SENATE FILE 2360
BY COMMITTEE ON APPROPRIATIONS

(SUCCESSOR TO SF 2190)
(SUCCESSOR TO SSB 3080)

(As Amended and Passed by the Senate February 25, 2020)

_____ = New Language by the Senate

A BILL FOR

An Act relating to classroom management and related practitioner preparation procedures for reporting classroom violence and assaults, to corporal punishment, establishing a grant program and fund for creation of therapeutic classrooms, providing claims reimbursement to school districts for costs relating to therapeutic classrooms, making appropriations, and including effective date provisions.

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

Section 1. Section 256.9, Code 2020, is amended by adding the following new subsection:

NEW SUBSECTION. 60. Develop, establish, and distribute to school districts evidence-based standards, guidelines, and expectations for the appropriate and inappropriate responses to behavior in the classroom that presents an imminent threat of bodily injury to a student or another person and for the reasonable, necessary, and appropriate physical restraint of a student, consistent with rules adopted by the state board pursuant to section 280.21. The director shall consult with the area education agencies to create comprehensive and consistent standards and guidance for professional development relating to successfully educating individuals in the least restrictive environment, and for evidence-based interventions consistent with the standards established pursuant to this subsection.

Sec. 2. Section 256.16, subsection 1, paragraph c, Code 2020, is amended to read as follows:

c. Include in the professional education program, preparation that contributes to the education of students with disabilities and students who are gifted and talented, preparation in developing and implementing individualized education programs and behavioral intervention plans, preparation for educating individuals in the least restrictive environment and identifying that environment, and strategies that address difficult and violent student behavior and improve academic engagement and achievement, and preparation in classroom management addressing high-risk behaviors including~~,~~ but not limited to~~,~~ behaviors related to substance abuse. Preparation required under this paragraph must be successfully completed before graduation from the practitioner preparation program.

Sec. 3. NEW SECTION. **256.25 Therapeutic classroom incentive grant program — fund.**

1. The department shall create a therapeutic classroom

incentive grant program to provide competitive grants to school districts for the establishment of therapeutic classrooms.

2. A school district, which may collaborate and partner with one or more school districts, area education agencies, accredited nonpublic schools, nonprofit agencies, and institutions that provide children's mental health services, located in mental health and disability services regions providing children's behavioral health services in accordance with chapter 331, subchapter III, part 6, may apply for a grant under this program to establish a therapeutic classroom in the school district in accordance with this section.

3. The department shall develop a grant application and selection and evaluation criteria. Selection criteria shall include a method for prioritizing grant applications submitted by school districts located in mental health and disability services regions providing children's behavioral health services in accordance with chapter 331, subchapter III, part 6, with those proposing to serve the most students given highest priority.

4. *a.* The department may disburse moneys contained in the therapeutic classroom incentive fund as grants to school districts for the establishment of therapeutic classrooms.

b. The total amount of funding awarded for the establishment of therapeutic classrooms for a fiscal year shall not exceed an amount equivalent to the state cost per pupil multiplied by weighting of one and one-half pupil calculated for one hundred fifty pupils.

c. Grant awards shall be made for the establishment of therapeutic classrooms with one to five pupils, classrooms with six to ten pupils, and classrooms with eleven to fifteen pupils.

d. For purposes of calculating a therapeutic classroom grant award, the department shall determine grant awards based on the following:

(1) For classrooms with one to five pupils, using the state

cost per pupil multiplied by weighting of one and one-half pupil multiplied by five.

(2) For classrooms with six to ten pupils, using the state cost per pupil multiplied by weighting of one and one-half pupil multiplied by ten.

(3) For classrooms with eleven to fifteen pupils, using the state cost per pupil multiplied by weighting of one and one-half pupil multiplied by fifteen.

e. Grant moneys shall be distributed after December 31 but before the start of the school calendar for start-up costs for a new therapeutic classroom in the fall semester.

5. A therapeutic classroom incentive fund is established in the state treasury under the control of the department. Moneys credited to the fund are appropriated to the department for purposes of distributing grants under this section. The department may accept gifts, grants, bequests, and other private contributions, as well as state or federal moneys, for deposit in the fund. Moneys available in the therapeutic classroom incentive fund for a fiscal year shall be distributed as grants pursuant to this section. Notwithstanding section 8.33, moneys in the fund at the close of the fiscal year shall not revert but shall remain available for expenditure for the purposes designated for subsequent fiscal years.

6. Placement of a child requiring special education under chapter 256B in a therapeutic classroom, whether or not the school district operating such classroom receives funds under this section, is subject to the provisions of chapter 256B, to the administrative rules adopted by the state board for purposes of chapter 256B, and to the federal Individuals with Disabilities Education Act, 20 U.S.C. §1400 et seq., and shall not violate such laws, rules, or regulations.

7. For purposes of this section, "*therapeutic classroom*" means a classroom designed for the purpose of providing support for any student whose emotional, social, or behavioral needs interfere with the student's ability to be successful in the

current educational environment, with or without supports, until the student is able to successfully return to the student's current education environment, with or without supports, including but not limited to the general education classroom.

Sec. 4. NEW SECTION. **256.25A Therapeutic classroom — claims.**

1. A school district may submit claims to the department for the costs of providing therapeutic classroom services and transportation services in accordance with this section.

a. (1) If the general assembly appropriates moneys for purposes of transportation claims reimbursement in accordance with this paragraph "*a*", a school district may submit a claim for reimbursement for transportation services for students who are enrolled in the school district or in an accredited nonpublic school located within the boundaries of the school district, who have not been assigned a weighting under section 256B.9, but who are assigned to a therapeutic classroom that is located more than thirty miles from the school designated for attendance or accredited nonpublic school and is operated by another school district or accredited nonpublic school under an agreement between the school districts or between a school district and an accredited nonpublic school.

(2) Claims for transportation reimbursement shall be made to the department by the school district providing transportation during a school year pursuant to subparagraph (1). Claims submitted under this paragraph "*a*" shall be on a form prescribed by the department, and the claim shall include the number of eligible pupils transported, the number of days each pupil was transported, and a listing of the actual costs incurred. On or before December 1, 2022, the director of the department shall review the data collected through the claims process and shall prepare and submit to the general assembly a report containing an analysis of the efficacy of claims reimbursement in accordance with this section and

recommendations for changes as appropriate.

b. (1) For each fiscal year beginning on or after July 1, 2021, there is appropriated from the general fund of the state to the department an amount necessary to pay all approved claims submitted under this paragraph *"b"*.

(2) A school district that provides a therapeutic classroom to students enrolled in a school district or an accredited nonpublic school may submit claims to the department for students assigned to such a classroom during the preceding school budget year who are not assigned a weighting under section 256B.9, subsection 1, paragraph *"b"*, *"c"*, or *"d"*, and for whom behavioral intervention plans have been implemented.

(3) The amount of the claim shall be equal to the product of the following amounts:

(a) The product of one and five-tenths multiplied by the regular program district cost per pupil for the budget year during which the students identified under subparagraph (2) were assigned to the therapeutic classroom.

(b) The quotient of the total number of days the students identified under subparagraph (2) were served in a therapeutic classroom divided by the maximum number of school days in the school district's calendar.

(4) Using end-of-year data submitted by each school district through student-level data collection, the department shall make claim forms available to each eligible school district containing the available data.

2. Nonpublic school students assigned to a therapeutic classroom under subsection 1, paragraph *"b"*, shall be enrolled in a school district as shared-time pupils under section 257.6, subsection 1, paragraph *"a"*, subparagraph (7), in order for the school district to submit a claim for reimbursement for services provided to such students under subsection 1, paragraph *"b"*.

3. The department shall prorate the amount of claims reimbursement under subsection 1, paragraph *"a"*, if the

amount of reimbursement claimed for all school districts under subsection 1, paragraph *"a"*, exceeds the amount appropriated by the general assembly for such purpose plus any available remaining balances from prior fiscal years.

4. The costs of providing transportation to nonpublic school pupils as provided in this section shall not be included in the computation of district cost under chapter 257, but shall be shown in the budget as an expense from miscellaneous income. Any transportation reimbursements received by a school district for transporting nonpublic school pupils shall not affect district cost limitations of chapter 257. The reimbursements provided in this section are miscellaneous income as defined in section 257.2.

5. By June 15 of each year, school districts with eligible claims shall submit such claims to the department. By July 1 of each year, the department shall draw warrants payable to school districts which have established claims.

6. The state board shall adopt rules pursuant to chapter 17A to administer this section.

7. For purposes of this section, *"therapeutic classroom"* means the same as defined in section 256.25, subsection 7.

Sec. 5. Section 256B.2, subsection 2, Code 2020, is amended to read as follows:

2. *a.* It is the policy of this state to require school districts and state-operated educational programs to provide or make provision, as an integral part of public education, for a free and appropriate public education sufficient to meet the needs of all children requiring special education. This chapter is not to be construed as encouraging separate facilities or segregated programs designed to meet the needs of children requiring special education when the children can benefit from all or part of the education program as offered by the local school district. ~~To the maximum extent possible, children~~ Children requiring special education shall, consistent with the least restrictive environment requirements under the

federal Individuals with Disabilities Education Act, 20 U.S.C. §1400 et seq., attend regular classes and shall be educated with children who do not require special education.

b. (1) Whenever ~~possible~~ appropriate, hindrances to learning and to the normal functioning of children requiring special education within the regular school environment shall be overcome by the provision of special aids and services rather than by separate programs for those in need of special education.

(2) Special classes, separate schooling, or other removal of children requiring special education from the regular educational environment, shall occur only when, and to the extent that the nature or severity of the educational disability is such, that education in regular classes, even with the use of supplementary aids and services, cannot be accomplished satisfactorily.

(3) Individualized education programs for children requiring special education within the regular school environment and behavioral intervention plans shall not include provisions for clearing all other students out of the regular classroom in order to calm the child requiring special education or the child for whom a behavioral intervention plan has been implemented except as provided in section 279.51A.

c. For those children who cannot adapt to the regular educational or home living conditions, and who are attending facilities under chapters 263, 269, and 270, upon the request of the board of directors of an area education agency, the department of human services shall provide residential or detention facilities and the area education agency shall provide special education programs and services. The area education agencies shall cooperate with the board of regents to provide the services required by this chapter.

Sec. 6. Section 257.6, subsection 1, paragraph a, subparagraph (7), Code 2020, is amended to read as follows:

(7) A student attending an accredited nonpublic school or

receiving competent private instruction under chapter 299A, who is assigned to a therapeutic classroom in accordance with section 256.25A or is participating in a program under chapter 261E, shall be counted as a shared-time student in the school district in which the nonpublic school of attendance is located for state foundation aid purposes.

Sec. 7. Section 257.16C, subsection 2, paragraph d, Code 2020, is amended to read as follows:

d. A school district's transportation cost per pupil shall be determined by dividing the school district's actual transportation cost for all children transported in all school buses for a school year pursuant to section 285.1, subsection 12, less the amount of transportation costs reimbursed under section 256.25A and the amount received for transporting nonpublic school pupils under section 285.1, by the district's actual enrollment for the school year, excluding the shared-time enrollment for the school year as defined in section 257.6.

Sec. 8. Section 272.2, subsection 1, paragraph a, Code 2020, is amended to read as follows:

a. License practitioners, which includes the authority to establish criteria for the licenses; establish issuance and renewal requirements; create application and renewal forms; create licenses that authorize different instructional functions or specialties; develop a code of professional rights and responsibilities, practices, and ethics, which shall, among other things, address the failure of a practitioner to fulfill contractual obligations under section 279.13, the failure of an administrator to protect the safety of staff and students, the failure of an administrator to meet mandatory reporter obligations, the refusal of a practitioner to implement provisions of an individualized education program or behavioral intervention plan, and habitual nonparticipation in professional development; and develop any other classifications, distinctions, and procedures which may

be necessary to exercise licensing duties. In addressing the failure of a practitioner to fulfill contractual obligations, the board shall consider factors beyond the practitioner's control.

Sec. 9. NEW SECTION. **279.51A Classroom environment — behavioral challenges — reports of violence or assault.**

1. A classroom teacher may clear students from the classroom only if necessary to prevent or terminate an imminent threat of bodily injury to a student or another person in the classroom.

2. If a classroom teacher clears all other students from the classroom in accordance with subsection 1, the school principal shall, by the end of the school day if possible but at least within twenty-four hours after the incident giving rise to the classroom clearance, notify the parents or guardians of all students assigned to the classroom that was cleared. The notification shall not identify, directly or indirectly, any students involved in the incident giving rise to the classroom clearance. The principal of the school shall request that the parent or guardian of the student whose behavior caused the classroom clearance meet with the principal, the classroom teacher, and other staff as appropriate.

3. If the student whose behavior caused the classroom clearance has an individualized education program or a behavioral intervention plan, the classroom teacher shall call for and be included in a review and potential revision of the student's individualized education program or behavioral intervention plan by the student's individualized education program team. The area education agency, in collaboration with the school district, may, when the parent or guardian meets with the individualized education program team during the reevaluation of the student's individualized education program, inform the parent or guardian of individual or family counseling services available in the area.

4. A classroom teacher employed by a school district shall report any incident of violence that results in injury or

property damage or assault by a student enrolled in the school to the principal of the school.

5. Each school district shall report to the department of education, in a manner prescribed by the department, an annual count of all incidents of violence that result in injury or property damage or assault by a student in a school building, on school grounds, or at a school-sponsored function, and any time a student is referred for the use of or transfer to a therapeutic classroom. The report shall include but not be limited to demographic information on students reported as victims and reported as perpetrators of incidents of violence that result in injury or property damage or assault, including but not limited to disaggregated information on race, gender, national origin, age, grade level, and disability, along with any other data required for the department to implement the federal Elementary and Secondary Education Act, as amended by the federal Every Student Succeeds Act, Pub. L. No. 114-95, with appropriate safeguards to ensure student privacy. The department shall compile and summarize the reports, categorized by behavior, and shall submit the summary to the general assembly by November 1 annually. A teacher or administrator who submits a report in accordance with this section and who meets the requirements of section 280.27 or section 613.21 shall be immune from civil or criminal liability relating to such action, as well as for participating in any administrative or judicial proceeding resulting from or relating to the report pursuant to the provisions of sections 280.27 and 613.21. The provisions of section 70A.29 shall apply to a teacher or administrator who submits a report in accordance with this section or who reports an incident of violence or assault to a local law enforcement agency in good faith and without fraudulent intent or the intent to deceive. Personal information regarding a student in a report submitted pursuant to this section shall be kept confidential as required under the federal Family Educational Rights and Privacy Act, 20

U.S.C. §1232g, and in the same manner as personal information in student records maintained, created, collected, or assembled by or for a school corporation or educational institution in accordance with section 22.7, subsection 1.

6. For purposes of this section, unless the context otherwise requires, "*bodily injury*" means physical pain, illness, or any other impairment of physical condition.

Sec. 10. Section 280.21, subsection 1, Code 2020, is amended to read as follows:

1. An employee of a public school district, accredited nonpublic school, or area education agency shall not inflict, or cause to be inflicted, corporal punishment upon a student. For purposes of this section, "*corporal punishment*" means the intentional physical punishment of a student. An employee's physical contact with the body of a student shall not be considered corporal punishment if it is reasonable and necessary under the circumstances and is not designed or intended to cause pain or if the employee uses reasonable force, as defined under section 704.1, for the protection of the employee, the student, or other students; to obtain the possession of a weapon or other dangerous object within a student's control; or for the protection of property. The ~~department~~ state board of education shall adopt rules under chapter 17A to implement this section.

Sec. 11. Section 280.21, subsection 2, unnumbered paragraph 1, Code 2020, is amended to read as follows:

A school employee who, in the reasonable course of the employee's employment responsibilities, comes into physical contact with a student shall be granted immunity from any civil or criminal liability, and immunity from any disciplinary action by the school employee's employer or the board of educational examiners, which might otherwise be incurred or imposed as a result of such physical contact, if the physical contact is reasonable under the circumstances and involves any of the following:

Sec. 12. Section 280.21, subsection 2, Code 2020, is amended by adding the following new paragraph:

NEW PARAGRAPH. *j.* Relocating a student who is causing a severe distraction or disturbance that is detracting from the educational experience of other students.

Sec. 13. Section 280.21, Code 2020, is amended by adding the following new subsection:

NEW SUBSECTION. 4. To prevail in a disciplinary action alleging a violation of this section or a disciplinary action alleging a violation of a related school policy, the party bringing the action shall prove the violation by clear and convincing evidence.

Sec. 14. DEPARTMENT OF EDUCATION. There is appropriated from the general fund of the state to the department of education for the fiscal year beginning July 1, 2020, and ending June 30, 2021, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For developing, establishing, and distributing standards, guidelines, and expectations relating to behavior in the classroom, restraint of a student, and professional development relating to educating individuals in the least restrictive environment, and for research-based intervention strategies consistent with such standards, guidelines, and expectations, in accordance with section 256.9, subsection 60, as enacted by this Act:

..... $ 500,000

Notwithstanding section 8.33, moneys received by the department pursuant to this section that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for the purposes specified in this section for the following fiscal year.

Sec. 15. DEPARTMENT OF EDUCATION — THERAPEUTIC CLASSROOM INCENTIVE FUND. There is appropriated from the general fund of the state to the department education for the fiscal year beginning July 1, 2020, and ending June 30, 2021, the following

amount, or so much thereof as is necessary, to be used for the purposes designated:

For deposit in the therapeutic classroom incentive fund established pursuant to section 256.25, as enacted by this Act:

..... $ 1,582,650

Sec. 16. DEPARTMENT OF EDUCATION — THERAPEUTIC CLASSROOM TRANSPORTATION CLAIMS REIMBURSEMENT. There is appropriated from the general fund of the state to the department of education for the fiscal year beginning July 1, 2020, and ending June 30, 2021, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For payment of school district claims for reimbursement submitted under section 256.25A, subsection 1, paragraph "a", as enacted by this Act:

..... $ 500,000

Notwithstanding section 8.33, moneys received by the department pursuant to this section that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for the purposes specified in this section for the following fiscal year.

Sec. 17. EMERGENCY RULES. The state board of education and board of educational examiners may adopt emergency rules under section 17A.4, subsection 3, and section 17A.5, subsection 2, paragraph "b", to implement the provisions of this Act and the rules shall be effective immediately upon filing unless a later date is specified in the rules. Any rules adopted in accordance with this section shall also be published as a notice of intended action as provided in section 17A.4.

Sec. 18. EFFECTIVE DATE. The following takes effect July 1, 2021:

The section of this Act amending section 256.16, subsection 1, paragraph "c".

Sec. 19. EFFECTIVE DATE. The following, being deemed of immediate importance, take effect upon enactment:

1. The section of this Act enacting section 256.25.

2. The section of this Act relating to emergency rules.