

By: VanDeaver

H.B. No. 320

A BILL TO BE ENTITLED

AN ACT

relating to the establishment and funding of an education enhancement program for certain students with disabilities.

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

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

SUBCHAPTER J. ENHANCEMENT PROGRAM FOR STUDENTS WITH DISABILITIES

Sec. 29.351. DEFINITIONS. In this subchapter:

(1) "Child with a disability" means a child who is:

(A) eligible to participate in a school district's special education program under Section 29.003; or

(B) covered by Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794).

(2) "Enhancement services" means a service provided to a program participant that is in addition to the special education services that a school district is required to provide a child with a disability under federal and state law.

(3) "Parent" means a resident who otherwise meets the definition of this term under Section 26.002.

(4) "Agency" means the Texas Education Agency.

(5) "Program participant" means a student with a disability and the parent(s) of a child enrolled in the program.

(6) "Private service provider" means an individual or entity approved by the commissioner of education to provide

1 enhancement services to program participants and that follows all
2 accountability standards outlined in this subchapter.

3 Sec. 29.352. ESTABLISHMENT OF PROGRAM. (a) The agency
4 shall establish a program, including procedures and criteria in
5 accordance with this subchapter, for the allocation of funds
6 appropriated under this subchapter to school districts for the
7 provision of enhancement services to certain students with
8 disabilities and their families to promote and improve overall
9 academic performance.

10 (b) The commissioner shall notify program
11 participants, school districts in which the program participant is
12 enrolled, and approved private service providers that approval to
13 participate in this program is for one year. Approval to
14 participate as a program participant or a private service provider
15 does not guarantee approval for subsequent years of participation
16 within this program.

17 Sec. 29.353. PROGRAM PARTICIPANTS.

18 (A) A student with a disability is eligible for enhancement
19 services from a private service provider if the child has a Section
20 504 plan of the Rehabilitation Act of 1973 (29 U.S.C. Section 794)
21 or an individual education plan, and has one or more of the
22 following disabilities:

- 23 (A) dyslexia
- 24 (B) autism
- 25 (C) speech disability; or
- 26 (D) learning disability.

27 (B) A student or parent must apply to the agency through the

1 school district in which their child is enrolled to participate in
2 the program.

3 (C) A student must have attended public school in the
4 participating school district in the previous year prior to
5 receiving enhancement services created by Subchapter J. School
6 districts shall notify all eligible students and parents of this
7 program.

8 Sec. 29.354. ENHANCEMENT SERVICES.

9 (A) Funds provided by this program may be used only for the
10 following services provided by approved private service providers
11 under Section 29.357:

12 (1) costs of transportation for the student to receive
13 educational support services;

14 (2) fees for services provided by a commissioner-approved
15 private tutor or teaching service under Section 29.357;

16 (3) fees for educational therapies or support services
17 provided by a practitioner or provider under Section 29.357;

18 (4) costs of assistive technology;

19 (5) in-home and community-based training;

20 (6) positive behavioral support strategies;

21 (7) parent and family training support;

22 (8) communication interventions; and

23 (9) social skills, supports, and strategies.

24 (a-1) Any services not listed in (A) do not qualify as
25 enhancement services and are not eligible for funding under this
26 subchapter.

27 (B) Enhancement services shall be chosen by the parent in

1 consultation with the school principal's designee. The principal's
2 designee shall advise the parent on the enhancement program. The
3 parent shall choose the enhancement services and the private
4 service provider the program participant uses under this
5 subchapter.

6 Sec. 29.355. PROTECTION OF RIGHTS. (a) Students using
7 funds through a school district to access enhancement services from
8 an approved provider under Section 29.357 shall maintain rights
9 awarded to the student under Section 504, Rehabilitation Act of
10 1973 (29 U.S.C. Section 794) and Individuals with Disabilities
11 Education Act (20 U.S.C. Section 1400 et seq.), and the Americans
12 with Disabilities Act.

13 Sec. 29.356. ALLOCATION OF PROGRAM FUNDS.

14 (a) This program shall be funded at \$10 million per year
15 from the state's general revenue fund.

16 (b) The commissioner shall award program funds to fund
17 enhancement services for students that meet the eligibility
18 criteria under Subsection 29.353. In awarding program funds to
19 eligible students, the commissioner shall prioritize students that
20 are economically disadvantaged. The selected students must reflect
21 the diversity of this state.

22 Sec. 29.357. PRIVATE SERVICE PROVIDER REQUIREMENTS.

23 (A) To be a private service provider, an entity or
24 individual:

25 (1) must be determined and approved by the
26 commissioner;

27 (2) must provide the agency a current financial audit

1 from a certified public accountant;

2 (3) must have operated for at least three or more
3 consecutive years, one of which has been in Texas;

4 (4) must provide evidence of having successfully
5 passed a criminal background check;

6 (5) must provide the agency a list of state and
7 national certification licensure credentials the provider has
8 achieved;

9 (6) must agree to comply with the state's curriculum
10 standards under Section 28.002 (b-3) and (b-4);

11 (7) may document to the commissioner that it provides
12 one or more of the enhancement services under 29.354 through an
13 existing contract with a school district; and

14 (8) may not solicit program participants to use their
15 private services with gifts, money, promotions, or any other kind
16 of emollient.

17 (a-1) A parent, the principal's designee who consults
18 with the parent of a program participant, or a private service
19 provider may appeal to the agency for a specific private service
20 provider to be approved. The commissioner shall develop rules to
21 implement this process.

22 (B) A private service provider shall deliver enhancement
23 services to a program participant on the basis of a written
24 agreement between the private service provider and the school
25 district in which the program participant is enrolled.

26 (C) (1) The private service provider must participate in a
27 meeting with the parent and the principal's designee who consults

1 with the parent of a program participant at least one time within a
2 semester of participation in enhancement services to discuss
3 progress and continued use of the private service provider's
4 enhancement services.

5 (2) A parent, the principal's designee who consults
6 with the parent of a program participant, or a private service
7 provider may request more frequent meetings between these groups to
8 discuss progress and continued use of the private service
9 provider's enhancement services.

10 (3) At the conclusion of the school year, enhancement
11 services cease. A parent must re-apply in a subsequent school year
12 to receive enhancement services during a subsequent school year.

13 Sec. 29.357. ACCOUNTABILITY. (a) An approved private
14 service provider shall adhere to the following accountability
15 standards to receive and maintain eligibility:

16 (1) report to the participating school district at the end
17 of each semester on the services the program participant has
18 received or will receive in accordance with the contract as well as
19 diagnostic or other evaluative information that the district
20 requires in order to fulfill its obligations under this subchapter;

21 (2) conduct pre- and post- measurement evaluations of the
22 program participant, and share this information with the program
23 participant's parent and participating school district;

24 (3) maintain a written contract with the school district of
25 the program participant to provide enhancement services;

26 (4) appropriately invoice the school district of the
27 program participant to provide enhancement services.

1 (b) The commissioner shall annually review previously
2 approved private service providers to determine if the private
3 service provider shall remain an approved provider for enhancement
4 services.

5 Sec. 29.358. PROGRAM REVIEW. (a) the agency with input
6 from program participants, parents of program participants,
7 private service providers, and participating school districts
8 shall review the performance of this program as established by
9 Subchapter J, and report to the legislature by December 31, 2020.

10 Sec. 29.359. STUDY. No later than September 1, 2018, the
11 agency shall report its findings to the legislature from a parent
12 survey and study of the special education services received from
13 the local school districts where their child(ren) are enrolled to
14 determine whether those services meet the requirements of IDEA, 504
15 and ADA or if the provided services are insufficient to meet the
16 needs of the child as stipulated in his or her individualized
17 education plan or 504 plan. The agency will include in its report to
18 the legislature a list of services that parents feel are needed but
19 not being provided along with the reasons for a lack of services
20 being provided.

21 Sec. 29.360. EXCUSED ABSENCES. (a) an appointment or
22 meeting with an approved private service provider for enhancement
23 services provided by the special education enhancement program
24 established under Subchapter J shall be considered excused
25 absences. Services under this subchapter must supplement, not
26 supplant, educational services provided by the school district.

27 Sec. 29.361. RESPONSIBILITY OF OTHER AGENCIES. (a) The

1 provision of services under this section does not supersede or
2 limit the responsibility of other agencies to provide or pay for
3 costs of enhancement services to enable any student with
4 disabilities to receive a free appropriate public education in the
5 least restrictive environment. Specifically, services provided
6 under this section may not be used for a student with disabilities
7 who is currently placed in a residential facility primarily for
8 non-educational reasons.

9 SECTION 2. This Act applies beginning with the 2018-2019
10 school year.

11 SECTION 3. This Act takes effect immediately if it receives
12 a vote of two-thirds of all the members elected to each house, as
13 provided by Section 39, Article III, Texas Constitution. If this
14 Act does not receive the vote necessary for immediate effect, this
15 Act takes effect September 1, 2017.