

Senate Bill 87

By: Senators Rogers of the 21st, Williams of the 19th, Albers of the 56th, Stone of the 23rd, McKoon of the 29th and others

A BILL TO BE ENTITLED
AN ACT

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

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Article 33 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to the
10 scholarship program for special needs students, is amended by revising Code Section
11 20-2-2110, relating to the short title, as follows:

12 "20-2-2110.

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

15 **SECTION 2.**

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

18 "20-2-2111.

19 The General Assembly finds that:

20 (1) ~~Students with disabilities~~ Many Georgia students have special needs that merit
21 educational alternatives which will allow students to learn in an appropriate setting and
22 manner;

23 (2) Parents are best equipped to make decisions for their children, including the
24 educational setting that will best serve the interests and educational needs of their
25 children;

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

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

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

36 SECTION 3.

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

39 "20-2-2112.

40 As used in this article, the term:

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

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

43 (2.1) 'Eligible student' means a:

44 (A) Student with a disability;

45 (B) Section 504 student;

46 (C) Foster care student; or

47 (D) Military family student.

48 (2.2) 'Foster care student' means a student who is or has been in a foster home or
 49 otherwise in the foster care system under the Division of Family and Children Services
 50 of the Department of Human Services. A foster parent who has legal authority to act on
 51 behalf of a foster care student shall not be considered a state actor or agent of the state.

52 (2.3) 'Military family student' means a dependent child of a:

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

54 (B) Parent in the national guard or reserves; or

55 (C) Parent who is a military veteran who has been honorably discharged.

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

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

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

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

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

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

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

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

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

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

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

81 (I) Autism;

82 (II) Deaf/blind;

83 (III) Deaf/hard of hearing;

84 (IV) Emotional and behavioral disorder;

85 (V) Intellectual disability;

86 (VI) Orthopedic impairment;

87 (VII) Other health impairment;

88 (VIII) Specific learning disability;

89 (IX) Speech-language impairment;

90 (X) Traumatic brain injury; or

91 (XI) Visual impairment; and

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

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

95 **SECTION 4.**

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

99 "(b)(1) The parent may choose for the student to attend another public school within the
 100 resident school system which has available space and which has a program with the
 101 services agreed to in the student's existing individualized education program for a student
 102 with a disability or in the student's existing Section 504 plan, if the student is a Section
 103 504 student. If the parent chooses this option, then the parent shall be responsible for
 104 transportation to such school. The student may attend such public school pursuant to this
 105 paragraph until the student completes all grades of the school, graduates, reaches the age
 106 of 20, if the student is a foster care student or a military family student, or reaches the age
 107 of 21, if the student is a student with a disability or is a Section 504 student, whichever
 108 occurs first, in accordance with federal and state requirements for disabled students;

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

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

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

122 **SECTION 5.**

123 Said article is further amended by revising subsections (a) and (e) of Code Section
 124 20-2-2114, relating to qualifications for scholarship, as follows:

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

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

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

130 ~~(A) Autism;~~

131 ~~(B) Deaf/blind;~~
 132 ~~(C) Deaf/hard of hearing;~~
 133 ~~(D) Emotional and behavioral disorder;~~
 134 ~~(E) Intellectual disability;~~
 135 ~~(F) Orthopedic impairment;~~
 136 ~~(G) Other health impairment;~~
 137 ~~(H) Specific learning disability;~~
 138 ~~(I) Speech-language impairment;~~
 139 ~~(J) Traumatic brain injury; or~~
 140 ~~(K) Visual impairment;~~
 141 ~~(3) The student has spent the prior school year in attendance at a Georgia public school~~
 142 ~~and shall have had an Individualized Education Program (IEP) written by the school in~~
 143 ~~accordance with federal and state laws and regulations;~~
 144 ~~(4)(3) The parent obtains acceptance for admission of the student to a participating~~
 145 ~~school; and~~
 146 ~~(5)(4) The parent submits an application for a scholarship to the department no later than~~
 147 ~~the deadline established by the department."~~
 148 "(e) The scholarship shall remain in force until the student returns to his or her assigned
 149 school in the resident public school system, graduates from high school, reaches the age
 150 of 20, if the student is a foster care student or a military family student, or reaches the age
 151 of 21, if the student is a student with a disability or is a Section 504 student, whichever
 152 occurs first. However, at any time, the student's parent may remove the student from the
 153 participating school and place the student in another participating school or public school
 154 as provided for in Code Section 20-2-2113."

155 **SECTION 6.**

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

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

164

SECTION 7.

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

172

SECTION 8.

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

175

SECTION 9.

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