvenile Justice or under the care or physical or legal custody of the  
 6 Department of Human Resources or any of its divisions pursuant to a court order granting  
 7 temporary or permanent custody as described in paragraph (2) of subsection (b) of this  
 8 Code section shall be charged tuition, fees, or a combination thereof. A local school  
 9 system is further authorized to contract with a nonresident student's system of residence  
 10 for payment of tuition. The amount of tuition paid directly by the system of residence shall  
 11 be limited only by the terms of the contract between systems. Local units of administration  
 12 shall provide textbooks or any other reading materials to each student enrolled in a class  
 13 which has a course of study that requires the use of such materials by the students.

14 (b)(1) ~~Except for a child who is in the physical custody of the Department of Juvenile~~  
 15 ~~Justice or the Department of Human Resources or any of its divisions and who receives~~  
 16 ~~services from a local unit of administration pursuant to paragraph (2) of this subsection,~~  
 17 ~~any child placed by the Department of Juvenile Justice or the Department of Human~~  
 18 ~~Resources or any of its divisions in a facility operated by or under contract with the~~  
 19 ~~Department of Juvenile Justice or the Department of Human Resources who remains in~~  
 20 ~~that facility for more than 60 continuous days and any child who is a patient in a facility~~  
 21 ~~licensed by the State of Georgia to deliver intermediate care for the mentally retarded and~~  
 22 ~~which follows the federal regulations for intermediate care for the mentally retarded, who~~  
 23 ~~has been determined as appropriate for that level of care by the Department of~~  
 24 ~~Community Health or its designee, who has been admitted to such facility after~~  
 25 ~~evaluation and recommendation by developmental service teams of the Department of~~  
 26 ~~Human Resources, and who remains in that facility for more than 60 continuous days~~  
 27 ~~shall be treated by the local unit of administration of the school district in which the~~  
 28 ~~facility is located as eligible for enrollment in the educational programs of that local unit~~  
 29 ~~of administration, provided, however, that the child meets the age eligibility requirements~~  
 30 ~~established by this article. The local unit of administration of the school district in which~~  
 31 ~~these facilities are located is responsible for the provision of all educational programs,~~  
 32 ~~including special education and related services, free of charge to these children as long~~  
 33 ~~as the children remain in such facilities. However, except as provided in this paragraph,~~  
 34 ~~placement in such a facility by the parent or by another local unit of administration shall~~  
 35 ~~not create such responsibility. Any child, except a child in a youth development center~~  
 36 ~~as specifically provided in this paragraph, who is in the physical or legal custody of the~~  
 37 ~~Department of Juvenile Justice or the Department of Human Resources, or in a placement~~

1 operated by the Department of Human Resources, or in a facility or placement paid for  
2 by the Department of Juvenile Justice or the Department of Human Resources or any of  
3 its divisions and who is physically present within the geographical area served by a local  
4 unit of administration for any length of time is eligible for enrollment in the educational  
5 programs of that local unit of administration; provided, however, that the child meets the  
6 age eligibility requirements established by this article. The local unit of administration  
7 of the school district in which such child is present shall be responsible for the provision  
8 of all educational programs, including special education and related services, at no charge  
9 as long as the child is physically present in the school district. A child will be considered  
10 in the physical or legal custody of the Department of Juvenile Justice or the Department  
11 of Human Resources or any of its divisions if custody has been awarded either  
12 temporarily or permanently by court order or by voluntary agreement, or if the child has  
13 been admitted or placed according to an individualized treatment or service plan of the  
14 Department of Human Resources. No child in a youth development center, regardless  
15 of his or her custody status, shall be eligible for enrollment in the educational programs  
16 of the local unit of administration of the school district in which that youth development  
17 center is located. No child or youth in the custody of the Department of Corrections or  
18 the Department of Juvenile Justice and confined in a facility as a result of a sentence  
19 imposed by a court shall be eligible for enrollment in the educational programs of the  
20 local unit of administration of the school district where such child or youth is being held.

21 ~~(2) Any child, except a child in a youth development center as specifically provided in~~  
22 ~~this paragraph, who is in the physical custody of the Department of Juvenile Justice or~~  
23 ~~the Department of Human Resources or any of its divisions and who is physically present~~  
24 ~~within the geographical area served by a local unit of administration for any length of~~  
25 ~~time is eligible for enrollment in the educational programs of that local unit of~~  
26 ~~administration; provided, however, that the child meets the age eligibility requirements~~  
27 ~~established by this article. The local unit of administration of the school district in which~~  
28 ~~these children are present is responsible for the provision of all educational programs,~~  
29 ~~including special education and related services, free of charge to these children as long~~  
30 ~~as the children are physically present in the school district. No child will be considered~~  
31 ~~in the physical custody of the Department of Juvenile Justice or the Department of~~  
32 ~~Human Resources or any of its divisions unless custody has been awarded, either~~  
33 ~~temporarily or permanently, by court order. No child in a youth development center,~~  
34 ~~regardless of his or her custody status, shall be eligible for enrollment in the educational~~  
35 ~~programs of the local unit of administration of the school district in which that youth~~  
36 ~~development center is located. No child or youth in the custody of the Department of~~  
37 ~~Corrections or the Department of Juvenile Justice and confined in a facility as a result of~~

1 a sentence imposed by a court shall be eligible for enrollment in the educational programs  
 2 of the local unit of administration of the school district where such child or youth is being  
 3 held. Except as otherwise provided in this Code section, placement in a facility by a  
 4 parent or by another local unit of administration shall not create an obligation, financial  
 5 or otherwise, on the part of the local unit of administration in which the facility is located  
 6 to educate the child.

7 (3)(A) For any child described in paragraph (1) of this subsection, the custodian of or  
 8 placing agency for the child shall notify the appropriate local unit of administration ~~when~~  
 9 ~~the child remains in a facility operated by or under contract with the Department of~~  
 10 ~~Juvenile Justice or the Department of Human Resources or in a facility licensed to~~  
 11 ~~provide intermediate care for the mentally retarded for more than 30 continuous days and~~  
 12 ~~is anticipated to remain in the facility for more than a total of 60 continuous days.~~

13 (B) For any child described in paragraph (2) of this subsection, the custodian of the child  
 14 shall notify the appropriate local unit of administration at least five days in advance of  
 15 the move, when possible, when the child is to be moved from one local unit of  
 16 administration to another.

17 (4) When the custodian of or placing agency for any child notifies a local unit of  
 18 administration, as provided in paragraph (3) of this subsection, that the child may become  
 19 eligible for enrollment in the educational programs of a local unit of administration, ~~the~~  
 20 ~~custodian of the records of that child~~ such local unit of administration shall request the  
 21 transfer of the educational records and Individualized Education Programs (IEP's) and  
 22 all education related evaluations, assessments, social histories, and observations ~~to~~ of the  
 23 child from the appropriate local unit of administration no later than ten days after  
 24 receiving notification. Notwithstanding any other law to the contrary, the custodian of  
 25 the records has the obligation to transfer these records and the local unit of administration  
 26 has the right to receive, review, and utilize these records. Notwithstanding any other law  
 27 to the contrary, upon the request of a local unit of administration responsible for  
 28 providing educational services to a child described in paragraph (1) ~~or (2)~~ of this  
 29 subsection, the Department of Juvenile Justice or the Department of Human Resources  
 30 shall furnish to the local unit of administration all medical and educational records in the  
 31 possession of the Department of Juvenile Justice or the Department of Human Resources  
 32 pertaining to any such child, except where consent of a parent or legal guardian is  
 33 required in order to authorize the release of any of such records, in which event the  
 34 Department of Juvenile Justice or the Department of Human Resources shall obtain such  
 35 consent from the parent or guardian prior to such release.

36 (5) Any local unit of administration which serves a child pursuant to ~~paragraphs~~  
 37 paragraph (1) ~~and (2)~~ of this subsection shall receive in the form of annual grants in state

1 funding for that child the difference between the actual state funds received for that child  
 2 pursuant to Code Section 20-2-161 and the reasonable and necessary expenses incurred  
 3 in educating that child, calculated pursuant to regulations adopted by the State Board of  
 4 Education. ~~For the purposes of this paragraph, the term 'reasonable and necessary~~  
 5 ~~expenses' shall include reasonable attorneys' fees and costs of litigation expended, either~~  
 6 ~~for its defense or in payment of statutorily mandated plaintiffs' attorneys' fees, by the~~  
 7 ~~local unit of administration on any administrative or judicial proceeding involving any~~  
 8 ~~child described in paragraphs (1) or (2) of this subsection. These grants will be~~  
 9 ~~determined and made pursuant to regulations adopted by the State Board of Education.~~  
 10 Each local board of education shall be held harmless by the state from expending local  
 11 funds for educating students pursuant to this Code section; provided, however, that this  
 12 shall only apply to students who are unable to leave the facility in which they have been  
 13 placed.

14 (6) ~~If any child described in paragraphs (1) and (2) of this subsection is unable to leave~~  
 15 ~~the Department of Human Resources facility or the facility licensed to provide~~  
 16 ~~intermediate care for the mentally retarded to receive educational services as determined~~  
 17 ~~by the local school system responsible for educational services and the Department of~~  
 18 ~~Human Resources, then the local school system shall not be responsible for providing any~~  
 19 ~~educational services to such child. Enrollment of an eligible child pursuant to this Code~~  
 20 ~~section shall be effectuated in accordance with rules and regulations adopted by the State~~  
 21 ~~Board of Education.~~

22 (7) The Department of Education, the Department of Human Resources, the Department  
 23 of Juvenile Justice, and the local units of administration where Department of Education,  
 24 Department of Juvenile Justice, or Department of Human Resources placements,  
 25 facilities, or contract facilities are located shall jointly develop procedures binding on all  
 26 agencies implementing the provisions of this Code section applicable to children and  
 27 youth in the physical or legal custody of the Department of Juvenile Justice or under the  
 28 care or physical or legal custody of the Department of Human Resources."

## 29 SECTION 2.

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