

2013 -- H 5193

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

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A N A C T

RELATING TO EDUCATION -- CHILDREN WITH DISABILITIES

Introduced By: Representatives Amore, Melo, and Kazarian

Date Introduced: January 30, 2013

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 16-24-1 of the General Laws in Chapter 16-24 entitled "Children
2 with Disabilities" is hereby amended to read as follows:

3 **16-24-1. Duty of school committee to provide special education.** -- (a) In any city or
4 town where there is a child with a disability within the age range as designated by the regulations
5 of the state board of regents for elementary and secondary education, who is functionally limited
6 to such an extent that normal educational growth and development is prevented, the school
7 committee of the city or town where the child resides shall provide the type of special education
8 that will best satisfy the needs of the child with a disability, as recommended and approved by the
9 state board of regents for elementary and secondary education in accordance with its regulations
10 governing the education of children with disabilities.

11 (b) Notwithstanding any other federal or state law or regulation, the school committee
12 where a parentally placed child who has or develops a disability in private school resides, shall
13 provide the child with the same free and appropriate education as it provides to children in public
14 schools. These children shall have the same rights and remedies in the regulations of the board of
15 regents for elementary and secondary education governing the education of children with
16 disabilities as children in public school relative to initially determining eligibility, implementation
17 and/or any other rights and remedies relative to any special education services the child may be
18 eligible or receive from the public school district.

19 (c) For the purpose of this statute, a parentally placed child who has or develops a

1 disability in private school is defined as a child enrolled or placed in a private school by the
2 unilateral decision of his or her parents and without consultation of the public school district, who
3 either has, or at some point while at the private school is diagnosed with a learning disability.
4 Parents who unilaterally enroll their child in a private school are required to pay the tuition costs
5 related to the child's education that are unrelated to the child's disability, and the public school
6 district where the child resides is responsible for payment of the services related to the child's
7 disability as developed and determined in the child's individual education plan.

8 (d) For the purpose of this statute, a free and appropriate education is defined as special
9 education services and related services that:

10 (i) Are provided at public expense, under public supervision and direction, and without
11 charge;

12 (ii) Meet all of the standards and requirements of the state of Rhode Island department of
13 education and requirements of the regulations of the board of regents for elementary and
14 secondary education governing the education of children with disabilities, which shall include
15 initial evaluation and determination procedures;

16 (iii) Include preschool, elementary school or secondary school education in the state; and

17 (iv) Are provided in conformity with an individualized education program that meets the
18 requirements of the regulations of the board of regents for elementary and secondary education
19 governing the education of children with disabilities.

20 (e) In those cases that an individual education plan has been adopted for a child and the
21 child moves to another town or city, the plan shall remain in effect until a new plan is adopted for
22 the child in the new town or city.

23 (f) Provided, that as to any child attending the East Providence campus of Bradley
24 Hospital who is not a resident of East Providence, the child's sending district or district where
25 the child resides shall be responsible for payment to Bradley Hospital directly, for the amount due
26 to Bradley Hospital after application of any state aid. If such direct payment would otherwise
27 violate the state school funding formula and/or federal law, then the sending district shall be
28 responsible to reimburse the city of East Providence for payments made by the city of East
29 Providence for said child.

30 SECTION 2. Sections 16-64-1 and 16-64-1.1 of the General Laws in Chapter 16-64
31 entitled "Residence of Children for School Purposes" are hereby amended to read as follows:

32 **16-64-1. Residency of children for school purposes.** -- Except as provided by law or by
33 agreement, a child shall be enrolled in the school system of the city or town where he or she
34 resides. A child shall be deemed to be a resident of the city or town where his or her parents

1 reside. If the child's parents reside in different cities or towns the child shall be deemed to be a
2 resident of the city or town in which the parent having actual custody of the child resides. In cases
3 where a child has no living parents, has been abandoned by his or her parents, or when parents are
4 unable to care for their child on account of parental illness or family break-up, the child shall be
5 deemed to be a resident of the city or town where the child lives with his or her legal guardian,
6 natural guardian, or other person acting in loco parentis to the child. An emancipated minor shall
7 be deemed to be a resident of the city or town where he or she lives. Children placed in group
8 homes, in foster care, in child caring facilities, or by a Rhode Island state agency or a Rhode
9 Island licensed child placing agency shall be deemed to be residents of the city or town where the
10 group home, child caring facility, or foster home is located for the purposes of enrollment, and
11 this city or town shall be reimbursed or the child's education shall be paid for in accordance with
12 section 16-64-1.1, except that in the case of a child at the East Providence campus of Bradley
13 Hospital, the child shall not be considered to be a resident of the city of East Providence unless
14 the child otherwise qualifies as a resident of said city aside from his or her attendance at Bradley
15 Hospital. In all other cases a child's residence shall be determined in accordance with the
16 applicable rules of the common law. Where a child is a resident in a dwelling which lies in more
17 than one municipality, the parent(s) or guardian shall choose which school district the child shall
18 attend without payment of costs as tuition.

19 **16-64-1.1. Payment and reimbursement for educational costs of children placed in**
20 **foster care, group homes, or other residential facility by a Rhode Island state agency. --** (a)

21 Children placed in foster care by a Rhode Island licensed child placing agency or a Rhode Island
22 governmental agency shall be entitled to the same free appropriate public education provided to
23 all other residents of the city or town where the child is placed. The city or town shall pay the cost
24 of the education of the child during the time the child is in foster care in the city or town.

25 (b) Children placed by DCYF in a group home or other residential facility that does not
26 include the delivery of educational services are to be educated by the community in which the
27 group home or other residential facility is located, and those children shall be entitled to the same
28 free appropriate public education provided to all other residents of the city or town where the
29 child is placed. For purposes of payment and reimbursement for educational costs under this
30 chapter, the term "group home or other residential facility" shall not include independent living
31 programs. Each city and town that contains one or more group homes or other residential
32 facilities that do not include delivery of educational services will receive funds as part of state aid
33 to education in accordance with the following provisions:

34 (1) On December 31 of each year the DCYF shall provide the department of elementary

1 and secondary education with a precise count of how many group home or other residential
2 facility "beds" exist in each Rhode Island city or town, counting only those "beds" in facilities
3 that do not include the delivery of educational services. The number of "beds" in each group
4 home or other residential facility shall be equal to the maximum number of children that may be
5 placed in that group home or other residential facility on any given night according to the
6 applicable licensure standards of the DCYF.

7 (2) For the fiscal year beginning July 1, 2007, if the number of beds certified by the
8 Department of Children, Youth and Families for a school district by December 31, 2007 is greater
9 than the number certified March 14, 2007 upon which the education aid for FY 2008 was
10 appropriated, the education aid for that district will be increased by the number of increased beds
11 multiplied by fifteen thousand dollars (\$15,000). Notwithstanding the provisions of this section or
12 any law to the contrary, the education aid for all group home or other residential facility "beds"
13 located or associated with the Children's Residential and Family Treatment (CRAFT) program
14 located on the East Providence campus of Bradley Hospital shall be twenty-two thousand dollars
15 (\$22,000) per bed. The Department of Elementary and Secondary Education shall include the
16 additional aid in equal payments in March, April, May and June, and the Governor's budget
17 recommendations pursuant to section 35-3-8 shall include the amounts required to provide the
18 increased aid.

19 For all fiscal years beginning after June 30, 2008, education aid for each school district
20 shall include fifteen thousand dollars (\$15,000) for each bed certified by the Department of
21 Children, Youth and Families by the preceding December 31. Notwithstanding the provisions of
22 this section or any law to the contrary, the education aid for all group home or other residential
23 facility "beds" located or associated with the Children's Residential and Family Treatment
24 (CRAFT) program located on the East Providence campus of Bradley Hospital shall be twenty-
25 two thousand dollars (\$22,000) per bed. For all fiscal years beginning after June 30, 2008,
26 whenever the number of beds certified by the Department of Children, Youth and Families for a
27 school district by December 31 is greater than the number certified the prior December 31 upon
28 which the education aid for that fiscal year was appropriated, the education aid for that district as
29 enacted by the assembly during the prior legislative session for that fiscal year will be increased
30 by the number of increased beds multiplied by the amount per bed authorized for that fiscal year.
31 The Department of Elementary and Secondary Education shall include the additional aid in equal
32 payments in March, April, May and June, and the Governor's budget recommendations pursuant
33 to section 35-3-8 shall include the amounts required to provide the increased aid.

34 [\(i\) As to any child attending the East Providence campus of Bradley Hospital who is not a](#)

1 resident of East Providence, the child's sending district or district where the child resides shall be
2 responsible for payment to Bradley Hospital directly, for the amount due to Bradley Hospital
3 after application of any state aid. If such payment would otherwise violate the state school
4 funding formula and/or federal law, then the sending district shall be responsible to reimburse the
5 city of East Providence for payments made by the city of East Providence for said child.

6 (3) [Deleted by P.L. 2007, ch. 73, art. 21, section 6.]

7 (4) [Deleted by P.L. 2007, ch. 73, art. 21, section 6.]

8 (5) [Deleted by P.L. 2007, ch. 73, art. 21, section 6.]

9 (c) Children placed by DCYF in a residential treatment program, group home, or other
10 residential facility, whether or not located in the state of Rhode Island, which includes the
11 delivery of educational services, provided by that facility (excluding facilities where students are
12 taught on grounds for periods of time by teaching staff provided by the school district in which
13 the facility is located), shall have the cost of their education paid for as provided for in subsection
14 (d) of this section and section 16-64-1.2. The city or town determined to be responsible to DCYF
15 for a per-pupil special education cost pursuant to section 16-64-1.2 shall pay its share of the cost
16 of educational services to DCYF or to the facility providing educational services.

17 (d) Children placed by DCYF in group homes, child caring facilities, community
18 residences, or other residential facilities shall have the entire cost of their education paid for by
19 DCYF if:

20 (1) The facility is operated by the state of Rhode Island or the facility has a contract with
21 DCYF to fund a pre-determined number of placements or part of the facility's program;

22 (2) The facility is state-licensed; and

23 (3) The facility operates an approved on-grounds educational program, whether or not the
24 child attends the on-grounds program.

25 SECTION 3. 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

1 This act would provide that for any child attending the East Providence campus of
2 Bradley Hospital, the child's residence district and/or sending district would be responsible for
3 payments to Bradley Hospital.

4 This act would take effect upon passage.

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