

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 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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For An Act To Be Entitled

8
9 AN ACT CONCERNING THE PAYMENT OF EDUCATIONAL
10 COSTS OF JUVENILES PLACED IN TREATMENT
11 FACILITIES; AND FOR OTHER PURPOSES.
12

Subtitle

13
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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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
36 Disabilities Education Act; and



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

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

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

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

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

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

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

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

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

35 (f) Nothing in this section shall be construed to require payment by
36 the department, a public school district, or an open-enrollment charter

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

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

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

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

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

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25 /s/ Saunders
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