

By: VanDeaver, Huberty, Simmons, Bernal

H.B. No. 320

Substitute the following for H.B. No. 320:

By: VanDeaver

C.S.H.B. No. 320

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the establishment of an education enhancement program
3 for students with certain disabilities.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Chapter 29, Education Code, is amended by adding
6 Subchapter J to read as follows:

7 SUBCHAPTER J. EDUCATION ENHANCEMENT PROGRAM FOR STUDENTS WITH
8 DISABILITIES

9 Sec. 29.351. DEFINITIONS. In this subchapter:

10 (1) "Parent" means a resident of this state who is a
11 natural or adoptive parent, managing or possessory conservator,
12 legal guardian, custodian, or other person with legal authority to
13 act on behalf of a child.

14 (2) "Program" means the education enhancement program
15 for students with disabilities established under this subchapter.

16 (3) "Program participant" means a student and a parent
17 of a student who has been accepted into the program.

18 Sec. 29.352. ESTABLISHMENT OF PROGRAM. The commissioner
19 shall establish and administer an education enhancement program for
20 students with disabilities to provide funding for eligible students
21 to obtain educational support services and other resources that:

22 (1) supplement the student's public education;

23 (2) promote and improve the student's overall academic
24 performance; and

1 (3) exceed the level of services that the student's
2 committee has determined to be necessary for the student to receive
3 a free appropriate public education.

4 Sec. 29.353. ELIGIBLE STUDENT. (a) A student is eligible
5 to participate in the program if:

6 (1) the student is enrolled in a school district and
7 was enrolled in that district during the entire preceding school
8 year;

9 (2) the student has one or more of the following
10 disabilities:

11 (A) dyslexia;

12 (B) autism;

13 (C) speech disability; or

14 (D) learning disability; and

15 (3) for one or more disabilities listed in Subdivision
16 (2):

17 (A) an individualized education program has been
18 developed for the student under Section 29.005; or

19 (B) the student is covered by Section 504,
20 Rehabilitation Act of 1973 (29 U.S.C. Section 794).

21 (b) Notwithstanding Subsection (a), a student placed in a
22 residential facility primarily for noneducational reasons is not
23 eligible to participate in the program.

24 Sec. 29.354. APPLICATION PROCESS. (a) On or before the date
25 established by commissioner rule, each school district annually
26 shall provide information regarding the program to a parent of each
27 student enrolled in the district who may be eligible to participate

1 in the program.

2 (b) On or before the date established by commissioner rule,
3 a parent of an eligible student may apply on behalf of the student
4 to the agency for participation in the program for the school year
5 for which the application is made. The school district in which the
6 student is enrolled shall assist the parent in making the
7 application.

8 (c) In accepting students into the program, the
9 commissioner shall:

10 (1) give priority to students who are educationally
11 disadvantaged; and

12 (2) to the greatest extent possible, ensure that the
13 accepted students reflect the diversity of the state.

14 (d) The commissioner annually shall notify each program
15 participant and each school district in which a student
16 participating in the program is enrolled that:

17 (1) a program participant must reapply to participate
18 in the program for each school year in which the participant wishes
19 to participate in the program; and

20 (2) continued acceptance into the program is not
21 guaranteed.

22 Sec. 29.355. ALLOCATION OF MONEY; FINANCING. (a) For each
23 school year, the commissioner shall allocate money available for
24 the program to each school district in which a student
25 participating in the program is enrolled in amounts determined by
26 the commissioner. The total amount of money used for the program for
27 a school year may not exceed \$10 million.

1 (b) The commissioner may only use money appropriated from
2 the general revenue fund for purposes of the program.

3 Sec. 29.356. QUALIFIED EXPENSES. (a) Funds received under
4 the program may be used only for the following services or goods
5 provided to a program participant by an education service provider
6 or vendor of educational products approved by the commissioner
7 under Section 29.357:

8 (1) costs of transportation for the student to receive
9 educational support services;

10 (2) fees for services provided by a private tutor or
11 teaching service;

12 (3) fees for educational therapies or support services
13 provided by a practitioner or provider;

14 (4) costs of assistive technology; and

15 (5) costs associated with the provision of:

16 (A) in-home and community-based training;

17 (B) positive behavioral support strategies;

18 (C) family training support;

19 (D) communication interventions; and

20 (E) social skills, supports, and strategies
21 training.

22 (b) The parent of a student participating in the program,
23 with the assistance of an employee of the school at which the
24 student is enrolled designated for that purpose by the school's
25 principal, shall select the services or goods allowed under
26 Subsection (a) to be provided to the student under the program and
27 the appropriate education service provider or vendor of educational

1 products to provide those services or goods.

2 (c) On the parent's selection under Subsection (b), the
3 school district in which the parent's student is enrolled shall
4 contract with the selected education service provider or vendor of
5 educational products to provide the selected services or goods to
6 the student.

7 (d) An education service provider or vendor of educational
8 products may not solicit or provide incentives to any program
9 participant to select the provider or vendor to provide services or
10 goods using money distributed under the program.

11 Sec. 29.357. PROVIDER AND VENDOR ACCOUNTABILITY. (a) An
12 education service provider or vendor of educational products must
13 apply to and be approved by the commissioner to receive money
14 distributed under the program.

15 (b) To be eligible for approval under Subsection (a), an
16 education service provider or vendor of educational products must:

17 (1) have operated for at least three consecutive
18 years, including at least one year in this state;

19 (2) provide to the commissioner:

20 (A) a current financial audit from a certified
21 public accountant;

22 (B) documentation indicating that the provider
23 or vendor has completed a national criminal history record
24 information review within a period established by commissioner
25 rule; and

26 (C) a list of any national or state licenses,
27 certifications, or credentials possessed by the provider or vendor;

1 and

2 (3) agree not to use the national curriculum standards
3 developed by the Common Core State Standards Initiative.

4 (c) In applying for approval under Subsection (a), an
5 education service provider or vendor of educational products may
6 submit to the commissioner a statement listing the services or
7 goods allowed under Section 29.356(a) that the provider or vendor
8 provides to a school district under an existing contract.

9 (d) A parent of a student participating in the program, an
10 employee of the student's school designated under Section
11 29.356(b), or an education service provider or vendor of
12 educational products may appeal the commissioner's rejection of an
13 application submitted under Subsection (a) in accordance with rules
14 established by the commissioner.

15 (e) To maintain approval under this section, an education
16 service provider or vendor of educational products must, with
17 respect to each student for the benefit of whom the provider or
18 vendor contracts with a school district under Section 29.356(c):

19 (1) at the end of each semester, report to the school
20 district regarding the services or goods provided under the
21 contract to the student, including any diagnostic or other
22 evaluative information requested by the district;

23 (2) conduct pre- and post-measurement evaluations of
24 the student and provide the results of those evaluations to the
25 student's parent and the school district; and

26 (3) submit to the school district accurate and
27 complete invoices regarding the services or goods provided to the

1 student.

2 (f) At least once each semester, an education service
3 provider or vendor of educational products selected to provide
4 services or goods to a student participating in the program shall
5 meet with the student's parent and the employee of the student's
6 school designated under Section 29.356(b) at a time and place
7 determined by the school district to discuss the student's progress
8 and to evaluate the continued use of the provider or vendor. The
9 student's parent, designated employee, or provider or vendor may
10 request additional meetings to be held under this subsection.

11 (g) The commissioner annually shall review each approved
12 education service provider or vendor of educational products and,
13 as appropriate, renew or revoke that approval.

14 (h) On approving an education service provider or vendor of
15 educational products under this section, the commissioner shall
16 notify the provider or vendor regarding the annual review of
17 approval under Subsection (g). The notice must include a statement
18 that renewed approval under that subsection is not guaranteed.

19 Sec. 29.358. PROGRAM PARTICIPANT RIGHTS. (a) A student's
20 participation in the program does not affect the student's rights
21 or a school district's obligations with respect to the student
22 under the Individuals with Disabilities Education Act (20 U.S.C.
23 Section 1400 et seq.); Section 504, Rehabilitation Act of 1973 (29
24 U.S.C. Section 794); or the Americans with Disabilities Act of 1990
25 (42 U.S.C. Section 12101 et seq.).

26 (b) An education service provider or vendor of educational
27 products must comply with the federal laws listed in Subsection (a)

1 in providing services or goods to the student under the program.

2 (c) The provision of services or goods to a student under
3 this subchapter does not affect the obligations of any state agency
4 with respect to the student.

5 Sec. 29.359. RULES. The commissioner may adopt rules as
6 necessary to implement this subchapter.

7 Sec. 29.3591. PROGRAM REVIEW. (a) Not later than December
8 31, 2020, the agency shall review the performance of the program and
9 submit to the legislature a report on the agency's conclusions.

10 (b) In conducting the review, the agency shall solicit input
11 from program participants, participating school districts, and
12 education service providers and vendors of educational products
13 approved by the commissioner under Section 29.357.

14 (c) This section expires September 1, 2021.

15 Sec. 29.3592. STUDY ON SPECIAL EDUCATION SERVICES. (a) The
16 agency shall conduct a study on the special education services
17 provided by school districts to students with disabilities to
18 determine whether those services satisfy the requirements under the
19 Individuals with Disabilities Education Act (20 U.S.C. Section 1400
20 et seq.); Section 504, Rehabilitation Act of 1973 (29 U.S.C.
21 Section 794); and the Americans with Disabilities Act of 1990 (42
22 U.S.C. Section 12101 et seq.).

23 (b) In conducting the study, the agency shall survey parents
24 of students with disabilities enrolled in school districts.

25 (c) Not later than September 1, 2018, the agency shall
26 submit to the legislature a report on the results of the study. The
27 report must include a list of services that parents feel are needed

1 but are not currently being provided and the reasons why the listed
2 services are not being provided.

3 (d) This section expires September 1, 2019.

4 SECTION 2. Section 25.087, Education Code, is amended by
5 adding Subsection (b-7) to read as follows:

6 (b-7) A school district shall excuse a student from
7 attending school during lunch, study hall, or an open period to
8 attend an appointment or meeting with an education service provider
9 or vendor of educational products to receive services or goods
10 provided using money distributed under the education enhancement
11 program for students with disabilities under Subchapter J, Chapter
12 29.

13 SECTION 3. Section 25.087(d), Education Code, as amended by
14 S.B. 1152, Acts of the 85th Legislature, Regular Session, 2017, is
15 amended to read as follows:

16 (d) A student whose absence is excused under Subsection (b),
17 (b-1), (b-2), (b-4), (b-5), (b-7), or (c) may not be penalized for
18 that absence and shall be counted as if the student attended school
19 for purposes of calculating the average daily attendance of
20 students in the school district. A student whose absence is
21 excused under Subsection (b), (b-1), (b-2), (b-4), (b-5), (b-7), or
22 (c) shall be allowed a reasonable time to make up school work missed
23 on those days. If the student satisfactorily completes the school
24 work, the day of absence shall be counted as a day of compulsory
25 attendance.

26 SECTION 4. Section 25.087, Education Code, as amended by
27 this Act, and Sections 29.351-29.359, Education Code, as added by

1 this Act, apply beginning with the 2018-2019 school year.

2 SECTION 5. This Act takes effect immediately if it receives
3 a vote of two-thirds of all the members elected to each house, as
4 provided by Section 39, Article III, Texas Constitution. If this
5 Act does not receive the vote necessary for immediate effect, this
6 Act takes effect on the 91st day after the last day of the
7 legislative session.