



SPONSOR: Sen. Wilson & Rep. Vanderwende
Sens. Brown, Hocker, Lawson, Richardson, Sokola; Reps.
Briggs King, Carson, Gray, K. Johnson, D. Short,
Michael Smith

DELAWARE STATE SENATE
150th GENERAL ASSEMBLY

SENATE BILL NO. 203

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO EXCEPTIONAL CHILDREN IN HOMESCHOOLS.

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

Section 1. Amend § 3101, Title 14 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3101. Definitions.

The following words, terms and phrases, when used in this chapter shall have the meanings ascribed to them except when the context clearly indicates a different meaning:

(2) "Child with a disability" means a child who because of mental, physical, emotional, developmental, ~~speech~~ speech, or learning disability problems, as defined by the Department of Education rules and regulations approved by the State Board of Education, requires special education and related services in order to develop that person's own capabilities. A child with a disability is eligible for services beginning on the child's third birthday, or earlier if otherwise provided in this title.

(5)a. "Free appropriate public education" means special education that is specially designed instruction including classroom instruction, instruction in physical education, home ~~instruction~~ instruction, and instruction in hospitals and institutions, and related services as defined by Department of Education rules and regulations approved by the State Board of Education and as may be required to assist a child with a disability to benefit from an education ~~that:~~ that does all of the following:

a. 1. Is provided at public expense, under public supervision and ~~direction~~ direction, and without charge in the public school ~~system;~~ system.

b. 2. Meets the standards of the Department of Education as set forth in this title or in the rules and regulations of the Department as approved by the State ~~Board;~~ Board.

c. 3. Includes elementary, ~~secondary~~ secondary, or vocational education in the ~~State;~~ State.

d. 4. Is individualized to meet the unique needs of the child with a ~~disability;~~ disability.

e. 5. Provides significant learning to the child with a ~~disability~~; and disability.

f. 6. Confers meaningful benefit on the child with a disability that is gauged to the child with a disability's potential.

b. No court, administrative tribunal, school district, or school shall use a definition of "free appropriate public education" that states or implies that the term encompasses a lesser educational program than enumerated in this definition. Courts, administrative, tribunals, and schools may use a definition of "free appropriate public education" that states or implies that the term encompasses a more enhanced educational program than described in this definition, if consistent with a decision of the United States Third Circuit Court of Appeals or the United States Supreme Court.

c. The related services ~~to be~~ provided shall be based upon a program for each child as approved by the Department; provided, that the State Board may review any objection to the Department's decision. Funds for such services are to be paid from the Educational Contingency Fund of the Department of Education.

d. For a student in a homeschool, under § 2703A of this title, "free appropriate public education" means speech language pathology and audiology services required to assist a child with a disability to benefit from an education under paragraphs (5)a.1. through (5)a.6. of this section.

Section 2. Amend § 3110, Title 14 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3110. Rules and regulations.

(a) The Department of Education is designated as the state agency that, with the approval of the State Board, shall make rules and regulations to carry out this and other titles relative to the identification, evaluation, education, ~~training~~ training, and transportation of exceptional children including specific definitions for the categories of units for exceptional children authorized for funding in § 1703 of this title.

(b) The rules promulgated by the Department of Education with the approval of the State Board of Education shall provide ~~the~~ all of the following:

(1) The criteria by which identified children with ~~disabilities, as defined in § 3101 of this title,~~ disabilities shall be assigned to a public school facility, or, if otherwise eligible for admission, to an institution of another state agency, or released for authorized placement in a private school or agency, ~~pursuant to subchapter~~ under Subchapter III of this chapter.

50 (2) That a child with a disability who attends a homeschool under § 2703A of this title, is eligible for speech
51 language pathology and audiology services in the same manner as a student who attends a private school is eligible for
52 equitable services.

53 Section 3. Amend § 3122, Title 14 of the Delaware Code by making deletions as shown by strike through and
54 insertions as shown by underline as follows:

55 § 3122. Identification and reporting of child with a disability.

56 (a) Except as ~~noted in~~ provided under subsection (b) of this section regarding parentally-placed private school
57 children, each school district shall ~~be required to~~ identify, ~~locate~~ locate, and evaluate, or reevaluate, any children with
58 disabilities residing within the confines of that school district, including children with disabilities who are homeless
59 children or wards of the State, regardless of the severity of the disability, and who are in need of special education and
60 related services.

61 (b)(1) Each school district, excluding vocational school districts, shall ~~be required to~~ identify, ~~locate~~ locate, and
62 evaluate, or reevaluate, any children with disabilities who are enrolled by their parents in private schools located within the
63 confines of that school district, regardless of the severity of the disability, and who are in need of special education and
64 related services.

65 (2)a. On request of a parent or guardian of a student, each school district, excluding vocational school
66 districts, shall evaluate, or reevaluate, a child with a disability who attends a homeschool under § 2703A of this title
67 located within the confines of that school district, regardless of the severity of the disability, and who is in need of
68 special education and related services for speech language pathology and audiology services.

69 b. The school district shall evaluate or reevaluate a child under paragraph (2)a. of this section in the same
70 manner as children under paragraph (b)(1) of this section.

71 c. A child with a disability is eligible to receive related services for speech language pathology and
72 audiology services under this paragraph (b)(2) of this section if the parent or guardian educating the child complies
73 with the school district evaluation requirements and the services plan provided by the school district.

SYNOPSIS

This Act makes children with disabilities who attend homeschools eligible to receive speech language pathology and audiology services in the same manner as students who attend private schools.

This Act also makes technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual.

Author: Senator Wilson