

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.

1 State of Arkansas
2 83rd General Assembly
3 Regular Session, 2001

A Bill

SENATE BILL 537

4
5 By: Senator D. Malone
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For An Act To Be Entitled

9 AN ACT TO PROVIDE INSTRUCTIONAL MATERIALS TO DISABLED
10 STUDENTS IN A FORMAT THAT IS COMPATIBLE WITH COMMONLY
11 USED BRAILLE TRANSLATION AND SPEECH SYNTHESIS
12 SOFTWARE, AND TO AUTHORIZE INSTITUTIONS OF HIGHER
13 EDUCATION TO ESTABLISH CENTERS WITHIN THEIR SEGMENTS
14 OF RESPONSIBILITY TO PROCESS REQUESTS FOR ELECTRONIC
15 VERSIONS OF INSTRUCTIONAL MATERIALS; AND FOR OTHER
16 PURPOSES.

Subtitle

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19 AN ACT TO PROVIDE INSTRUCTIONAL
20 MATERIALS TO DISABLED STUDENTS IN A
21 FORMAT THAT IS COMPATIBLE WITH COMMONLY
22 USED BRAILLE TRANSLATION AND SPEECH
23 SYNTHESIS SOFTWARE.
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26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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28 SECTION 1. (a) For purposes of this act:

29 (1) "Institution of higher education" means any accredited post
30 secondary education institution, college, or university in this state;

31 (2) "Instructional material or materials" means textbooks and
32 other materials written and published primarily for use by students that are
33 required or essential to a student's success in a course of study in which a
34 student with a disability is enrolled. The determination of which materials
35 are "required or essential to student success" shall be made by the
36 instructor of the course in consultation with the official making the request

1 pursuant to subdivision (b)(4) in accordance with guidelines issued pursuant
 2 to subsection (i). "Instructional material or materials" includes nontextual
 3 mathematics and science materials to the extent that software is commercially
 4 available to permit the conversion of existing electronic files of the
 5 materials into a format that is compatible with braille translation software
 6 of alternative media for students with disabilities;

7 (3) "Nonprinted instructional materials" means instructional
 8 materials in formats other than print, and includes instructional materials
 9 that require the availability of electronic equipment in order to be used as
 10 a learning resource, including, but not limited to, software programs, video
 11 disks, and video and audio tapes;

12 (4) "Printed instruction material or materials" means
 13 instructional material or materials in book or other printed form;

14 (5) "Specialized format" means braille, audio, or digital text
 15 that is exclusively for use by blind or other persons with disabilities; and

16 (6) "Structural integrity" means all of the printed
 17 instructional material, including, but not limited to, the text of the
 18 material sidebars, the table of contents, chapter headings and subheadings,
 19 footnotes, indexes, glossaries, and bibliographies. "Structural integrity"
 20 need not include nontextual elements such as pictures, illustrations, graphs,
 21 or charts. If good faith efforts fail to produce an agreement pursuant to
 22 subsection (b) between the publisher or manufacturer and the official making
 23 the request pursuant to subdivision (b)(4) in accordance with guidelines
 24 issued pursuant to subsection (i), as to an electronic format that will
 25 preserve the structural integrity of the printed instructional material, the
 26 publisher or manufacturer shall provide the instructional material in ASCII
 27 text and shall preserve as much of the structural integrity of the printed
 28 instructional material as possible.

29 (b) An individual, firm, partnership or corporation that publishes or
 30 manufactures printed instructional materials for students attending any
 31 institution of higher education in the State of Arkansas, shall provide to
 32 the accredited institution of higher education, for use by students of that
 33 school, any printed instructional material in an electronic format mutually
 34 agreed upon by the publisher or manufacturer and the school. Computer files
 35 or electronic versions of printed instructional materials shall maintain the
 36 structural integrity of the printed instructional material, be compatible

1 with commonly used braille translation and speech synthesis software, and
2 include corrections and revisions as may be necessary. The computer files or
3 electronic versions of the printed instructional material shall be provided
4 to the institution of higher education, at no additional cost and in a timely
5 manner, upon receipt of a written request that does all of the following:

6 (1) Certifies that the institution of higher education has
7 purchased the printed instructional material for use by a student with a
8 disability, or that a student with a disability attending or registered to
9 attend that school has purchased the printed instructional material;

10 (2) Certifies that the student has a disability that prevents
11 him or her from using standard instructional materials;

12 (3) Certifies that the printed instructional material is for use
13 by the student in connection with a course in which he or she is registered
14 or enrolled; and

15 (4) Is signed by the coordinator of services for students with
16 disabilities at the institution of higher education and by an official
17 responsible for monitoring compliance with the Americans with Disabilities
18 Act of 1990 (42 U.S.C. 12101 et seq.). The Division of State Services for
19 the Blind of the Department of Human Services, or the Department of Workforce
20 Education may, at the request of the institution of higher education, prepare
21 and sign the certification.

22 (c) An individual, firm, partnership or corporation specified in
23 subsection (b) may also require that, in addition to the conditions
24 enumerated above, the request shall include a statement signed by the
25 student, or if the student is a minor, the student's parent or legal
26 guardian, agreeing to both of the following:

27 (1) The student will use the electronic copy of the printed
28 instructional material in specialized format solely for his or her own
29 educational purposes; and

30 (2) The student will not copy or duplicate the printed
31 instructional material for use by others.

32 (d) If an institution of higher education permits a student to
33 directly use the electronic version of an instructional material, the disk or
34 file shall be copy-protected or reasonable precautions shall be taken to
35 ensure that students do not copy or distribute electronic versions of
36 instructional materials in violation of the Copyright Revisions Act of 1976,

1 as amended (17 U.S.C. Sec. 101 et seq.).

2 (e) An individual, firm, partnership or corporation that publishes or
3 manufactures nonprinted instructional materials for students attending any
4 accredited institution of higher education in the State of Arkansas shall
5 provide computer files or other electronic versions of the nonprinted
6 instructional materials for use by students attending such institution,
7 subject to the same conditions set forth in subsections (b) and (c) for
8 printed instructional materials, when technology is available to convert
9 these nonprinted instructional materials to a format that maintains the
10 structural integrity of the nonprinted instructional materials that is
11 compatible with braille translation and speech synthesis software.

12 (f) Nothing in this section shall be construed to prohibit a school or
13 any educational assistant, instructor or tutor from assisting a student with
14 a disability by using the electronic version of printed instructional
15 material provided pursuant to this act solely to transcribe or arrange for
16 the transcription of the printed instructional material into braille or to
17 otherwise assist the student. In the event a transcription is made, the
18 school shall have the right to share the braille copy of the printed
19 instructional material with other students with disabilities.

20 (g) The president of each institution of higher education may each or
21 in combination with others, establish one or more centers to process requests
22 for electronic versions of instructional materials pursuant to this section.
23 If a center or centers is established, each of the following shall apply:

24 (1) The student and the educational institution shall submit
25 requests for instructional material made pursuant to subdivision (b)(4) to
26 the center, which shall transmit the request to the publisher or manufacturer
27 with the appropriate certification;

28 (2) If there is more than one (1) center, each center shall make
29 every effort to coordinate requests within its segment;

30 (3) The publisher or manufacturer of instructional material
31 shall be required to honor and respond to only those requests submitted
32 through a designated center; and

33 (4) If a publisher or manufacturer has responded to a request
34 for instructional materials by a center, or on behalf of all the centers
35 within a segment, all subsequent requests for these instructional materials
36 shall be satisfied by the center to which the request is made.

1 (h) Nothing in this section shall be deemed to authorize any use of
2 instructional materials that would constitute an infringement of copyright
3 under the Copyright Revision Act of 1976, as amended (17 U.S.C. Sec. 101 et
4 seq.).

5 (i) The institution of higher education or any center which requests
6 instructional material pursuant to this act shall each adopt guidelines
7 consistent with this section for its implementation and administration. At a
8 minimum, the guidelines shall address all of the following:

9 (1) The designation of materials deemed "required or essential
10 to student success";

11 (2) The determination of the availability of technology for the
12 conversion of nonprinted materials pursuant to subsection (e) and the
13 conversion of mathematics and science materials pursuant to subsection (e);

14 (3) The procedures and standards relating to distribution of
15 files and materials pursuant to subsections (b) and (c); and

16 (4) Other matters as are deemed necessary or appropriate to
17 carry out the purposes of this section.

18 (j) Failure to comply with the requirements of this act shall be an
19 act of discrimination pursuant to Arkansas Code 16-123-107(a)(2).

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