

The Senate Education and Youth Committee offered the following substitute to SB 87:

A BILL TO BE ENTITLED
AN ACT

To amend Article 33 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to the scholarship program for special needs students, so as to expand eligibility for the program; to rename the article the "Georgia Educational Freedom Act"; to revise definitions; to revise requirements relating to qualifications for the scholarship; to provide for related matters; to provide for severability; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 33 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to the scholarship program for special needs students, is amended by revising Code Section 20-2-2110, relating to the short title, as follows:

"20-2-2110.

This article shall be known and may be cited as the 'Georgia ~~Special Needs Scholarship~~ Educational Freedom Act."

SECTION 2.

Said article is further amended by revising Code Section 20-2-2111, relating to legislative findings, as follows:

"20-2-2111.

The General Assembly finds that:

- (1) ~~Students with disabilities~~ Many Georgia students have special needs that merit educational alternatives which will allow students to learn in an appropriate setting and manner;
- (2) Parents are best equipped to make decisions for their children, including the educational setting that will best serve the interests and educational needs of their children;

(3) Children, parents, and families are the primary beneficiaries of the scholarship program authorized in this article and any benefit to private schools, sectarian or otherwise, is purely incidental;

(4) The scholarship program established in this article is for the valid secular purpose of tailoring a student's education to that student's specific needs and enabling families to make genuine and independent private choices to direct their resources to appropriate schools; and

(5) Nothing in this article shall be construed as a basis for granting vouchers or tuition tax credits for any other students, ~~with or without disabilities~~ not expressly included in this article."

SECTION 3.

Said article is further amended by revising Code Section 20-2-2112, relating to definitions, as follows:

"20-2-2112.

As used in this article, the term:

(1) 'Board' means the State Board of Education.

(2) 'Department' means the Department of Education.

(2.1) 'Eligible student' means a:

(A) Student with a disability;

(B) Section 504 student;

(C) Foster care student; or

(D) Military family student.

(2.2) 'Foster care student' means a student who is or has been in a foster home or otherwise in the foster care system under the Division of Family and Children Services of the Department of Human Services. A foster parent who has legal authority to act on behalf of a foster care student shall not be considered a state actor or agent of the state.

(2.3) 'Military family student' means a dependent child of a:

(A) Parent in the military on active duty; or

(B) Parent in the national guard or reserves.

(3) 'Parent' means a biological parent, legal guardian, custodian, foster parent, or other person with legal authority to act on behalf of a child; provided, however, that for a foster care student, a parent shall not include a state actor or agent of the state.

(4) 'Participating school' means a private school that has notified the department of its intention to participate in the program; and that complies with the department's requirements.

(5) 'Prior school year in attendance' means that the student was enrolled and reported by a public school system or school systems for funding purposes during the preceding October and March full-time equivalent (FTE) program counts in accordance with Code Section 20-2-160.

(6) 'Private school' means a nonpublic school, sectarian or nonsectarian, which is accredited or in the process of becoming accredited by one or more of the entities listed in subparagraph (A) of paragraph (6) of Code Section 20-3-519.

(7) 'Program' means the scholarship program established pursuant to this article.

(8) 'Resident school system' means the public school system in which the student would be enrolled based on his or her residence.

(9) 'Scholarship' means a Georgia ~~Special Needs~~ Educational Freedom Scholarship awarded pursuant to this article.

(10) 'Scholarship student' means a student who receives a scholarship pursuant to this article.

(11) 'Section 504 student' means a student who is eligible for services under Section 504 of the federal Rehabilitation Act of 1973 and shall have had a Section 504 plan written by the school in accordance with federal and state laws and regulations.

(12) 'Student with a disability' means a student who:

(A)(i) Has one or more of the following disabilities:

(I) Autism;

(II) Deaf/blind;

(III) Deaf/hard of hearing;

(IV) Emotional and behavioral disorder;

(V) Intellectual disability;

(VI) Orthopedic impairment;

(VII) Other health impairment;

(VIII) Specific learning disability;

(IX) Speech-language impairment;

(X) Traumatic brain injury; or

(XI) Visual impairment; and

(ii) Has had an individualized education program (IEP) written by the school in accordance with federal and state laws and regulations; or

(B) Is a student in the psychoeducational program."

SECTION 4.

Said article is further amended by revising subsection (b) of Code Section 20-2-2113, relating to annual notification of options available to parents of special needs children, as follows:

"(b)(1) The parent may choose for the student to attend another public school within the resident school system which has available space and which has a program with the services agreed to in the student's existing individualized education program for a student with a disability or in the student's existing Section 504 plan, if the student is a Section 504 student. If the parent chooses this option, then the parent shall be responsible for transportation to such school. The student may attend such public school pursuant to this paragraph until the student completes all grades of the school, graduates, reaches the age of 20, if the student is a foster care student or a military family student, or reaches the age of 21, if the student is a student with a disability or is a Section 504 student, whichever occurs first, in accordance with federal and state requirements for disabled students;

(2) The parent may choose to enroll the student in and transport the student to a public school outside of the student's resident school system which has available space and which has a program with the services agreed to in the student's existing individualized education program for a student with a disability or in the student's existing Section 504 plan, if the student is a Section 504 student. The public school system may, in its sole discretion, accept the student, and if it does, such system shall report the student for purposes of funding to the department;

(3) The parent may choose for the student to attend one of the state schools for the deaf and blind operated by the State Board of Education, if appropriate for the student's needs. Funding for such students shall be provided in accordance with Code Section 20-2-302; or

(4) The parent may request and receive from the department a scholarship for the student to enroll in and attend a participating private school in accordance with this article."

SECTION 5.

Said article is further amended by revising subsections (a) and (e) of Code Section 20-2-2114, relating to qualifications for scholarship, as follows:

"(a) A student shall qualify for a scholarship under this article if:

(1) ~~The student's parent currently resides within Georgia and has been a Georgia resident for at least one year~~ student has spent the prior school year in attendance at a Georgia public school;

(2) The student ~~has one or more of the following disabilities:~~ is an eligible student;

~~(A) Autism;~~

- ~~(B) Deaf/blind;~~
- ~~(C) Deaf/hard of hearing;~~
- ~~(D) Emotional and behavioral disorder;~~
- ~~(E) Intellectual disability;~~
- ~~(F) Orthopedic impairment;~~
- ~~(G) Other health impairment;~~
- ~~(H) Specific learning disability;~~
- ~~(I) Speech-language impairment;~~
- ~~(J) Traumatic brain injury; or~~
- ~~(K) Visual impairment;~~

~~(3) The student has spent the prior school year in attendance at a Georgia public school and shall have had an Individualized Education Program (IEP) written by the school in accordance with federal and state laws and regulations;~~

~~(4)~~(3) The parent obtains acceptance for admission of the student to a participating school; and

~~(5)~~(4) The parent submits an application for a scholarship to the department no later than the deadline established by the department."

"(e) The scholarship shall remain in force until the student returns to his or her assigned school in the resident public school system, graduates from high school, reaches the age of 20, if the student is a foster care student or a military family student, or reaches the age of 21, if the student is a student with a disability or is a Section 504 student, whichever occurs first. However, at any time, the student's parent may remove the student from the participating school and place the student in another participating school or public school as provided for in Code Section 20-2-2113."

SECTION 6.

Said article is further amended by revising subsection (e) of Code Section 20-2-2115, relating to eligibility requirements for schools participating in scholarship program, as follows:

"(e) A ~~participating~~ school intending to enroll scholarship students shall ~~submit an application to~~ notify the department by June 30 of the school year preceding the school year in which it intends to enroll scholarship students. The notice shall specify the grade levels and services that the school has available for students ~~with disabilities~~ who are participating in the scholarship program. ~~A school intending to enroll scholarship students in the 2007-2008 school year shall submit an application no later than June 30, 2007."~~

SECTION 7.

In the event any section, subsection, sentence, clause, or phrase of this Act is declared or adjudged to be invalid or unconstitutional, such declaration or adjudication shall not affect the remaining portions of this Act, which shall remain of full force and effect as if such portion so declared or adjudged invalid or unconstitutional were not originally a part of this Act. The General Assembly declares that it would have enacted the remaining parts of this Act if it had known that such portion hereof would be declared or adjudged invalid or unconstitutional.

SECTION 8.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 9.

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