

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.