

2012 -- H 7218

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2012

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A N A C T

RELATING TO EDUCATION -- CHILDREN WITH DISABILITIES

Introduced By: Representatives Naughton, Palumbo, Morrison, Silva, and Slater

Date Introduced: January 24, 2012

Referred To: House Health, Education & Welfare

It is enacted by the General Assembly as follows:

1           SECTION 1. Chapter 16-24 of the General Laws entitled "Children with Disabilities" is  
2 hereby amended by adding thereto the following section:

3           **16-24-19. Burden of production and proof.** – [The party who filed for an impartial due](#)  
4 [process hearing pursuant to 34 CFR Section 300.507 et seq. has the burden of going forward with](#)  
5 [the evidence. In all cases, however, the public agency has the burden of proving the](#)  
6 [appropriateness of the child's program or placement, or of the program or placement proposed by](#)  
7 [the public agency. This burden shall be met by a preponderance of the evidence.](#)

8           SECTION 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO EDUCATION -- CHILDREN WITH DISABILITIES

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1           This act would require that the party who files for an impartial due process hearing  
2 pursuant to 34 CFR Section 300.507 et seq. has the burden of going forward with the evidence  
3 and the public agency has the burden of proving the appropriateness of the child's program or  
4 placement or the proposed program or placement. The burden to be met is a preponderance of the  
5 evidence.

6           This act would take effect upon passage.

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