

BILL ANALYSIS

Senate Research Center

S.B. 1735
By: Cain
Education
4/3/2001
As Filed

DIGEST AND PURPOSE

Recently, the federal Individuals with Disabilities Education Act was reauthorized by the United States Congress, and the final implementing regulations were published. These new regulations necessitate the amendment of state statutes to reflect new federal law. As proposed, S.B. 1735 updates current state law to conform to the revised federal law.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Commission for the Blind, the Texas Department of Human Services, the Texas Workforce Commission, and the Department of Protective and Regulatory Services in SECTION 5 (Section 29.011, Education Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 29.002, Education Code, to redefine "special services."

SECTION 2. Amends Section 29.004, Education Code, as follows:

Sec. 29.004. New heading: FULL INDIVIDUAL AND INITIAL EVALUATION. Requires a written report of a full individual and initial evaluation, rather than a comprehensive individual assessment, of a student for purposes of special education services to be completed not later than the 60th calendar day following the date on which the referral for the evaluation was initiated by certain individuals. Makes a conforming change.

SECTION 3. Amends Sections 29.005(a) and (c), Education Code, to require a school district, before a child is enrolled in a special education program of the district, to establish a committee composed of the persons required under 20 U.S.C. Section 1401(11), rather than 20 U.S.C. Section 1401(20). Makes a conforming change.

SECTION 4. Amends Section 29.006, Education Code, to require the governor to appoint a continuing advisory committee, composed of 17 members, under 20 U.S.C. Section 1412(a)(21), rather than 20 U.S.C. Section 1413(a)(12).

SECTION 5. Amends Sections 29.011(a) and (b), Education Code, to require certain state agencies to develop, agree to, and by rule adopt a memorandum of understanding that establishes the respective responsibilities of each agency, including each agency's direct or contract service providers, to participate with school districts in implementing transition services in accordance with the Individuals with Disabilities Education Act (20 U.S.C. Section 1400, et seq.). Deletes existing text related to the provision of services and the memorandum of understanding. Makes conforming changes.

SECTION 6. Amends Section 29.012(d), Education Code, to delete existing text related to certain requirements of the memorandum of understanding.

SECTION 7. Amends Section 37.004, Education Code, to require all disciplinary actions regarding a

student with a disability who receives special education services to be determined in accordance with federal law and regulations and to be consistent with the consequences that would apply under this subchapter to a student without a disability.

SECTION 8. Amends Chapter 29A, Education Code, by adding Section 29.016, as follows:

Sec. 29.016. EVALUATION CONDUCTED PURSUANT TO A SPECIAL EDUCATION DUE PROCESS HEARING. Authorizes a special education hearing officer in an impartial due process hearing brought under 20 U.S.C. 1415 to issue an order or decision that authorizes one or more evaluations of a student who is eligible for, or who is suspected of being eligible for, special education services. Provides that such an order or decision authorizes the evaluation of the student without parental consent.

SECTION 9. Amends Section 31.006, Family Code, to provide that all educational rights accorded under state or federal law to the parent of a student transfer to the minor whose disabilities are removed for general purposes, except as provided by federal law.

SECTION 10. Amends Section 26.002, Education Code, to provide that all rights of a parent transfer to a minor whose disabilities are removed under Section 31.006 (Effect of General Removal), Family Code, except as provided by federal law.

SECTION 11. Repealer: Sections 29.011(c) regarding a memorandum of understanding, 29.011(e) regarding the development and review of an individual transition plan, and 39.030(c) regarding compiling performance data, Education Code.

SECTION 12. Makes application of this Act prospective to the 2001-2002 school year.

SECTION 13. Effective date: upon passage or September 1, 2001.