

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

Act 1763 of the Regular Session

1 State of Arkansas  
2 85th General Assembly  
3 Regular Session, 2005  
4

As Engrossed: H3/31/05

A Bill

HOUSE BILL 2558

5 By: Representative Saunders  
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8 **For An Act To Be Entitled**

9 AN ACT CONCERNING THE PAYMENT OF EDUCATIONAL  
10 COSTS OF JUVENILES PLACED IN TREATMENT  
11 FACILITIES; AND FOR OTHER PURPOSES.  
12

13 **Subtitle**

14 AN ACT CONCERNING THE PAYMENT OF  
15 EDUCATIONAL COSTS OF JUVENILES PLACED IN  
16 TREATMENT FACILITIES; AND FOR OTHER  
17 PURPOSES.  
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19

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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22 SECTION 1. Arkansas Code Title 6, Chapter 20, Subchapter 107 is  
23 amended to add a new section to read as follows:

24 6-20-107. Educational cost reimbursement prohibition.

25 (a) As used in this section, "juvenile" means a person who is eighteen  
26 (18) years old or less.

27 (b) The Department of Education, a public school district, or an open-  
28 enrollment charter school shall not be liable for any educational costs or  
29 other related costs associated with the placement of a juvenile in an out-of-  
30 state residential or inpatient facility for any care and treatment, including  
31 psychiatric treatment, unless:

32 (1) At the time of placement:

33 (A) The juvenile qualifies as disabled under the  
34 Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq.; and

35 (B) Payment is required under the Individuals with



1 Disabilities Education Act; and

2 (2) The Department of Education authorizes public payment for  
3 educational costs based on a determination that the educational program and  
4 facilities are appropriate for the juvenile and the Department of Education  
5 has approved the facility's educational program; and

6 (3) Each program authorization must precede the placement and if  
7 the program is not authorized prior to placement, the Department of  
8 Education, public school districts, or open-enrollment charter schools shall  
9 not be responsible for education or other related costs, nor shall they be  
10 subject to any order to pay for educational or other related costs.

11 (c) The department, a public school district, or an open-enrollment  
12 charter school shall not be liable for any educational costs or other related  
13 costs associated with the placement of a juvenile in an in-state residential  
14 or inpatient facility for any care and treatment, including psychiatric  
15 treatment, unless:

16 (1) The Department of Education authorizes public payment  
17 for educational costs based on a determination that the educational program  
18 and facilities are appropriate for the juvenile and the Department of  
19 Education has approved the facility's educational program; and

20 (2) Each program authorization must precede the placement  
21 and if the program is not authorized prior to the placement, the Department  
22 of Education, public school districts, or open-enrollment charter schools  
23 shall not be responsible for education or other related costs, nor shall they  
24 be subject to any order to pay for educational or other related costs.

25 (d) The liability of the department, a public school district, or an  
26 open-enrollment charter school for the educational costs or other related  
27 costs described in subsections (a) and (b) of this section shall be limited  
28 to the lesser of:

29 (1) The reimbursement rate established by the department for a  
30 juvenile placed in a residential or inpatient facility; or

31 (2) The normal and customary educational cost reimbursement rate  
32 of the state in which a juvenile is placed in an out-of-state residential or  
33 inpatient facility as determined by the department.

34 (e) This section shall not apply to a juvenile placed in an Arkansas  
35 juvenile detention facility as defined in § 6-20-104.

36 (f) Nothing in this section shall be construed to require payment by

1 the department, a public school district, or an open-enrollment charter  
2 school for educational costs and other related costs associated with the  
3 placement of a juvenile in an out-of-state residential or inpatient facility  
4 for any care or treatment, including psychiatric treatment, prior to the  
5 effective date of this section.

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7 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the  
8 General Assembly of the State of Arkansas that certain out-of-state parties  
9 are seeking to make legal claims for educational resources otherwise to be  
10 provided to Arkansas public schools; that these legal claims may jeopardize  
11 or negatively impact the adequacy of public education funding and resources;  
12 and that immediate passage of this act is necessary to ensure the appropriate  
13 management of educational services and related costs associated with  
14 juveniles placed in a residential or inpatient facility for any care or  
15 treatment, including psychiatric treatment. Therefore, an emergency is  
16 declared to exist and this act being immediately necessary for the  
17 preservation of the public peace, health, and safety shall become effective  
18 on:

19 (1) The date of its approval by the Governor;

20 (2) If the bill is neither approved nor vetoed by the Governor,  
21 the expiration of the period of time during which the Governor may veto the  
22 bill; or

23 (3) If the bill is vetoed by the Governor and the veto is  
24 overridden, the date the last house overrides the veto.

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26 /s/ Saunders

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29 APPROVED: 4/07/2005

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