

By Senator Ring

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1 A bill to be entitled
2 An act relating to the John M. McKay Scholarships for
3 Students with Disabilities Program; amending s.
4 1002.39, F.S.; authorizing students who receive
5 certain services under the Voluntary Prekindergarten
6 Education Program to receive a John M. McKay
7 Scholarship; deleting the requirement that a student
8 must have spent the prior school year in attendance at
9 a Florida public school or the Florida School for the
10 Deaf and the Blind to be eligible for a scholarship;
11 providing rights that protect the privacy of student
12 education records; requiring a pamphlet or handbook
13 explaining student and parent rights; requiring the
14 Department of Education to recommend training for
15 school personnel in procedures for safe restraint of
16 students; requiring a private school to refund
17 scholarship payment under certain circumstances;
18 permitting students, including homebound or
19 hospitalized students with autism spectrum disorder,
20 to receive scholarship services at locations other
21 than a private school's site under specified
22 conditions; conforming provisions; amending s.
23 1002.20, F.S., relating to student and parent rights;
24 conforming provisions; providing an effective date.

25
26 Be It Enacted by the Legislature of the State of Florida:
27

28 Section 1. Subsection (2), paragraph (h) of subsection (3),
29 paragraph (a) of subsection (4), paragraph (a) of subsection

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30 (5), paragraph (d) of subsection (8), and paragraphs (a), (c),
 31 (d), and (e) of subsection (10) of section 1002.39, Florida
 32 Statutes, are amended, paragraph (g) is added to subsection (6),
 33 subsections (11), (12), and (13) are renumbered as subsections
 34 (12), (13), and (14), respectively, and a new subsection (11) is
 35 added to that section, to read:

36 1002.39 The John M. McKay Scholarships for Students with
 37 Disabilities Program.—There is established a program that is
 38 separate and distinct from the Opportunity Scholarship Program
 39 and is named the John M. McKay Scholarships for Students with
 40 Disabilities Program.

41 (2) JOHN M. MCKAY SCHOLARSHIP ELIGIBILITY; RIGHTS.—

42 (a) The parent of a public school student with a
 43 disability, including a student who received early intervention
 44 services under the Voluntary Prekindergarten Education Program
 45 and has a current individual educational plan, who is
 46 ~~dissatisfied with the student's progress~~ may request and receive
 47 from the state a John M. McKay Scholarship for the child to
 48 enroll in and attend a private school in accordance with this
 49 section if:

50 ~~(a) The student has spent the prior school year in~~
 51 ~~attendance at a Florida public school or the Florida School for~~
 52 ~~the Deaf and the Blind. Prior school year in attendance means~~
 53 ~~that the student was:~~

54 ~~1. Enrolled and reported by a school district for funding~~
 55 ~~during the preceding October and February Florida Education~~
 56 ~~Finance Program surveys in kindergarten through grade 12, which~~
 57 ~~shall include time spent in a Department of Juvenile Justice~~
 58 ~~commitment program if funded under the Florida Education Finance~~

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59 Program;

60 ~~2. Enrolled and reported by the Florida School for the Deaf~~
61 ~~and the Blind during the preceding October and February student~~
62 ~~membership surveys in kindergarten through grade 12; or~~

63 ~~3. Enrolled and reported by a school district for funding~~
64 ~~during the preceding October and February Florida Education~~
65 ~~Finance Program surveys, was at least 4 years old when so~~
66 ~~enrolled and reported, and was eligible for services under s.~~
67 ~~1003.21(1)(c).~~

68

69 ~~However, a dependent child of a member of the United States~~
70 ~~Armed Forces who transfers to a school in this state from out of~~
71 ~~state or from a foreign country pursuant to a parent's permanent~~
72 ~~change of station orders is exempt from this paragraph but must~~
73 ~~meet all other eligibility requirements to participate in the~~
74 ~~program.~~

75 ~~(b)~~ the parent has obtained acceptance for admission of the
76 student to a private school that is eligible for the program
77 under subsection (8) and has requested from the department a
78 scholarship at least 60 days prior to the date of the first
79 scholarship payment. The request must be through a communication
80 directly to the department in a manner that creates a written or
81 electronic record of the request and the date of receipt of the
82 request. The Department of Education must notify the district of
83 the parent's intent upon receipt of the parent's request.

84 (b) The parent of a student receiving a John M. McKay
85 Scholarship is entitled to the rights identified in the Family
86 Educational Rights and Privacy Act, 20 U.S.C. s. 1232g, which
87 protect the privacy of student education records.

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88 (3) JOHN M. MCKAY SCHOLARSHIP PROHIBITIONS.—A student is
89 not eligible for a John M. McKay Scholarship while he or she is:

90 (h) Not having regular and direct contact with his or her
91 private school teachers at the school's physical location except
92 as provided in subsection (11).

93 (4) TERM OF JOHN M. MCKAY SCHOLARSHIP.—

94 (a) For purposes of continuity of educational choice, a
95 John M. McKay Scholarship shall remain in force until the
96 student enrolls in ~~returns to~~ a public school, graduates from
97 high school, or reaches the age of 22, whichever occurs first.

98 (5) SCHOOL DISTRICT OBLIGATIONS; PARENTAL OPTIONS.—

99 (a)1. By April 1 of each year and within 10 days after an
100 individual education plan meeting, a school district shall
101 notify the parent of the student of all options available
102 pursuant to this section, inform the parent of the availability
103 of the department's telephone hotline and Internet website for
104 additional information on John M. McKay Scholarships, and offer
105 that student's parent an opportunity to enroll the student in
106 another public school within the district.

107 2. The parent is not required to accept the offer of
108 enrolling in another public school in lieu of requesting a John
109 M. McKay Scholarship to a private school. However, if the parent
110 chooses the public school option, the student may continue
111 attending a public school chosen by the parent until the student
112 graduates from high school.

113 3. If the parent chooses a public school consistent with
114 the district school board's choice plan under s. 1002.31, the
115 school district shall provide transportation to the public
116 school selected by the parent. The parent is responsible to

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117 provide transportation to a public school chosen that is not
118 consistent with the district school board's choice plan under s.
119 1002.31.

120 4. Each parent of a student participating in the
121 scholarship program shall receive from the school district a
122 pamphlet or handbook that explains in easily understandable
123 terms the student and parent rights and responsibilities under
124 this section. The pamphlet or handbook shall have a tear-off
125 form for the parent's signature that indicates that the parent
126 has read and understands these rights and responsibilities. The
127 tear-off form must be returned to the school the student is
128 attending with the original form forwarded by the school to the
129 district school board and a copy retained at the school.

130 (6) DEPARTMENT OF EDUCATION OBLIGATIONS.—The department
131 shall:

132 (g) Recommend that public school and private school
133 personnel who interact with students participating in the
134 scholarship program receive initial and periodic followup
135 training in procedures for safely restraining such students in
136 an emergency.

137 (8) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.—To be
138 eligible to participate in the John M. McKay Scholarships for
139 Students with Disabilities Program, a private school may be
140 sectarian or nonsectarian and must:

141 (d) Maintain in this state a physical location where a
142 scholarship student regularly attends classes or where it
143 provides case management services under subsection (11).

144
145 The inability of a private school to meet the requirements of

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146 this subsection shall constitute a basis for the ineligibility
147 of the private school to participate in the scholarship program
148 as determined by the department.

149 (10) JOHN M. MCKAY SCHOLARSHIP FUNDING AND PAYMENT.—

150 (a)1. The maximum scholarship granted for an eligible
151 student with disabilities shall be a calculated amount
152 equivalent to the base student allocation in the Florida
153 Education Finance Program multiplied by the appropriate cost
154 factor for the educational program that would have been provided
155 for the student in the district school to which he or she was
156 assigned, multiplied by the district cost differential.

157 2. In addition, a share of the guaranteed allocation for
158 exceptional students shall be determined and added to the
159 calculated amount. The calculation shall be based on the
160 methodology and the data used to calculate the guaranteed
161 allocation for exceptional students for each district in chapter
162 2000-166, Laws of Florida. Except as provided in subparagraphs
163 3. and 4., the calculation shall be based on the student's
164 grade, matrix level of services, and the difference between the
165 2000-2001 basic program and the appropriate level of services
166 cost factor, multiplied by the 2000-2001 base student allocation
167 and the 2000-2001 district cost differential for the sending
168 district. Also, the calculated amount shall include the per-
169 student share of supplemental academic instruction funds,
170 instructional materials funds, technology funds, and other
171 categorical funds as provided for such purposes in the General
172 Appropriations Act.

173 3. The calculated scholarship amount for a student who was
174 enrolled in the Florida School for the Deaf and the Blind ~~is~~

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175 ~~eligible under subparagraph (2)(a)2.~~ shall be calculated as
176 provided in subparagraphs 1. and 2. However, the calculation
177 shall be based on the school district in which the parent
178 resides at the time of the scholarship request.

179 4. Until the school district completes the matrix required
180 by paragraph (5)(b), the calculation shall be based on the
181 matrix that assigns the student to support level I of service as
182 it existed prior to the 2000-2001 school year. When the school
183 district completes the matrix, the amount of the payment shall
184 be adjusted as needed.

185 (c)1. The school district shall report all students who are
186 attending a private school under this program. The students with
187 disabilities attending private schools on John M. McKay
188 Scholarships shall be reported separately from other students
189 reported for purposes of the Florida Education Finance Program.

190 2. For program participants who were enrolled in the
191 Florida School for the Deaf and the Blind ~~are eligible under~~
192 ~~subparagraph (2)(a)2.~~, the school district that is used as the
193 basis for the calculation of the scholarship amount as provided
194 in subparagraph (a)3. shall:

195 a. Report to the department all such students who are
196 attending a private school under this program.

197 b. Be held harmless for such students from the weighted
198 enrollment ceiling for group 2 programs in s. 1011.62(1)(d)3.b.
199 during the first school year in which the students are reported.

200 (d) Following notification on July 1, September 1, December
201 1, or February 1 of the number of program participants, the
202 department shall transfer, from General Revenue funds only, the
203 amount calculated under paragraph (b) from the school district's

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204 total funding entitlement under the Florida Education Finance
205 Program and from authorized categorical accounts to a separate
206 account for the scholarship program for quarterly disbursement
207 to the parents of participating students. Funds may not be
208 transferred from any funding provided to the Florida School for
209 the Deaf and the Blind for program participants ~~who are eligible~~
210 ~~under subparagraph (2)(a)2.~~ For a student exiting a Department
211 of Juvenile Justice commitment program who chooses to
212 participate in the scholarship program, the amount of the John
213 M. McKay Scholarship calculated pursuant to paragraph (b) shall
214 be transferred from the school district in which the student
215 last attended a public school prior to commitment to the
216 Department of Juvenile Justice. When a student enters the
217 scholarship program, the department must receive all
218 documentation required for the student's participation,
219 including the private school's and student's fee schedules, at
220 least 30 days before the first quarterly scholarship payment is
221 made for the student.

222 (e) Upon notification by the department that it has
223 received the documentation required under paragraph (d), the
224 Chief Financial Officer shall make scholarship payments in four
225 equal amounts no later than September 1, November 1, February 1,
226 and April 1 of each academic year in which the scholarship is in
227 force. The initial payment shall be made after department
228 verification of admission acceptance, and subsequent payments
229 shall be made upon verification of continued enrollment and
230 attendance at the private school. Payment must be by individual
231 warrant made payable to the student's parent and mailed by the
232 department to the private school of the parent's choice, and the

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233 parent shall restrictively endorse the warrant to the private
234 school for deposit into the account of the private school. If a
235 participating student withdraws from a private school, the
236 private school shall refund on a prorated basis the unused
237 portion of the scholarship payment to the department for
238 transfer to the separate account for the scholarship program.

239 (11) ALTERNATIVE SITES FOR INSTRUCTION AND SERVICES.—A
240 student eligible for a scholarship under this section, including
241 a student with autism spectrum disorder who participates in the
242 program for students who are homebound or hospitalized, may
243 receive regular and direct instruction and services from a
244 private school at a site other than the school's physical
245 location if the following criteria are met:

246 (a) The student's parent provides a notarized statement
247 from the medical doctor or psychologist treating the student's
248 disability which certifies that the student's welfare or the
249 welfare of other students in the classroom will be jeopardized
250 if the student is required to regularly attend class at the
251 school's physical location. The notarized statement must be:

252 1. Annually provided to the department at least 60 days
253 prior to the date of the first scholarship payment for each
254 school year.

255 2. Based on an annual review of the student's disability by
256 the student's medical doctor or psychologist.

257 (b) The private school serving the student:

258 1. Employs or contracts with a case manager who coordinates
259 and monitors the student's instruction and services, reviews and
260 maintains the documentation submitted under subparagraph 2., and
261 provides the student's parent and private school with monthly

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262 reports on the student's progress.

263 2. Requires private school employees or contracted
264 personnel who provide regular and direct instruction or services
265 to a student at a site other than the private school's physical
266 location to submit to the case manager documentation of the
267 instruction, services, and progress of the student.

268 3. Notifies the department of each student subject to this
269 subsection.

270 Section 2. Paragraph (b) of subsection (6) of section
271 1002.20, Florida Statutes, is amended to read:

272 1002.20 K-12 student and parent rights.—Parents of public
273 school students must receive accurate and timely information
274 regarding their child's academic progress and must be informed
275 of ways they can help their child to succeed in school. K-12
276 students and their parents are afforded numerous statutory
277 rights including, but not limited to, the following:

278 (6) EDUCATIONAL CHOICE.—

279 (b) *Private school choices.*—Parents of public school
280 students may seek private school choice options under certain
281 programs.

282 1. Under the Opportunity Scholarship Program, the parent of
283 a student in a failing public school may request and receive an
284 opportunity scholarship for the student to attend a private
285 school in accordance with the provisions of s. 1002.38.

286 2. Under the McKay Scholarships for Students with
287 Disabilities Program, the parent of a ~~public school~~ student with
288 a disability ~~who is dissatisfied with the student's progress~~ may
289 request and receive a McKay Scholarship for the student to
290 attend a private school in accordance with the provisions of s.

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291 1002.39.

292 3. Under the corporate income tax credit scholarship
293 program, the parent of a student who qualifies for free or
294 reduced-price school lunch may seek a scholarship from an
295 eligible nonprofit scholarship-funding organization in
296 accordance with the provisions of s. 220.187.

297 Section 3. This act shall take effect July 1, 2009.