

Senate Bill 115

By: Senators Tippins of the 37th, Wilkinson of the 50th, Jeffares of the 17th, Williams of the 19th, Harper of the 7th and others

AS PASSED SENATE

A BILL TO BE ENTITLED

AN ACT

To amend Code Section 20-2-133 of the Official Code of Georgia Annotated, relating to free public instruction, so as to provide that performance data of students in certain placements are treated as a single local education agency; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Code Section 20-2-133 of the Official Code of Georgia Annotated, relating to free public instruction, is amended by revising subsection (b) as follows:

"(b)(1) Any child, except a child in a youth development center as specifically provided in this paragraph, who is in the physical or legal custody of the Department of Juvenile Justice or the Department of Human Services; ~~or~~ in a placement operated by the Department of Human Services or the Department of Behavioral Health and Developmental Disabilities; ~~or~~ in a facility or placement paid for by the Department of Juvenile Justice, the Department of Human Services or any of its divisions, or the Department of Behavioral Health and Developmental Disabilities and who is physically present within the geographical area served by a local unit of administration for any length of time is eligible for enrollment in the educational programs of that local unit of administration; provided, however, that the child meets the age eligibility requirements established by this article. The local unit of administration of the school district in which such child is present shall be responsible for the provision of all educational programs, including special education and related services, at no charge ~~as~~ so long as the child is physically present in the school district. A child will be considered in the physical or legal custody of the Department of Juvenile Justice or the Department of Human Services or any of its divisions if custody has been awarded either temporarily or permanently by court order or by voluntary agreement, or if the child has been admitted or placed according to an individualized treatment or service plan of the Department of Human

Services. A child will be considered in a facility or placement paid for or operated by the Department of Behavioral Health and Developmental Disabilities if the child has been admitted or placed according to an individualized treatment or service plan of the Department of Behavioral Health and Developmental Disabilities. No child in a youth development center, regardless of his or her custody status, shall be eligible for enrollment in the educational programs of the local unit of administration of the school district in which that youth development center is located. No child or youth in the custody of the Department of Corrections or the Department of Juvenile Justice and confined in a facility as a result of a sentence imposed by a court shall be eligible for enrollment in the educational programs of the local unit of administration of the school district where such child or youth is being held.

(2) Except as otherwise provided in this Code section, placement in a facility by a parent or by another local unit of administration shall not create an obligation, financial or otherwise, on the part of the local unit of administration in which the facility is located to educate the child.

(3) For any child described in paragraph (1) of this subsection, the custodian of or placing agency for the child shall notify the appropriate local unit of administration at least five days in advance of the move, when possible, when the child is to be moved from one local unit of administration to another.

(4) When the custodian of or placing agency for any child notifies a local unit of administration, as provided in paragraph (3) of this subsection, that the child may become eligible for enrollment in the educational programs of a local unit of administration, such local unit of administration shall request the transfer of the educational records and Individualized Education Programs (~~IEP's~~) and all education related evaluations, assessments, social histories, and observations of the child from the appropriate local unit of administration no later than ten days after receiving notification. Notwithstanding any other law to the contrary, the custodian of the records has the obligation to transfer these records and the local unit of administration has the right to receive, review, and utilize these records. Notwithstanding any other law to the contrary, upon the request of a local unit of administration responsible for providing educational services to a child described in paragraph (1) of this subsection, the Department of Juvenile Justice, the Department of Behavioral Health and Developmental Disabilities, or the Department of Human Services shall furnish to the local unit of administration all medical and educational records in the possession of the Department of Juvenile Justice, the Department of Behavioral Health and Developmental Disabilities, or the Department of Human Services pertaining to any such child, except where consent of a parent or legal guardian is required in order to authorize the release of any of such records, in which event the

Department of Juvenile Justice, the Department of Behavioral Health and Developmental Disabilities, or the Department of Human Services shall obtain such consent from the parent or guardian prior to such release.

(5) Any local unit of administration which serves a child pursuant to paragraph (1) of this subsection shall receive in the form of annual grants in state funding for that child the difference between the actual state funds received for that child pursuant to Code Section 20-2-161 and the reasonable and necessary expenses incurred in educating that child, calculated pursuant to regulations adopted by the State Board of Education. Each local board of education shall be held harmless by the state from expending local funds for educating students pursuant to this Code section; provided, however, that this shall only apply to students who are unable to leave the facility in which they have been placed.

(6) Enrollment of an eligible child pursuant to this Code section shall be effectuated in accordance with rules and regulations adopted by the State Board of Education.

(7) For purposes of the accountability program provided for in Part 3 of Article 2 of Chapter 14 of this title, all facilities serving children described in paragraph (1) of this subsection shall be, consistent with department rules and regulations, treated as a single local education agency; provided, however, that this paragraph shall not be construed to alleviate any responsibilities of the local unit of administration of the school district in which any such children are physically present for the provision of education for any such children.

~~(7)~~(8) The Department of Education, the Department of Human Services, the Department of Juvenile Justice, the Department of Behavioral Health and Developmental Disabilities, and the local units of administration where Department of Education, Department of Juvenile Justice, Department of Behavioral Health and Developmental Disabilities, or Department of Human Services placements, facilities, or contract facilities are located shall jointly develop procedures binding on all agencies implementing the provisions of this Code section applicable to children and youth in the physical or legal custody of the Department of Juvenile Justice, or under the care or physical or legal custody of the Department of Human Services, or under the physical custody of the Department of Behavioral Health and Developmental Disabilities."

SECTION 2.

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