

2013 -- H 5280

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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 Naughton, E Coderre, Slater, Diaz, and Palumbo

Date Introduced: February 06, 2013

Referred To: House Judiciary

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

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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