

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

A BILL TO BE ENTITLED

AN ACT

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

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 **SECTION 1.**

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

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

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

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

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

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

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

67 (5) Any local unit of administration which serves a child pursuant to paragraph (1) of this
 68 subsection shall receive in the form of annual grants in state funding for that child the
 69 difference between the actual state funds received for that child pursuant to Code Section
 70 20-2-161 and the reasonable and necessary expenses incurred in educating that child,
 71 calculated pursuant to regulations adopted by the State Board of Education. Each local
 72 board of education shall be held harmless by the state from expending local funds for
 73 educating students pursuant to this Code section; provided, however, that this shall only
 74 apply to students who are unable to leave the facility in which they have been placed.

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

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

84 ~~(7)~~(8) The Department of Education, the Department of Human Services, the Department
 85 of Juvenile Justice, the Department of Behavioral Health and Developmental Disabilities,
 86 and the local units of administration where Department of Education, Department of
 87 Juvenile Justice, Department of Behavioral Health and Developmental Disabilities, or
 88 Department of Human Services placements, facilities, or contract facilities are located
 89 shall jointly develop procedures binding on all agencies implementing the provisions of
 90 this Code section applicable to children and youth in the physical or legal custody of the
 91 Department of Juvenile Justice, or under the care or physical or legal custody of the
 92 Department of Human Services, or under the physical custody of the Department of
 93 Behavioral Health and Developmental Disabilities."

94 **SECTION 2.**

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