



CHESTER J. CULVER  
GOVERNOR

## OFFICE OF THE GOVERNOR

PATTY JUDGE  
LT. GOVERNOR

March 2, 2010

The Honorable Michael Mauro  
Secretary of State  
State Capitol Building  
LOCAL

Dear Mr. Secretary:

I hereby transmit:

**Senate File 2291**, an Act relating to special education rights and duties and to the related duties and operations of the department of education and local school boards.

The above Senate File is hereby approved this date.

Sincerely,

A handwritten signature in black ink, appearing to read "Chester J. Culver", with a long horizontal flourish extending to the right.

Chester J. Culver  
Governor

CJC:bdj

cc: Secretary of the Senate  
Chief Clerk of the House





Senate File 2291

AN ACT

RELATING TO SPECIAL EDUCATION RIGHTS AND DUTIES AND TO THE  
RELATED DUTIES AND OPERATIONS OF THE DEPARTMENT OF EDUCATION  
AND LOCAL SCHOOL BOARDS.

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

Section 1. Section 256B.2, subsection 1, paragraph a, Code Supplement 2009, is amended to read as follows:

a. *"Children requiring special education"* means persons under twenty-one years of age, including children under five years of age, who have a disability in obtaining an education because of a head injury, autism, behavioral disorder, or physical, mental, communication, or learning disability, as defined by the rules of the department of education. If a child requiring special education reaches the age of twenty-one during an academic year, the child may elect to receive special education services until the end of the academic year.

Sec. 2. Section 256B.3, Code 2009, is amended by adding the following new subsection:

NEW SUBSECTION. 14A. To submit copies of all reports the division provides to the United States department of education under part B of the federal Individuals with Disabilities

Education Act, as amended, including but not limited to any report concerning disproportionate representation in special education based on race or ethnicity, to the general assembly on the date each such report is provided to the United States department of education.

Sec. 3. Section 256B.6, Code 2009, is amended to read as follows:

**256B.6 Parent's or guardian's duties — review.**

1. When the school district or area education agency has provided special education services and programs as provided herein for any child requiring special education, either by admission to a special class or by supportive services, it shall be the duty of the parent or guardian to enroll ~~said~~ the child for instruction in such special classes or supportive services as may be established, except in the event a doctor's certificate is filed with the secretary of the school district showing that it is inadvisable for medical reasons for the child requiring special education to receive the special education provided; all the provisions and conditions of chapter 299 ~~and amendments thereto~~ shall be applicable to this section, and any violations shall be punishable as provided in ~~said~~ chapter 299.

2. A child, or the parent or guardian of the child, or the school district in which the child resides, may obtain a review of an action or omission of ~~state or~~ local authorities pursuant to the procedures established by the state board of education on the ground that the child has been or is about to be:

~~1.~~ a. Denied entry or continuance in a program of special education appropriate to the child's condition and needs.

~~2.~~ b. Placed in a special education program which is inappropriate to the child's condition and needs.

~~3.~~ c. Denied educational services because no suitable program of education or related services is maintained.

~~4.~~ d. Provided with special education which is insufficient in quantity to satisfy the requirements of law.

~~5.~~ e. Assigned to a program of special education when the child does not have a disability.

3. When a child requiring special education attains the age of majority or is incarcerated in an adult or juvenile, state or local, correctional institution, all rights accorded to the parent or guardian under this chapter transfer to the child except as provided in this subsection. Any notice required by this chapter shall be provided to both the child who has reached the age of majority or is incarcerated in an adult

or juvenile, state or local, correctional institution, and the parent or guardian. If rights under this chapter have transferred to the child and the child has been determined to be incompetent by a court or determined unable to provide informed educational consent by a court or other competent authority, then rights under this chapter shall be exercised by the person who has been appointed to represent the educational interest of the child. The director of the department of education may establish standards for determining whether a public agency, as defined in section 28E.2, is competent to determine whether a child is unable to provide informed educational consent, and the procedures by which such determination shall be made and reviewed.

4. Notwithstanding section 17A.11, the state board of education shall adopt rules for the appointment of an impartial administrative law judge for special education appeals. The rules shall comply with federal statutes and regulations.

Sec. 4. Section 256B.8, unnumbered paragraph 2, Code 2009, is amended to read as follows:

An area education agency director of special education may request approval from the department of education to continue the special education program of a person beyond the ~~person's twenty-first birthday~~ period specified in section 256B.2, subsection 1, paragraph "a", if the person had an accident or prolonged illness that resulted in delays in the initiation of or interruptions in that person's special education program. Approval may be granted by the department to continue the special education program of that person for up to three years or until the person's twenty-fourth birthday.

Sec. 5. Section 256B.11, Code 2009, is amended to read as follows:

**256B.11 Program plans.**

1. Program plans submitted to the department of education pursuant to section 273.5 for approval by the director of the department of education shall establish all of the following:

~~1.~~ a. That there are sufficient children requiring special education within the area.

~~2.~~ b. That the service or program will be provided by the most appropriate educational agency.

~~3.~~ c. That the educational agency providing the service or program has employed qualified special educational personnel.

~~4.~~ d. That the instruction is a natural and normal progression of a planned course of instruction.

~~5.~~ e. That all revenue raised for support of special education instruction and services is expended for actual delivery of special education instruction or services.

~~6.~~ f. Other factors as the state board may require.

2. Notwithstanding subsection 1 and section 273.5, subsection 6, the director of the department of education may authorize the area education agency to submit a statement assuring that the requirements of subsection 1 are satisfied in lieu of submitting a special education instructional and support program plan.

Sec. 6. Section 256B.15, subsection 7, Code 2009, is amended to read as follows:

7. The area education agencies shall transfer to the department of ~~education~~ human services an amount equal to ~~eighty-four percent~~ the nonfederal share of the payments to be received from the medical assistance program ~~provided~~ pursuant to chapter 249A. The nonfederal share amount shall be transferred to the medical assistance account prior to claims payment. This requirement does not apply to medical assistance reimbursement for services provided by an area education agency under part C of the federal Individuals With Disabilities Education Act. Funds received under this section shall not be considered or included as part of the area education agencies' budgets when calculating funds that are to be received by area education agencies during a fiscal year.

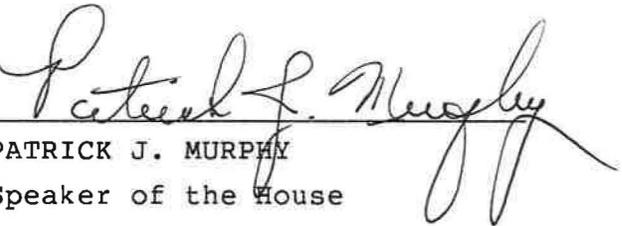
Sec. 7. Section 257.11, subsection 8, Code Supplement 2009, is amended to read as follows:

8. *Pupils ineligible.* A pupil eligible for the weighting plan provided in section 256B.9 is not eligible for supplementary weighting pursuant to this section unless it is determined that the course generating the supplemental weighting has no relationship to the pupil's disability. A pupil attending an alternative program or an at-risk pupils' program, including alternative high school programs, is not eligible for supplementary weighting under subsection 2.

Sec. 8. STATE MANDATE FUNDING SPECIFIED. In accordance with section 25B.2, subsection 3, the state cost of requiring compliance with any state mandate included in this Act shall be paid by a school district from state school foundation aid received by the school district under section 257.16. This specification of the payment of the state cost shall be deemed to meet all of the state funding-related requirements of section 25B.2, subsection 3, and no additional state funding shall

be necessary for the full implementation of this Act by and enforcement of this Act against all affected school districts.

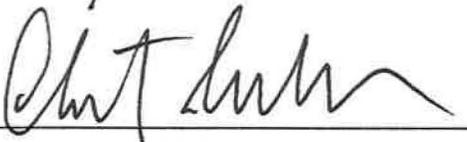
  
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JOHN P. KIBBIE  
President of the Senate

  
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PATRICK J. MURPHY  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2291, Eighty-third General Assembly.

Approved March 2<sup>nd</sup>, 2010

  
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MICHAEL E. MARSHALL  
Secretary of the Senate

  
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CHESTER J. CULVER  
Governor