

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 1614

97TH GENERAL ASSEMBLY

Reported from the Committee on Education, May 12, 2014, with recommendation that the Senate Committee Substitute do pass.

4603S.04C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal section 161.825, RSMo, and to enact in lieu thereof one new section relating to educational services for students with qualifying needs.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 161.825, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 161.825, to read as follows:

161.825. 1. This section shall be known and may be cited as "Bryce's
2 Law".

3 2. As used in this section, the following terms mean:

4 (1) "Autism spectrum disorder", pervasive developmental disorder;
5 Asperger syndrome; childhood disintegrative disorder; Rett syndrome; and
6 autism;

7 (2) "Contribution", a donation of cash, stock, bonds, or other marketable
8 securities, or real property;

9 (3) "Department", the department of elementary and secondary education;

10 (4) "Director", the commissioner of education;

11 (5) "**Dyslexia therapy**", **an appropriate specialized dyslexia**
12 **instructional program that is systematic, multisensory, and research-**
13 **based offered in a small group setting to teach students the components**
14 **of reading instruction including but not limited to phonemic awareness,**
15 **graphophonemic knowledge, morphology, semantics, syntax, and**
16 **pragmatics, instruction on linguistic proficiency and fluency with**
17 **patterns of language so that words and sentences are carriers of**
18 **meaning, and strategies that students use for decoding, encoding, word**

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

19 **recognition, fluency and comprehension delivered by qualified**
20 **personnel;**

21 [(5)] (6) "Educational scholarships", grants to students **or children** to
22 cover all or part of the tuition and fees at a qualified nonpublic school, a qualified
23 public school, or a qualified service provider, including transportation;

24 [(6)] (7) "Eligible child", any child from birth to age five living in
25 Missouri who has an individualized family services program under the first steps
26 program, sections 160.900 to 160.933, and whose parent or guardian has
27 completed the complaint procedure under the Individuals with Disabilities
28 Education Act, Part C, and has received an unsatisfactory response; or any child
29 from birth to age five who has been evaluated for [special] **qualifying** needs as
30 defined in this section by a person qualified to perform evaluations under the first
31 steps program and has been determined to have [special needs] **a qualifying**
32 **need** but who falls below the threshold for eligibility by no less than twenty-five
33 percent;

34 [(7)] (8) "Eligible student", any elementary or secondary student who
35 attended public school in Missouri the preceding semester, or who will be
36 attending school in Missouri for the first time, who has an individualized
37 education program based on a [special] **qualifying** needs condition or who has
38 a medical **or clinical** diagnosis by a qualified health professional of a [special]
39 **qualifying** needs condition **which in the case of dyslexia, may be based on**
40 **the C-TOPP assessment as an initial indicator of dyslexia and**
41 **confirmed by further medical or clinical diagnosis;**

42 [(8)] (9) "Parent", includes a guardian, custodian, or other person with
43 authority to act on behalf of the **student or** child;

44 [(9)] (10) "Program", the program established in this section;

45 [(10)] (11) "Qualified health professional", a person licensed under
46 chapter 334 or 337 who possesses credentials as described in rules promulgated
47 jointly by the department of elementary and secondary education and the
48 department of mental health to make a diagnosis of a student's [special]
49 **qualifying** needs for this program;

50 [(11)] (12) "Qualified school", either an accredited public elementary or
51 secondary school in a district that is accredited without provision outside of the
52 district in which a student resides or an accredited nonpublic elementary or
53 secondary school in Missouri that complies with all of the requirements of the
54 program and complies with all state laws that apply to nonpublic schools

55 regarding criminal background checks for employees and excludes from
56 employment any person not permitted by state law to work in a nonpublic school;

57 [(12)] **(13)** "Qualified service provider", a person or agency authorized by
58 the department to provide services under the first steps program, sections
59 160.900 to 160.933, **and in the case of a provider offering dyslexia**
60 **therapy, the term also includes a person with national certification as**
61 **an academic language therapist;**

62 **(14) "Qualifying needs", an autism spectrum disorder, Down**
63 **Syndrome, Angelman Syndrome, cerebral palsy, or dyslexia;**

64 **(15)** "Scholarship granting organization", a charitable organization that:

65 (a) Is exempt from federal income tax;

66 (b) Complies with the requirements of this program;

67 (c) Provides education scholarships to students attending qualified schools
68 of their parents' choice or to children receiving services from qualified service
69 providers; and

70 (d) Does not accept contributions on behalf of any eligible student or
71 eligible child from any donor with any obligation to provide any support for the
72 eligible student or eligible child[;

73 (14) "Special needs", an autism spectrum disorder, Down Syndrome,
74 Angelman Syndrome, or cerebral palsy].

75 3. The department of elementary and secondary education shall develop
76 a master list of resources available to the parents of children with an autism
77 spectrum disorder **or dyslexia** and shall maintain a web page for the
78 information. The department shall also actively seek financial resources in the
79 form of grants and donations that may be devoted to scholarship funds or to
80 clinical trials for behavioral interventions that may be undertaken by qualified
81 service providers. The department may contract out or delegate these duties to
82 a nonprofit organization. Priority in referral for funding shall be given to
83 children who have not yet entered elementary school.

84 4. The director shall determine, at least annually, which organizations in
85 this state may be classified as scholarship granting organizations. The director
86 may require of an organization seeking to be classified as a scholarship granting
87 organization whatever information **[which] that** is reasonably necessary to make
88 such a determination. The director shall classify an organization as a scholarship
89 granting organization if such organization meets the definition set forth in this
90 section.

91 5. The director shall establish a procedure by which a donor can
92 determine if an organization has been classified as a scholarship granting
93 organization. Scholarship granting organizations shall be permitted to decline
94 a contribution from a donor.

95 6. Each scholarship granting organization shall provide information to the
96 director concerning the identity of each donor making a contribution to the
97 scholarship granting organization.

98 7. (1) The director shall annually make a determination on the number
99 of students in Missouri with an individualized education program based upon
100 **[special] qualifying** needs as defined in this section. The director shall use ten
101 percent of this number to determine the maximum number of students to receive
102 scholarships from a scholarship granting organization in that year for students
103 with **[special] qualifying** needs who have at the time of application an
104 individualized education program, plus a number calculated by the director by
105 applying the state's latest available autism, cerebral palsy, Down Syndrome,
106 **[and] Angelman Syndrome, and dyslexia** incidence rates to the state's
107 population of children from age five to nineteen who are not enrolled in public
108 schools and taking ten percent of that number. The total of these two
109 calculations shall constitute the maximum number of scholarships available to
110 students.

111 (2) The director shall also annually make a determination on the number
112 of children in Missouri whose parent or guardian has enrolled the child in first
113 steps, received an individualized family services program based on
114 **[special] qualifying** needs, and filed a complaint through the Individuals with
115 Disabilities Education Act, Part C, and received **[a negative] an unsatisfactory**
116 response. In addition to this number, the director shall apply the latest available
117 autism, cerebral palsy, Down Syndrome, **[and] Angelman Syndrome, and**
118 **dyslexia** incidence rates to the latest available census information for children
119 from birth to age five and determine ten percent of that number for the maximum
120 number of scholarships for children.

121 (3) The director shall publicly announce the number of each category of
122 scholarship opportunities available each year. Once a scholarship granting
123 organization has decided to provide a student or child with a scholarship, it shall
124 promptly notify the director. The director shall keep a running tally of the
125 number of scholarships granted in the order in which they were reported. Once
126 the tally reaches the annual limit of scholarships for eligible students or children,

127 the director shall notify all of the participating scholarship granting organizations
128 that they shall not issue any more scholarships and any more receipts for
129 contributions. If the scholarship granting organizations have not expended all
130 of their available scholarship funds in that year at the time when the limit is
131 reached, the available scholarship funds may be carried over into the next
132 year. These unexpended funds shall not be counted as part of the requirement
133 in subdivision (3) of subsection [10] 8 of this section for that year. Any receipt
134 for a scholarship contribution issued by a scholarship granting organization
135 before the director has publicly announced the student or child limit has been
136 reached shall be valid. **Beginning with school year 2016-17, the director**
137 **may adjust the allocation of the proportion of scholarships using**
138 **information on unmet need and use patterns from the previous school**
139 **years. The director shall provide notice of the change to the state**
140 **board of education for its approval.**

141 8. Each scholarship granting organization participating in the program
142 shall:

143 (1) Notify the department of its intent to provide educational scholarships
144 to students attending qualified schools or children receiving services from
145 qualified service providers;

146 (2) Provide a department-approved receipt to donors for contributions
147 made to the organization;

148 (3) Ensure that at least ninety percent of its revenue from donations is
149 spent on educational scholarships, and that all revenue from interest or
150 investments is spent on educational scholarships;

151 (4) Ensure that the scholarships provided do not exceed an average of
152 twenty thousand dollars per eligible child or fifty thousand dollars per eligible
153 student;

154 (5) Inform the parent or guardian of the student or child applying for a
155 scholarship that accepting the scholarship is tantamount to a parentally placed
156 private school student pursuant to 34 CFR 300.130 and, thus, neither the
157 department nor any Missouri public school is responsible to provide the student
158 with a free appropriate public education pursuant to the Individuals with
159 Disabilities Education Act or Section 504 of the Rehabilitation Act of 1973;

160 (6) Distribute periodic scholarship payments as checks made out to a
161 student's or child's parent and mailed to the qualified school where the student
162 is enrolled or qualified service provider used by the child. The parent or guardian

163 shall endorse the check before it can be deposited;

164 (7) Cooperate with the department to conduct criminal background checks
165 on all of its employees and board members and exclude from employment or
166 governance any individual who might reasonably pose a risk to the appropriate
167 use of contributed funds;

168 (8) Ensure that scholarships are portable during the school year and can
169 be used at any qualified school that accepts the eligible student or at a different
170 qualified service provider for an eligible child according to a parent's wishes. If
171 a student moves to a new qualified school during a school year or to a different
172 qualified service provider for an eligible child, the scholarship amount may be
173 prorated;

174 (9) Demonstrate its financial accountability by:

175 (a) Submitting a financial information report for the organization that
176 complies with uniform financial accounting standards established by the
177 department and conducted by a certified public accountant; and

178 (b) Having the auditor certify that the report is free of material
179 misstatements;

180 (10) Demonstrate its financial viability, if the organization is to receive
181 donations of fifty thousand dollars or more during the school year, by filing with
182 the department before the start of the school year:

183 (a) A surety bond payable to the state in an amount equal to the
184 aggregate amount of contributions expected to be received during the school year;
185 or

186 (b) Financial information that demonstrates the financial viability of the
187 scholarship granting organization.

188 9. Each scholarship granting organization shall ensure that each
189 participating school or service provider that accepts its scholarship students or
190 children shall:

191 (1) Comply with all health and safety laws or codes that apply to
192 nonpublic schools or service providers;

193 (2) Hold a valid occupancy permit if required by its municipality;

194 (3) Certify that it will comply with 42 U.S.C. Section 1981, as amended;

195 (4) Provide academic accountability to parents of the students or children
196 in the program by regularly reporting to the parent on the student's or child's
197 progress;

198 (5) Certify that in providing any educational services or behavior

199 strategies to a scholarship recipient with a **medical or clinical** diagnosis of or
200 an individualized education program based upon autism spectrum disorder it will:

201 (a) Adhere to the best practices recommendations of the Missouri Autism
202 Guidelines Initiative or document why it is varying from the guidelines;

203 (b) Not use any evidence-based interventions that have been found
204 ineffective by the [commission on Medicare] **centers for Medicare and**
205 **Medicaid services** as described in the Missouri Autism Guidelines Initiative
206 guide to evidence-based interventions; and

207 (c) Provide documentation in the student's or child's record of the
208 rationale for the use of any intervention that is categorized as unestablished,
209 insufficient evidence, or level 3 by the Missouri Autism Guidelines Initiative
210 guide to evidence-based interventions; and

211 (6) Certify that in providing any educational services or behavior
212 strategies to a scholarship recipient with a **medical or clinical** diagnosis of, or
213 an individualized family services program based upon Down Syndrome, Angelman
214 Syndrome, [or] cerebral palsy, **or dyslexia**, it will use student, teacher, teaching,
215 and school influences that rank in the zone of desired effects in the meta-analysis
216 of John Hattie, or equivalent analyses as determined by the department, or
217 document why it is using a method that has not been determined by analysis to
218 rank in the zone of desired effects.

219 10. Scholarship granting organizations shall not provide educational
220 scholarships for students to attend any school or children to receive services from
221 any qualified service provider with paid staff or board members who are relatives
222 within the first degree of consanguinity or affinity.

223 11. A scholarship granting organization shall publicly report to the
224 department, by June first of each year, the following information prepared by a
225 certified public accountant regarding its grants in the previous calendar year:

226 (1) The name and address of the scholarship granting organization;

227 (2) The total number and total dollar amount of contributions received
228 during the previous calendar year; and

229 (3) The total number and total dollar amount of educational scholarships
230 awarded during the previous calendar year, including the category of each
231 scholarship, and the total number and total dollar amount of educational
232 scholarships awarded during the previous year to students eligible for free and
233 reduced lunch.

234 12. The department shall adopt rules and regulations consistent with this

235 section as necessary to implement the program.

236 13. The department shall provide a standardized format for a receipt to
237 be issued by a scholarship granting organization to a donor to indicate the value
238 of a contribution received.

239 14. The department shall provide a standardized format for scholarship
240 granting organizations to report the information in this section.

241 15. The department may conduct either a financial review or audit of a
242 scholarship granting organization.

243 16. If the department believes that a scholarship granting organization
244 has intentionally and substantially failed to comply with the requirements of this
245 section, the department may hold a hearing before the director or the director's
246 designee to bar a scholarship granting organization from participating in the
247 program. The director or the director's designee shall issue a decision within
248 thirty days. A scholarship granting organization may appeal the director's
249 decision to the administrative hearing commission for a hearing in accordance
250 with the provisions of chapter 621.

251 17. If the scholarship granting organization is barred from participating
252 in the program, the department shall notify affected scholarship students or
253 children and their parents of this decision within fifteen days.

254 18. Any rule or portion of a rule, as that term is defined in section
255 536.010, that is created under the authority delegated in this section shall
256 become effective only if it complies with and is subject to all of the provisions of
257 chapter 536 and, if applicable, section 536.028. This section and chapter 536 are
258 nonseverable and if any of the powers vested with the general assembly pursuant
259 to chapter 536 to review, to delay the effective date, or to disapprove and annul
260 a rule are subsequently held unconstitutional, then the grant of rulemaking
261 authority and any rule proposed or adopted after August 28, 2013, shall be
262 invalid and void.

263 19. The department shall conduct a study of the program with funds other
264 than state funds. The department may contract with one or more qualified
265 researchers who have previous experience evaluating similar programs. The
266 department may accept grants to assist in funding this study.

267 20. The study shall assess:

268 (1) The level of participating students' and children's satisfaction with the
269 program in a manner suitable to the student or child;

270 (2) The level of parental satisfaction with the program;

271 (3) The percentage of participating students who were bullied or harassed
272 because of their special needs status at their resident school district compared to
273 the percentage so bullied or harassed at their qualified school;

274 (4) The percentage of participating students who exhibited behavioral
275 problems at their resident school district compared to the percentage exhibiting
276 behavioral problems at their qualified school;

277 (5) The class size experienced by participating students at their resident
278 school district and at their qualified school; and

279 (6) The fiscal impact to the state and resident school districts of the
280 program.

281 21. The study shall be completed using appropriate analytical and
282 behavioral sciences methodologies to ensure public confidence in the study.

283 22. The department shall provide the general assembly with a final copy
284 of the evaluation of the program by December 31, 2016.

285 23. The public and nonpublic participating schools and service providers
286 from which students transfer to participate in the program shall cooperate with
287 the research effort by providing student or child assessment instrument scores
288 and any other data necessary to complete this study.

289 24. The general assembly may require periodic updates on the status of
290 the study from the department. The individuals completing the study shall make
291 their data and methodology available for public review while complying with the
292 requirements of the Family Educational Rights and Privacy Act, as amended.

293 25. Under section 23.253 of the Missouri sunset act:

294 (1) The provisions of the new program authorized under this section shall
295 sunset automatically on December 31, 2019, unless reauthorized by an act of the
296 general assembly; and

297 (2) If such program is reauthorized, the program authorized under this
298 section shall sunset automatically on December 31, 2031; and

299 (3) This section shall terminate on December thirty-first of the calendar
300 year immediately following the calendar year in which the program authorized
301 under this section is sunset.

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