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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2014

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A N A C T

RELATING TO EDUCATION -- CHILDREN WITH DISABILITIES

Introduced By: Senators DaPonte, and Conley

Date Introduced: February 12, 2014

Referred To: Senate Finance

It is enacted by the General Assembly as follows:

1           SECTION 1. Section 16-24-1 of the General Laws in Chapter 16-24 entitled "Children  
2 with Disabilities" is hereby amended to read as follows:

3           **16-24-1. Duty of school committee to provide special education.** -- (a) In any city or  
4 town where there is a child with a disability within the age range as designated by the regulations  
5 of the ~~state board of regents for elementary and secondary education~~ Rhode Island board of  
6 education, who is functionally limited to such an extent that normal educational growth and  
7 development is prevented, the school committee of the city or town where the child resides shall  
8 provide the type of special education that will best satisfy the needs of the child with a disability,  
9 as recommended and approved by the ~~state board of regents for elementary and secondary~~  
10 ~~education~~ Rhode Island board of education in accordance with its regulations governing the  
11 education of children with disabilities.

12           (b) Notwithstanding any other federal or state law or regulation, the school committee  
13 where a parentally placed child who has or develops a disability in private school resides, shall  
14 provide the child with the same free and appropriate education as it provides to children in public  
15 schools. These children shall have the same rights and remedies in the regulations of the ~~board of~~  
16 ~~regents for elementary and secondary education~~ Rhode Island board of education governing the  
17 education of children with disabilities as children in public school relative to initially determining  
18 eligibility, implementation and/or any other rights and remedies relative to any special education  
19 services the child may be eligible or receive from the public school district.

1 (c) For the purpose of this statute, a parentally placed child who has or develops a  
2 disability in private school is defined as a child enrolled or placed in a private school by the  
3 unilateral decision of his or her parents and without consultation of the public school district, who  
4 either has, or at some point while at the private school is diagnosed with a learning disability.  
5 Parents who unilaterally enroll their child in a private school are required to pay the tuition costs  
6 related to the child's education that are unrelated to the child's disability, and the public school  
7 district where the child resides is responsible for payment of the services related to the child's  
8 disability as developed and determined in the child's individual education plan.

9 (d) For the purpose of this statute, a free and appropriate education is defined as special  
10 education services and related services that:

11 (i) Are provided at public expense, under public supervision and direction, and without  
12 charge;

13 (ii) Meet all of the standards and requirements of the state of Rhode Island department of  
14 education and requirements of the regulations of the board of regents for elementary and  
15 secondary education governing the education of children with disabilities, which shall include  
16 initial evaluation and determination procedures;

17 (iii) Include preschool, elementary school or secondary school education in the state; and

18 (iv) Are provided in conformity with an individualized education program that meets the  
19 requirements of the regulations of the ~~board of regents for elementary and secondary education~~  
20 [Rhode Island board of education](#) governing the education of children with disabilities.

21 (e) In those cases that an individual education plan has been adopted for a child and the  
22 child moves to another town or city, the plan shall remain in effect until a new plan is adopted for  
23 the child in the new town or city.

24 (f) Provided, that as to any child attending the East Providence campus of Bradley  
25 Hospital who is not a resident of East Providence, the child's sending district or district where  
26 the child resides shall be responsible to reimburse the school department of the city of East  
27 Providence for any balance due on monies paid to Bradley Hospital for said child after  
28 application of any state aid. If such direct payment would otherwise violate the state school  
29 funding formula and/or federal law, then the sending district shall be responsible to reimburse the  
30 school department of the city of East Providence for payments made by the city of East  
31 Providence for said child.

32 SECTION 2. Sections 16-64-1 and 16-64-1.1 of the General Laws in Chapter 16-64  
33 entitled "Residence of Children for School Purposes" are hereby amended to read as follows:

34 **16-64-1. Residency of children for school purposes.** -- Except as provided by law or by

1 agreement, a child shall be enrolled in the school system of the city or town where he or she  
2 resides. A child shall be deemed to be a resident of the city or town where his or her parents  
3 reside. If the child's parents reside in different cities or towns the child shall be deemed to be a  
4 resident of the city or town in which the parent having actual custody of the child resides. In cases  
5 where a child has no living parents, has been abandoned by his or her parents, or when parents are  
6 unable to care for their child on account of parental illness or family break-up, the child shall be  
7 deemed to be a resident of the city or town where the child lives with his or her legal guardian,  
8 natural guardian, or other person acting in loco parentis to the child. An emancipated minor shall  
9 be deemed to be a resident of the city or town where he or she lives. Children placed in group  
10 homes, in foster care, in child caring facilities, or by a Rhode Island state agency or a Rhode  
11 Island licensed child placing agency shall be deemed to be residents of the city or town where the  
12 group home, child caring facility, or foster home is located for the purposes of enrollment, and  
13 this city or town shall be reimbursed or the child's education shall be paid for in accordance with  
14 section 16-64-1.1, except that in the case of a child at the East Providence campus of Bradley  
15 Hospital, the child shall not be considered to be a resident of the city of East Providence unless  
16 the child otherwise qualifies as a resident of said city aside from his or her attendance at Bradley  
17 Hospital. In all other cases a child's residence shall be determined in accordance with the  
18 applicable rules of the common law. Where a child is a resident in a dwelling which lies in more  
19 than one municipality, the parent(s) or guardian shall choose which school district the child shall  
20 attend without payment of costs as tuition.

21 **16-64-1.1. Payment and reimbursement for educational costs of children placed in**  
22 **foster care, group homes, or other residential facility by a Rhode Island state agency. -- (a)**

23 Children placed in foster care by a Rhode Island licensed child placing agency or a Rhode Island  
24 governmental agency shall be entitled to the same free appropriate public education provided to  
25 all other residents of the city or town where the child is placed. The city or town shall pay the cost  
26 of the education of the child during the time the child is in foster care in the city or town.

27 (b) Children placed by DCYF in a group home or other residential facility that does not  
28 include the delivery of educational services are to be educated by the community in which the  
29 group home or other residential facility is located, and those children shall be entitled to the same  
30 free appropriate public education provided to all other residents of the city or town where the  
31 child is placed. For purposes of payment and reimbursement for educational costs under this  
32 chapter, the term "group home or other residential facility" shall not include independent living  
33 programs. Each city and town that contains one or more group homes or other residential  
34 facilities that do not include delivery of educational services will receive funds as part of state aid

1 to education in accordance with the following provisions:

2 (1) On December 31 of each year the DCYF shall provide the department of elementary  
3 and secondary education with a precise count of how many group home or other residential  
4 facility "beds" exist in each Rhode Island city or town, counting only those "beds" in facilities  
5 that do not include the delivery of educational services. The number of "beds" in each group  
6 home or other residential facility shall be equal to the maximum number of children that may be  
7 placed in that group home or other residential facility on any given night according to the  
8 applicable licensure standards of the DCYF.

9 (2) For the fiscal year beginning July 1, 2007, if the number of beds certified by the  
10 Department of Children, Youth and Families for a school district by December 31, 2007 is greater  
11 than the number certified March 14, 2007 upon which the education aid for FY 2008 was  
12 appropriated, the education aid for that district will be increased by the number of increased beds  
13 multiplied by fifteen thousand dollars (\$15,000). Notwithstanding the provisions of this section or  
14 any law to the contrary, the education aid for all group home or other residential facility "beds"  
15 located or associated with the Children's Residential and Family Treatment (CRAFT) program  
16 located on the East Providence campus of Bradley Hospital shall be twenty-two thousand dollars  
17 (\$22,000) per bed. The Department of Elementary and Secondary Education shall include the  
18 additional aid in equal payments in March, April, May and June, and the Governor's budget  
19 recommendations pursuant to section 35-3-8 shall include the amounts required to provide the  
20 increased aid.

21 For all fiscal years beginning after June 30, 2008, education aid for each school district  
22 shall include fifteen thousand dollars (\$15,000) for each bed certified by the Department of  
23 Children, Youth and Families by the preceding December 31. Notwithstanding the provisions of  
24 this section or any law to the contrary, the education aid for all group home or other residential  
25 facility "beds" located or associated with the Children's Residential and Family Treatment  
26 (CRAFT) program located on the East Providence campus of Bradley Hospital shall be twenty-  
27 two thousand dollars (\$22,000) per bed. For all fiscal years beginning after June 30, 2008,  
28 whenever the number of beds certified by the Department of Children, Youth and Families for a  
29 school district by December 31 is greater than the number certified the prior December 31 upon  
30 which the education aid for that fiscal year was appropriated, the education aid for that district as  
31 enacted by the assembly during the prior legislative session for that fiscal year will be increased  
32 by the number of increased beds multiplied by the amount per bed authorized for that fiscal year.  
33 The Department of Elementary and Secondary Education shall include the additional aid in equal  
34 payments in March, April, May and June, and the Governor's budget recommendations pursuant

1 to section 35-3-8 shall include the amounts required to provide the increased aid.

2 (i) Provided, that as to any child attending the East Providence campus of Bradley  
3 Hospital who is not a resident of East Providence, the child's sending district or district where  
4 the child resides shall be responsible to reimburse the school department of the city of East  
5 Providence for any balance due on monies paid to Bradley Hospital for said child after  
6 application of any state aid. If such direct payment would otherwise violate the state school  
7 funding formula and/or federal law, then the sending district shall be responsible to reimburse the  
8 school department of the city of East Providence for payments made by the city of East  
9 Providence for said child.

10 (3) [Deleted by P.L. 2007, ch. 73, art. 21, section 6.]

11 (4) [Deleted by P.L. 2007, ch. 73, art. 21, section 6.]

12 (5) [Deleted by P.L. 2007, ch. 73, art. 21, section 6.]

13 (c) Children placed by DCYF in a residential treatment program, group home, or other  
14 residential facility, whether or not located in the state of Rhode Island, which includes the  
15 delivery of educational services, provided by that facility (excluding facilities where students are  
16 taught on grounds for periods of time by teaching staff provided by the school district in which  
17 the facility is located), shall have the cost of their education paid for as provided for in subsection  
18 (d) of this section and section 16-64-1.2. The city or town determined to be responsible to DYCF  
19 for a per-pupil special education cost pursuant to section 16-64-1.2 shall pay its share of the cost  
20 of educational services to DCYF or to the facility providing educational services.

21 (d) Children placed by DCYF in group homes, child caring facilities, community  
22 residences, or other residential facilities shall have the entire cost of their education paid for by  
23 DCYF if:

24 (1) The facility is operated by the state of Rhode Island or the facility has a contract with  
25 DCYF to fund a pre-determined number of placements or part of the facility's program;

26 (2) The facility is state-licensed; and

27 (3) The facility operates an approved on-grounds educational program, whether or not the  
28 child attends the on-grounds program.

29 SECTION 3. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO EDUCATION -- CHILDREN WITH DISABILITIES

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1           This act would provide that for any child attending the East Providence campus of  
2 Bradley Hospital, the child's residence district and/or sending district would be responsible for  
3 reimbursement to the school department of the city of East Providence for any monies paid to  
4 Bradley Hospital after application of any state aid.

5           This act would take effect upon passage.

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