

By Senator Lynn

7-452-05

1                                    A bill to be entitled  
2                    An act relating to instruction for exceptional  
3                    students; amending s. 1003.57, F.S.; providing  
4                    guidelines for determining the residency of a  
5                    student who receives instruction as an  
6                    exceptional student; requiring the student's  
7                    placing authority or parent to pay the cost of  
8                    such instruction, facilities, and services;  
9                    providing responsibilities of the Department of  
10                   Education; providing responsibilities of  
11                   residential facilities that educate exceptional  
12                   students; providing applicability; amending s.  
13                   1003.58, F.S.; correcting a cross-reference;  
14                   providing an effective date.

15  
16 Be It Enacted by the Legislature of the State of Florida:

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18                    Section 1.    Section 1003.57, Florida Statutes, is  
19 amended to read:

20                    1003.57    Exceptional students instruction.--

21                    (1)    Each district school board shall provide for an  
22 appropriate program of special instruction, facilities, and  
23 services for exceptional students as prescribed by the State  
24 Board of Education as acceptable, including provisions that:

25                    ~~(a)(1)~~    The district school board provide the necessary  
26 professional services for diagnosis and evaluation of  
27 exceptional students.

28                    ~~(b)(2)~~    The district school board provide the special  
29 instruction, classes, and services, either within the district  
30 school system, in cooperation with other district school  
31 systems, or through contractual arrangements with approved

1 private schools or community facilities that meet standards  
2 established by the commissioner.

3 ~~(c)(3)~~ The district school board annually provide  
4 information describing the Florida School for the Deaf and the  
5 Blind and all other programs and methods of instruction  
6 available to the parent of a sensory-impaired student.

7 ~~(d)(4)~~ The district school board, once every 3 years,  
8 submit to the department its proposed procedures for the  
9 provision of special instruction and services for exceptional  
10 students.

11 ~~(e)(5)~~ A ~~No~~ student may not be given special  
12 instruction or services as an exceptional student until after  
13 he or she has been properly evaluated, classified, and placed  
14 in the manner prescribed by rules of the State Board of  
15 Education. The parent of an exceptional student evaluated and  
16 placed or denied placement in a program of special education  
17 shall be notified of each such evaluation and placement or  
18 denial. Such notice shall contain a statement informing the  
19 parent that he or she is entitled to a due process hearing on  
20 the identification, evaluation, and placement, or lack  
21 thereof. Such hearings shall be exempt from the provisions of  
22 ss. 120.569, 120.57, and 286.011, except to the extent that  
23 the State Board of Education adopts rules establishing other  
24 procedures and any records created as a result of such  
25 hearings shall be confidential and exempt from the provisions  
26 of s. 119.07(1). The hearing must be conducted by an  
27 administrative law judge from the Division of Administrative  
28 Hearings of the Department of Management Services. The  
29 decision of the administrative law judge shall be final,  
30 except that any party aggrieved by the finding and decision  
31 rendered by the administrative law judge shall have the right

1 | to bring a civil action in the circuit court. In such an  
2 | action, the court shall receive the records of the  
3 | administrative hearing and shall hear additional evidence at  
4 | the request of either party. In the alternative, any party  
5 | aggrieved by the finding and decision rendered by the  
6 | administrative law judge shall have the right to request an  
7 | impartial review of the administrative law judge's order by  
8 | the district court of appeal as provided by s. 120.68.  
9 | Notwithstanding any law to the contrary, during the pendency  
10 | of any proceeding conducted pursuant to this section, unless  
11 | the district school board and the parents otherwise agree, the  
12 | student shall remain in his or her then-current educational  
13 | assignment or, if applying for initial admission to a public  
14 | school, shall be assigned, with the consent of the parents, in  
15 | the public school program until all such proceedings have been  
16 | completed.

17 |       ~~(f)(6)~~ In providing for the education of exceptional  
18 | students, the district school superintendent, principals, and  
19 | teachers shall utilize the regular school facilities and adapt  
20 | them to the needs of exceptional students to the maximum  
21 | extent appropriate. Segregation of exceptional students shall  
22 | occur only if the nature or severity of the exceptionality is  
23 | such that education in regular classes with the use of  
24 | supplementary aids and services cannot be achieved  
25 | satisfactorily.

26 |       ~~(g)(7)~~ In addition to the services agreed to in a  
27 | student's individual education plan, the district school  
28 | superintendent shall fully inform the parent of a student  
29 | having a physical or developmental disability of all available  
30 | services that are appropriate for the student's disability.  
31 |

1 The superintendent shall provide the student's parent with a  
2 summary of the student's rights.

3 (2)(a) A student who receives special instruction,  
4 facilities, or services as an exceptional student is  
5 considered a resident of the state in which the student's  
6 parent or guardian is a resident. The cost of such  
7 instruction, facilities, and services for a nonresident  
8 student shall be provided by the placing authority in the  
9 student's state of residence, such as a public school entity,  
10 other placing authority, or parent. Nonresident students may  
11 not be reported by any school district for FTE funding in the  
12 Florida Education Finance Program.

13 (b) The Department of Education shall provide to each  
14 school district a statement of the specific limitations of the  
15 district's financial obligation for exceptional students under  
16 federal and state law. The department shall also provide to  
17 each school district technical assistance as necessary for  
18 developing a local plan to impose on a student's home state  
19 the fiscal responsibility for educating a nonresident  
20 exceptional student.

21 (c) The Department of Education shall develop a  
22 process by which a school district must, before providing  
23 services to an exceptional student who lives in a residential  
24 facility in this state, review the residency of the student.  
25 The residential facility, not the district, is responsible for  
26 billing and collecting from a nonresidential student's home  
27 state payment for the student's educational and related  
28 services.

29 (d) This subsection applies to any nonresident student  
30 who receives instruction as an exceptional student in any type  
31 of educational facility in this state, including, but not

1 limited to, a public school, a private school, a group home  
2 facility as defined in s. 393.063, an intensive residential  
3 treatment program for children and adolescents as defined in  
4 s. 395.002, a facility as defined in s. 394.455, an  
5 intermediate care facility for the developmentally disabled or  
6 ICF/DD as defined in s. 393.063 or s. 400.960, or a community  
7 residential home as defined in s. 419.001.

8 Section 2. Subsection (3) of section 1003.58, Florida  
9 Statutes, is amended to read:

10 1003.58 Students in residential care facilities.--Each  
11 district school board shall provide educational programs  
12 according to rules of the State Board of Education to students  
13 who reside in residential care facilities operated by the  
14 Department of Children and Family Services.

15 (3) The district school board shall have full and  
16 complete authority in the matter of the assignment and  
17 placement of such students in educational programs. The parent  
18 of an exceptional student shall have the same due process  
19 rights as are provided under s. 1003.57(1)(e) ~~s. 1003.57(5)~~.

20 Section 3. This act shall take effect July 1, 2005.

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23 SENATE SUMMARY

24 Provides guidelines for determining the residency of a  
25 student who receives instruction as an exceptional  
26 student. Requires the student's placing authority or  
27 parent to pay the cost of such instruction, facilities,  
and services. Provides responsibilities of the Department  
of Education and of residential facilities that educate  
exceptional students. Provides applicability.