

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 Committee on Education

BILL: SB 1164

INTRODUCER: Senator Perry

SUBJECT: Gardiner Scholarship

DATE: January 10, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Dew		ED	Favorable
2.			AED	
3.			AP	

I. Summary:

SB 1164 revises eligibility requirements for the Gardiner Scholarship Program (scholarship). Specifically, the bill:

- Allows a student with a disability who turns 3 years of age after September 1 to be determined eligible for the scholarship.
- Provides that scholarship funds may be spent for tuition and fees associated with programs relating to art, music, or theater in which the instructor meets specified criteria.
- Clarifies the conditions under which a student’s account must be closed and funds revert to the state.

The bill takes effect July 1, 2020.

II. Present Situation:

The Office of K-12 School Choice within the Department of Education (DOE) supports quality public and private educational choice programs by providing information and assistance to promote successful outcomes for students, families, institutions, and communities.¹ Florida provides a variety of school choice scholarship programs, including the:²

- Gardiner Scholarship Program;³
- John M. McKay Scholarship for Students with Disabilities Program;⁴
- Family Empowerment Scholarship;⁵
- Florida Tax Credit Scholarship Program;⁶

¹ Florida Department of Education, *School Choice*, <http://www.fldoe.org/schools/school-choice/> (last visited Dec. 17, 2019).

² Florida Department of Education, *K-12 Scholarship Programs*, <http://www.fldoe.org/schools/school-choice/k-12-scholarship-programs/> (last visited Dec. 17, 2019).

³ Section 1002.385, F.S., and Rule 6A-6.0961, F.A.C.

⁴ Section 1002.39, F.S., and Rule 6A-6.0970, F.A.C.

⁵ Section 1002.394, F.S.

⁶ Section 1002.395, F.S., and Rule 6A-6.0960, F.A.C.

- Hope Scholarship Program;⁷ and
- Reading Scholarship Accounts.⁸

Gardiner Scholarship Program

The Gardiner Scholarship Program (scholarship) was established in 2014 to provide eligible students with a disability a scholarship that can be used to meet the individual educational needs of the student. In order to be eligible for receipt of a scholarship, a student must:

- Be a resident of this state;
- Be at least 3 years of age before September 1;
- Have a disability as specified in law; and
- Have an individual education plan (IEP) written in accordance the rules of the State Board of Education (SBE)⁹ or the rules of another state; or
- Have the diagnosis of a disability from a physician or psychologist who holds an active license.¹⁰

The scholarship is directly administered by state-approved nonprofit scholarship funding organizations (SFOs).¹¹ Moneys through scholarships can be used to meet the education needs of students including, but not limited to:¹²

- Applied behavior analysis services;
- Speech or occupational therapy;
- Physical therapy;
- Instructional materials;
- Tuition or fees associated with enrollment in an eligible private school, tutoring program, home education program, or virtual program;
- Fees for nationally standardized achievement tests or other assessments;
- Fees or services provided by, among others, a therapist certified by the Certification Board for Music Therapists or credentialed by the Art Therapy Credentials Board, Inc.;¹³
- Fees for specialized summer education programs or specialized after-school education programs;
- Transition services provided by job coaches;¹⁴ and
- Contributions to a college prepaid account.

⁷ Section 1002.40, F.S., and Rule 6A-60951, F.A.C.

⁸ Section 1002.411, F.S., and Rule 6A-6.0962, F.A.C.

⁹ Rule 6A-6.0961, F.A.C. See also Rules 6A-6.03028, 6A-6.030281, 6A-6.03029, and 6A-6.03311, F.A.C.

¹⁰ Florida Department of Education, Office of Independent Education and Parental Choice, *Gardiner Scholarship Program* (October 2019), available at <http://www.fl DOE.org/core/fileparse.php/5606/urlt/Gardiner.pdf>. See s. 1002.385(3), F.S. IEPs are planning instruments for the successful transition of students with disabilities to postsecondary education and career opportunities. Section 1003.5716(1), F.S. See also ss. 1003.4282(10), 1003.5716, and 1002.385, F.S.

¹¹ Florida Department of Education, *supra* note 10. See s. 1002.385(12), F.S.

¹² Section 1002.385(5), F.S.

¹³ Section 1002.385(5)(o), F.S.

¹⁴ “Transition services” means a coordinated set of activities for a student, designed within an outcome-oriented process, that promote movement from school to postschool activities, including postsecondary education; vocational training; integrated employment; supported employment; continuing and adult education; adult services; independent living, or community participation. Section 413.20(26), F.S.

The term of the scholarship continues until one of the following occurs:¹⁵

- The parent does not renew scholarship eligibility;
- The organization determines that the student is ineligible;
- The Commissioner of Education (commissioner) suspends or revokes scholarship participation or use of funds;
- The student's parent fails to comply with parent and student responsibilities for scholarship participation;¹⁶
- The student enrolls in a public school; or
- The student graduates from high school or attains 22 years of age.

Any remaining funds revert to the state after denial or revocation of scholarship eligibility by the commissioner for fraud or abuse, or after three consecutive fiscal years in which an account has been inactive or three consecutive years after high school completion or graduation during which the student is not enrolled in an eligible postsecondary educational institution or a program offered by the institution.¹⁷

The scholarship program has experienced significant growth over the six years since it was established. For the 2014-2015 school year, scholarships totaling \$15.2 million were awarded to 1,560 students.¹⁸ For the 2019-2020 school year, \$145.9 million has been awarded to 13,884 students through scholarships.¹⁹ The average scholarship amount is approximately \$10,500 per student.²⁰

Teacher Certification

Certification of instructional personnel in Florida is required by law to ensure that educators in the state are professionally qualified.²¹ Applicants for Florida educator certifications are governed by law and rules in effect at the time of application and qualification for an initial certification.²² Teaching experience for educator certification purposes is defined as full-time teaching, administrative, or supervisory service.²³

Specialization requirements for certification in K-12 art, music, and drama are outlined in SBE rule.²⁴ Either a bachelor's or higher degree with an undergraduate or graduate major specific to art, music, or drama is required to obtain certification in the subject. Alternatively, a bachelor's or higher degree with 30 semester hours in art, music, or drama in areas specified by SBE rule can substitute for this requirement.

¹⁵ Section 1002.385(6), F.S.

¹⁶ Section 1002.385(11), F.S.

¹⁷ *Id.*

¹⁸ Florida Department of Education, *supra* note 10.

¹⁹ *Id.* Data for 2019-2020 was current as of Oct. 10, 2019.

²⁰ *Id.*

²¹ Rule 6A-4.001(1), F.A.C.

²² Rule 6A-4.002(1)(b), F.A.C. *See* s. 1012.56, F.S.

²³ Rule 6A-4.002(5)(a), F.A.C.

²⁴ Rules 6A-4.0101, 6A-4.0271, and 6A-4.0342, F.A.C. *See also* Rules 6A-4.0021 and 6A-4.003, F.A.C.

III. Effect of Proposed Changes:

SB 1164 revises eligibility requirements for the Gardiner Scholarship Program (scholarship). Specifically, the bill:

- Allows a student with a disability who turns 3 years of age after September 1 to be determined eligible for the scholarship.
- Provides that scholarship funds may be spent for tuition and fees associated with programs relating to art, music, or theater in which the instructor meets specified criteria.
- Clarifies the conditions under which a student's account must be closed and funds revert to the state.

The bill authorizes a student with a disability who turns 3 years of age after September 1 to be determined to be eligible for the scholarship on or after his or her third birthday if scholarship funds are available and there are no other students on the wait list.

The bill modifies the authorized uses of scholarship funds for transition services; art, music, or theater classes or lessons; and summer and after-school education programs. The bill specifies that transition services that may be funded through the scholarship include a coordinated set of activities that are focused on improving the academic and functional achievement of the student to facilitate his or her movement from school to post-school activities and are based on the student's needs. Transition services may be, but are not required to be, provided by job coaches.

The bill adds tuition and fees associated with a student's participation in a series of classes or lessons relating to art, music, or theater to the list of authorized uses of scholarship funds. The bill specifies that the instructor of the classes or lessons must:

- Hold a valid or expired Florida educator's certificate in art, music or theater;
- Have 3 years of employment experience in art, music, or theater, as demonstrated by employment records;
- Hold a baccalaureate degree or higher from a postsecondary educational institution with a major in music, art, theater, or drama; or
- Hold a certification or national accreditation in music, art, theater, or drama.

The bill removes the requirement that summer and after-school programs be specialized programs to qualify as eligible uses of scholarship funds. Removing this requirement may provide additional flexibility for parents to use scholarship funds.

The bill also reduces the number of consecutive fiscal years an account must be inactive before a student's scholarship account must be closed from three consecutive fiscal years to two consecutive fiscal years. The bill requires that a parent must annually renew participation in the scholarship for a student to be eligible to receive funding. A student whose participation in the scholarship is not renewed may continue to spend scholarship funds that are in his or her account from prior years unless the account is closed due to fraud or abuse, lapse of enrollment, or inactivity of the account.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may provide additional Gardiner Scholarship Program (scholarship) opportunities to more students. The bill may also allow parents greater flexibility in meeting their children's individual needs through the scholarship.

C. Government Sector Impact:

The bill modifies the student eligibility criteria for participating in the scholarship to include additional students, if funds are available and there are no students on the wait list. The number of additional students who may become eligible is not known. Funding for the scholarship is determined annually in the General Appropriations Act (GAA). These additional students will not receive funding unless adequate funds are appropriated in the GAA.

VI. Technical Deficiencies:

The bill outlines an option for instructors holding a Florida educator's certificate in theater. However, State Board of Education (SBE) rule references specialized certification for Grades 6-

12 in drama, not theater.²⁵ The word used in the bill may need to be modified to ensure alignment with SBE rule.

VII. Related Issues:

None.

VIII. Statutes Affected:

The bill amends section 1002.385 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

²⁵ See Rule 6A-4.0342, F.A.C.