

HOUSE BILL 1035

By Shaw

AN ACT to amend Tennessee Code Annotated, Title 49,
Chapter 1 and Title 49, Chapter 6, relative to
student retention.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 49-6-3115, is amended by deleting the section and substituting instead the following:

(a) A student may be retained in the third or fourth grade if the student's English language arts (ELA) teacher, or the student's school principal, determines:

(1) That the student is not proficient in ELA:

(A) Based on the student's achieving a performance level rating of "approaching" or "below" on the ELA portion of the student's most recent Tennessee comprehensive assessment program (TCAP) test;

(B) Based on the student's testing below proficient in ELA on one (1) or more of the state-adopted benchmark assessments administered to the student during the school year; or

(C) Because the student has not shown a basic understanding of the ELA curriculum or an ability to perform the skills required in ELA, as demonstrated by the student's grades or standardized test results; and

(2) That retention may benefit the student.

(b)

(1) If a student's ELA teacher or school principal determines that the student is not proficient in ELA and that retention may benefit the student, then the student's ELA teacher or school principal shall notify the student's parent or

legal guardian in writing of the potential retention decision no later than March 1. The written notice must inform the student's parent or legal guardian that the student may be promoted to the next grade level if the student:

(A) Attends a learning loss bridge camp before the beginning of the upcoming school year, maintains a ninety percent (90%) attendance rate at the camp, and demonstrates growth, as determined by the ELA teacher or school principal who recommended retention for the student, on the post-test administered to the student at the end of the learning loss bridge camp, as required under § 49-6-1502(4)(F); or

(B) Is assigned a tutor through the Tennessee accelerating literacy and learning corps (TALLC) to provide the student with tutoring services for the entirety of the upcoming school year.

(2) Notwithstanding subdivisions (b)(1)(A)-(B), a student's ELA teacher or school principal is not required to inform a student's parent or legal guardian of one (1) or more of the potential alternatives to retention identified in subdivisions (b)(1)(A)-(B) if the alternative to retention is not available to the student.

(c) A student shall not be retained pursuant to subsection (a) if:

(1) The student is an English language learner and has received less than two (2) years of ELA instruction;

(2) The student was previously retained in any of the grades kindergarten through three (K-3);

(3) The student is retested before the beginning the upcoming school year and scores proficient in ELA;

(4) The student attends a learning loss bridge camp before the beginning of the upcoming school year, maintains a ninety percent (90%) attendance rate

at the camp, and demonstrates growth, as determined by the ELA teacher or school principal who recommended retention for the student, on the post-test administered to the student at the end of the learning loss bridge camp, as required under § 49-6-1502(4)(F); or

(5) The student is assigned a tutor through the TALLC to provide the student with tutoring services for the entirety of the upcoming school year based on tutoring requirements established by the department.

(d) A student shall not be retained in the third or fourth grade more than once.

(e) Subject to available funding, and to the extent authorized by federal law, LEAs and public charter schools may use temporary assistance for needy families (TANF) program funds to cover up to fifty percent (50%) of the costs associated with providing tutoring services for students pursuant to subdivision (c)(5).

(f) LEAs and public charter schools shall not retain a student based on the student's disability or suspected disability.

(g) The state board of education shall promulgate rules to establish an appeal process, to be administered by the department, for a student who is identified for retention pursuant to subsection (a). The rules must provide that appeals may only be filed by the student's parent or legal guardian. The rules must be promulgated according to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

SECTION 2. Tennessee Code Annotated, Section 49-1-905(d)(4), is amended by deleting the language "mandatory retention under § 49-6-3115(a)(1)" and substituting instead the language "retention under § 49-6-3115".

SECTION 3. This act takes effect July 1, 2023, the public welfare requiring it, and applies to the 2023-2024 school year and each school year thereafter.