

BILL ANALYSIS

Senate Research Center
87R5249 MLH-D

H.B. 1252
By: Moody et al. (Hall)
Education
5/19/2021
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In 2003, the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. Section 1400 et seq., 34 C.F.R. Section 300.1 et seq. was being updated or reauthorized and finally became law in 2004. As part of those negotiations, a two-year statute of limitations was added to provide a parent of a child with a disability the opportunity to bring a due process claim against a school district within two years of the date the parent or the Texas Education Agency (TEA) knew or should have known about the alleged action that forms the basis of the due process complaint, or if the state has an explicit time limitation for requesting such a due process hearing under this part, in the time allowed by that state law. 20 U.S.C. Section 1415 (f)(3)(C); 34 C.F.R. Section 300.511 (e).

The TEA established a Commissioner's Rule limiting the statute of limitations to one year. According to 2019/2020 numbers from TEA, there are 588,057 students identified in special education in Texas. If a parent decides that he/she needs to obtain counsel for a special education issue, there are only seven full-time attorneys and another 20 that represent parents on a part-time basis making a ratio of one attorney per 21,779 students/families. Conversely, there are 1,032 school districts which includes COOPS in the state of Texas with over 97 attorneys who practice special education law who represent school districts, resulting in a ratio of one attorney per 10.6 school districts.

While federal law and an overwhelming majority of other states set the limitation period at two years, Texas has a one-year limitation period. There have been calls to extend the period within which these actions may be taken to make the process fairer for families navigating the already confusing special education system. H.B. 1252 seeks to align the limitation period in Texas with the period set by federal law.

H.B. 1252 amends current law relating to the limitation period for filing a complaint and requesting a special education impartial due process hearing.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter A, Chapter 29, Education Code, by adding Section 29.0164, as follows:

Sec. 29.0164. LIMITATION PERIOD FOR FILING COMPLAINT AND REQUESTING SPECIAL EDUCATION DUE PROCESS HEARING. Prohibits the commissioner of education (commissioner) or Texas Education Agency from adopting or enforcing a rule that establishes a shorter period for filing a due process complaint alleging a violation of state or federal special education laws and requesting an impartial due process hearing than the maximum timeline designated under 20 U.S.C. Sections 1415(b)(6) and (f)(3).

SECTION 2. Makes application of Section 29.0164, Education Code, as added by this Act, prospective.

SECTION 3. Requires the commissioner, as soon as practicable after the effective date of this Act, to amend rules as necessary to comply with Section 29.0164, Education Code, as added by this Act.

SECTION 4. Effective date: September 1, 2022.