

HOUSE BILL No. 2203

By Committee on K-12 Education Budget

Requested by Representative McDonald on behalf of Kathryn Meinhardt of Dream Acres FASD Community and Kansas FASD Support Network

2-3

1 AN ACT concerning education; relating to special education; defining the
2 term other health impairment; including children with a fetal alcohol
3 syndrome disorder under such definition; amending K.S.A. 2024 Supp.
4 72-3404 and repealing the existing section.
5

6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. K.S.A. 2024 Supp. 72-3404 is hereby amended to read as
8 follows: 72-3404. -As used in this act:

- 9 (a) "School district" means any public school district.
10 (b) "Board" means the board of education of any school district.
11 (c) "State board" means the state board of education.
12 (d) "Department" means the state department of education.
13 (e) "State institution" means any institution under the jurisdiction of a
14 state agency.
15 (f) "State agency" means the Kansas department for children and
16 families, the Kansas department for aging and disability services, the
17 department of corrections and the juvenile justice authority.
18 (g) "Exceptional children" means persons who are children with
19 disabilities or gifted children and are school age, to be determined in
20 accordance with rules and regulations adopted by the state board, whose
21 age may differ from the ages of children required to attend school under
22 the provisions of K.S.A. 72-3120, and amendments thereto.
23 (h) "Gifted children" means exceptional children who are determined
24 to be within the gifted category of exceptionality as such category is
25 defined by the state board.
26 (i) "Special education" means specially designed instruction provided
27 at no cost to parents to meet the unique needs of an exceptional child,
28 including:
29 (1) Instruction conducted in the classroom, in the home, in hospitals
30 and institutions, and in other settings; and
31 (2) instruction in physical education.
32 (j) "Special teacher" means a person, employed by or under contract
33 with a school district or a state institution to provide special education or
34 related services, who is qualified to:

1 (1) Provide special education or related services to exceptional
2 children as determined pursuant to standards established by the state
3 board; or

4 (2) assist in the provision of special education or related services to
5 exceptional children as determined pursuant to standards established by
6 the state board.

7 (k) "State plan" means the state plan for special education and related
8 services authorized by this act.

9 (l) "Agency" means boards and the state agencies.

10 (m) "Parent" means:

11 (1) A natural parent;

12 (2) an adoptive parent;

13 (3) a person acting as parent;

14 (4) a legal guardian;

15 (5) an education advocate; or

16 (6) a foster parent, if the foster parent has been appointed the
17 education advocate of an exceptional child.

18 (n) "Person acting as parent" means a person such as a grandparent,
19 stepparent or other relative with whom a child lives or a person other than
20 a parent who is legally responsible for the welfare of a child.

21 (o) "Education advocate" means a person appointed by the state board
22 in accordance with the provisions of K.S.A. 38-2218, and amendments
23 thereto. A person appointed as an education advocate for a child shall not
24 be:

25 (1) An employee of the agency who is required by law to provide
26 special education or related services for the child;

27 (2) an employee of the state board, the department, or any agency that
28 is directly involved in providing educational services for the child; or

29 (3) any person having a professional or personal interest that would
30 conflict with the interests of the child.

31 (p) "Free appropriate public education" means special education and
32 related services that:

33 (1) Are provided at public expense, under public supervision and
34 direction, and without charge;

35 (2) meet the standards of the state board;

36 (3) include an appropriate preschool, elementary or secondary school
37 education; and

38 (4) are provided in conformity with an individualized education
39 program.

40 (q) "Federal law" means the individuals with disabilities education
41 act, as amended.

42 (r) "Individualized education program" or "IEP" means a written
43 statement for each exceptional child that is developed, reviewed, and

1 revised in accordance with the provisions of K.S.A. 72-3429, and
2 amendments thereto.

3 (s) (1) "Related services" means transportation, and such
4 developmental, corrective, and other supportive services, including
5 speech-language pathology and audiology services, interpreting services,
6 psychological services, physical and occupational therapy, recreation,
7 including therapeutic recreation, social work services, school nurse
8 services designed to enable a child with a disability to receive a free
9 appropriate public education as described in the child's IEP, counseling
10 services, including rehabilitation counseling, orientation and mobility
11 services, and medical services, except that such medical services shall be
12 for diagnostic and evaluation purposes only, as may be required to assist
13 an exceptional child to benefit from special education, and includes the
14 early identification and assessment of disabling conditions in children.

15 (2) "Related services" does not mean any medical device that is
16 surgically implanted or the replacement of any such device.

17 (t) "Supplementary aids and services" means aids, services, and other
18 supports that are provided in regular education classes or other education-
19 related settings to enable children with disabilities to be educated with
20 nondisabled children to the maximum extent appropriate.

21 (u) "Individualized education program team" or "IEP team" means a
22 group of individuals composed of:

23 (1) The parents of a child;

24 (2) at least one regular education teacher of the child if the child is, or
25 may be, participating in the regular education environment;

26 (3) at least one special education teacher or, where appropriate, at
27 least one special education provider of the child;

28 (4) a representative of the agency directly involved in providing
29 educational services for the child who is:

30 (A) Qualified to provide or supervise the provision of specially
31 designed instruction to meet the unique needs of exceptional children;

32 (B) knowledgeable about the general curriculum; and

33 (C) knowledgeable about the availability of resources of the agency;

34 (5) an individual who can interpret the instructional implications of
35 evaluation results;

36 (6) at the discretion of the parent or the agency, other individuals who
37 have knowledge or special expertise regarding the child, including related
38 services personnel as appropriate; and

39 (7) whenever appropriate, the child.

40 (v) "Evaluation" means a multisourced and multidisciplinary
41 examination, conducted in accordance with the provisions of K.S.A. 72-
42 3428, and amendments thereto, to determine whether a child is an
43 exceptional child.

1 (w) "Independent educational evaluation" means an examination that
2 is obtained by the parent of an exceptional child and performed by an
3 individual or group of individuals who meet state and local standards to
4 conduct such an examination.

5 (x) "Elementary school" means any nonprofit institutional day or
6 residential school that offers instruction in any or all of the grades
7 kindergarten through nine.

8 (y) "Secondary school" means any nonprofit institutional day or
9 residential school that offers instruction in any or all of the grades nine
10 through 12.

11 (z) "Children with disabilities" means children who:

12 (1) Have an intellectual disability, hearing loss including deafness,
13 speech or language disorders, visual impairments including blindness,
14 emotional disability, orthopedic impairments, autism, dyslexia, traumatic
15 brain injury, other health impairments; or specific learning disabilities and
16 who, by reason thereof, need special education and related services; and

17 (2) are experiencing one or more developmental delays and, by
18 reason thereof, need special education and related services if such children
19 are ages three through nine.

20 (aa) "Substantial change in placement" means the movement of an
21 exceptional child, for more than 25% of the child's school day, from a less
22 restrictive environment to a more restrictive environment or from a more
23 restrictive environment to a less restrictive environment.

24 (bb) "Material change in services" means an increase or decrease of
25 25% or more of the duration or frequency of a special education service, a
26 related service or a supplementary aid or a service specified on the IEP of
27 an exceptional child.

28 (cc) "Developmental delay" means such a deviation from average
29 development in one or more of the following developmental areas, as
30 determined by appropriate diagnostic instruments and procedures, as
31 indicates that special education and related services are required:

- 32 (1) Physical;
- 33 (2) cognitive;
- 34 (3) adaptive behavior;
- 35 (4) communication; or
- 36 (5) social or emotional development.

37 (dd) "Homeless children" means "homeless children and youths" as
38 defined in the federal McKinney-Vento homeless assistance act, 42 U.S.C.
39 § 11434a.

40 (ee) "Limited English proficient" means an individual who meets the
41 qualifications specified in section 9101 of the federal elementary and
42 secondary education act of 1965, as amended.

43 (ff) "Emotional disability" means the same as the term "emotional

1 disturbance" is used in public law 101-476, the individuals with
2 disabilities education act.

3 *(gg) "Other health impairment" means having limited strength,*
4 *vitality or alertness, including a heightened alertness to environmental*
5 *stimuli, that results in limited alertness with respect to the educational*
6 *environment and that meets the following criteria:*

7 *(1) Is due to chronic or acute health problems, including fetal alcohol*
8 *syndrome disorder, asthma, attention deficit disorder or attention deficit*
9 *hyperactivity disorder, diabetes, epilepsy, a heart condition, hemophilia,*
10 *lead poisoning, leukemia, nephritis, rheumatic fever, sickle cell anemia*
11 *and Tourette syndrome; and*

12 *(2) adversely affects a child's educational performance.*

13 Sec. 2. K.S.A. 2024 Supp. 72-3404 is hereby repealed.

14 Sec. 3. This act shall take effect and be in force from and after its
15 publication in the statute book.