

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Governmental Oversight and Accountability Committee

**BILL:** CS/SB 1278

**INTRODUCER:** Governmental Oversight and Accountability Committee and Senator Altman

**SUBJECT:** Children with Disabilities/Prepaid Service Plan

**DATE:** March 31, 2009      **REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Ray	Walsh	CF	<b>Fav/2 amendments</b>
2.	Wilson	Wilson	GO	<b>Fav/CS</b>
3.			HA	
4.			WPSC	
5.				
6.				

**Please see Section VIII. for Additional Information:**

- |                              |                                     |   |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes        |
| B. AMENDMENTS.....           | <input type="checkbox"/>            | Technical amendments were recommended   |
|                              | <input type="checkbox"/>            | Amendments were recommended             |
|                              | <input type="checkbox"/>            | Significant amendments were recommended |

**I. Summary:**

CS/SB 1278 establishes a study group to evaluate the use of a prepaid system to be used to obtain services for children with disabilities upon the child's exit from an exceptional student program.

This bill has an effective date of July 1, 2009.

This bill does not amend, create, or repeal any section of the Florida Statutes.

**II. Present Situation:**

Federal law requires each state to make a free appropriate public education available to all children with disabilities residing in the state between the ages of three and 21, inclusive, including children with disabilities who have been suspended or expelled from school.<sup>1</sup> The state educational agency must exercise general supervision over all educational programs for children

<sup>1</sup> 20 U.S.C. s. 1412.

with disabilities in the state, including all programs administered by other state or local agencies, and ensure that the programs meet the educational standards of the state educational agency.<sup>2</sup>

### **Special Education Services**

The law defines special education services as specially designed instruction and related services as are needed for an exceptional student to benefit from education, and may include: transportation; diagnostic and evaluation services; social services; physical and occupational therapy; speech and language therapy; job placement; orientation and mobility training; braille, typists, and readers for the blind; interpreters and auditory amplification; rehabilitation counseling; transition services; mental health services; guidance and career counseling; specified materials, assistive technology devices, and other specialized equipment; and, other services as approved by the rules of the State Board of Education (SBE).<sup>3</sup>

### **Exceptional Students in Florida**

Section 1003.01(3)(a), F.S. defines the term “exceptional student” as

...any student who has been determined eligible for a special program in accordance with SBE rules. The term includes students who are gifted and students with disabilities who have an intellectual disability; autism spectrum disorder; a speech impairment; a language impairment; an orthopedic impairment; another health impairment; traumatic brain injury; a visual impairment; an emotional or behavioral disability; or a specific learning disability, including, but not limited to, dyslexia, dyscalculia, or developmental aphasia; students who are deaf or hard of hearing or dual sensory impaired; students who are hospitalized or homebound; children with developmental delays ages birth through 5 years, or children, ages birth through 2 years, with established conditions that are identified in State Board of Education rules pursuant to s. 1003.21(1)(e).

In the fall of 2008, there were over 375,000 exceptional students in the state, not including those designated as gifted students.<sup>4</sup> When a student is identified as an exceptional student, the school district is required to provide instruction that is appropriate to the student’s needs.<sup>5</sup>

### **Agency for Persons with Disabilities Waiting List**

Currently there are 18,537 persons awaiting waiver services through the Agency for Persons with Disabilities (APD). Of those, 11,647 are less than 22 years of age.<sup>6</sup> Many of the individuals on the waitlist have few options for meaningful activities, training, or employment.<sup>7</sup> According to the Florida Blue Ribbon Task Force on Inclusive Community Living, Transition and

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<sup>2</sup> 34 C.F.R. s. 300.149

<sup>3</sup> Section 1003.01(3)(b), F.S.

<sup>4</sup> Membership in Programs for Exceptional Students, 2008-09, Tables 9 and 18, available at: <http://www.fldoe.org/eias/eiaspubs/default.asp> (last accessed on March 9, 2009).

<sup>5</sup> Section 1003.57, F.S.

<sup>6</sup> Email from Mike Dunn, Agency for Persons with Disabilities (March 5, 2009, 8:58 A.M. EST)(on file with the committee).

<sup>7</sup> Agency for Persons with Disabilities 2009 Bill Analysis, Senate Bill 1278 (on file with the committee).

Employment of Persons with Developmental Disabilities, as many as 90 percent of children with disabilities are living at poverty level three years after graduation.<sup>8</sup>

According to The Arc of Florida, post graduation services could maximize skills obtained in the school system and shorten the time that individuals on the waitlist languish at home awaiting services after graduation.<sup>9</sup>

### **The Stanley G. Tate Florida Prepaid College Program**

The Stanley G. Tate Florida Prepaid College Program allows purchasers to buy prepaid contracts to pay the registration fees, local fees, tuition differential fees, and dormitory expenses of beneficiaries at Florida community colleges and state universities, in advance of enrollment.<sup>10</sup> Beneficiaries of prepaid contracts are permitted to transfer the benefits of their contracts to any of the following institutions that qualify as an “eligible educational institution” under s. 529 of the Internal Revenue Code:

- An independent college or university located and chartered in Florida, that confers degrees and is accredited by the Southern Association of Colleges and Schools or the Accrediting Council for Independent Colleges and Schools and that confers degrees;
- Any out-of-state college or university that confers degrees, is not-for-profit, and is accredited by a regional accrediting association; and,
- An applied technology diploma program or career certificate program operated by a Florida community college or a career center operated by a district school board.<sup>11</sup>

### **III. Effect of Proposed Changes:**

This bill establishes the Prepaid Services for Parents of Children with Developmental Disabilities Study Group (study group) to evaluate the use of a prepaid system for children with disabilities modeled after the Florida prepaid college program.

The bill specifies that the prepaid system may allow funds to be paid into a plan for a child, and once the child exits an exceptional student program, provide the child with a voucher to purchase services from a qualified, willing provider. While providing support to the parent, these services would be helping the child transition to the workforce whenever possible.

The bill provides that the study group consists of:

- A member of the House of Representatives; appointed by the Speaker of the House of Representatives;
- A member of the Senate; appointed by the President of the Senate;
- The director of APD, or designee;
- The director of the Division of Vocational Rehabilitation, or designee;

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<sup>8</sup> On Campus Transition Program Report, available at: <http://apd.myflorida.com/area/4/docs/handouts-college-concept-oct-4-06.pdf> (last accessed March 6, 2009).

<sup>9</sup> The Arc of Florida Talking Points, available at: <http://www.arcflorida.org/download.php?view.68> (last visited March 6, 2009).

<sup>10</sup> Section 1009.98, F.S.

<sup>11</sup> *Id.*

- The executive director of the State Board of Administration, or designee;
- The Commissioner of Education, or designee;
- The executive director of The Arc of Florida, or designee;
- An Arc of Florida family board member;
- The chairperson of the Family Care Council Florida, or designee; and,
- A parent representative from the Family Care Council Florida.

The bill provides that appointments to the study group must be made by July 30, 2009.

The bill provides that administrative support is to be provided by APD.

The bill provides that the study group hold its first meeting by September 1, 2009, and submit a final report to the Legislature no later than January 29, 2010, that contains findings and recommendations regarding services for which the voucher may be used; financial requirements; qualifications of service providers; and, securing federal funds. The bill provides for the abolition of the study group upon the delivery the final report.

The bill provides that members of the study group, although serving without compensation, are entitled to reimbursement for per diem and travel.

The bill has an effective date of July 1, 2009.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

#### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Members of the task force serve without compensation, but are entitled to reimbursement for per diem and travel expenses in accordance with s. 112.061, F.S.

VI. Technical Deficiencies:

It is unclear whether the bill is referring to rehabilitation, educational, vocational, or other services.

It is unclear who is responsible for reimbursing the per diem and travel expenses incurred by the study group, as APD is to provide only “administrative support.” This term has been changed from the original “organizational support” but it is plausible that this still implies that either the APD, the employing agency of the appointees, or the appointees themselves are responsible for the expenses of their service.

VII. Related Issues:

The Division of Statutory Revision, under the authority contained in ch. 11, F.S., will decide on the placement of this bill should it become an act of the 2009 Legislature. It is of a general, but not a permanent, nature and its location may not be in the Florida Statutes. The bill is effectively self-repealing since the study group formed by its provisions expires upon the submission of its report.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Governmental Oversight and Accountability on March 31, 2009:** The CS incorporates the traveling amendments adopted in the Children, Family and Elder Affairs Committee which provide that the APD will provide administrative support to the study group and adds the Commissioner of Education or his or her designee to the study group.

B. Amendments:

**None.**