

State of Arkansas
92nd General Assembly
Regular Session, 2019

A Bill

SENATE BILL 384

By: Senator J. English

For An Act To Be Entitled

AN ACT CONCERNING THE REIMBURSEMENT OF EDUCATIONAL COSTS; TO PROVIDE FOR CONSISTENCY IN THE REIMBURSEMENT OF EDUCATIONAL COSTS FOR STUDENTS WHO ARE PLACED IN A RESIDENTIAL OR INPATIENT FACILITY THAT IS LOCATED IN A BORDERING STATE; AND FOR OTHER PURPOSES.

Subtitle

TO PROVIDE FOR CONSISTENCY IN THE REIMBURSEMENT OF EDUCATIONAL COSTS FOR STUDENTS WHO ARE PLACED IN A RESIDENTIAL OR INPATIENT FACILITY THAT IS LOCATED IN A BORDERING STATE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. DO NOT CODIFY. Legislative findings.

The General Assembly finds that:

(1) Under Arkansas Code § 6-20-107, students who live and attend school in Arkansas are entitled to an education during a stay for care and treatment in a residential or inpatient facility;

(2) For many students and their families, placement in an out-of-state residential or inpatient facility is appropriate and promotes family participation in the student's care and treatment because the out-of-state facility is closer to the student's home than the nearest in-state facility;

(3) The General Assembly has historically recognized that many individuals and institutions in Arkansas routinely do business with



individuals and institutions in bordering states and has enacted laws that ensure consistency of interaction with in-state and out-of-state individuals, institutions, and services such as airport services, the controlling of illegal drug trafficking, the depositing of Arkansas local school district funds, intergovernmental cooperation agreements, Medicaid reimbursement, municipal water and sewer operations, taxation, and the venue for adoption proceedings;

(4) Arkansas students and their families should have the ability to seek care and treatment at the closest and most appropriate residential or inpatient facility; and

(5) Arkansas should cover the educational costs of a student in an out-of-state residential or inpatient facility, subject to physician certification that the placement is medically necessary and the most appropriate placement available, in the same manner that the state covers the educational costs of a student in an in-state residential or inpatient facility.

SECTION 2. Arkansas Code § 6-20-107(b), concerning the conditions under which the Department of Education, a public school district, or an open-enrollment public charter school district may be liable for educational costs, is amended to read as follows:

(b)(1) The Department of Education, a public school district, or an open-enrollment public charter school shall not be liable for any educational costs or other related costs associated with the placement of a juvenile in an out-of-state residential or inpatient facility for any care and treatment, including psychiatric treatment, unless:

~~(1)(A)~~ At the time of placement, the juvenile's physician determines that the out-of-state placement is medically necessary and is the most appropriate placement available;

~~(A) The juvenile qualifies as disabled under the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq.; and~~

~~(B) Payment is required under the Individuals with Disabilities Education Act;~~

~~(2)(B)~~ The department authorizes public payment for educational costs based on a determination that the educational program and facilities are appropriate for the juvenile and the department has approved the

facility's educational program; ~~and~~

~~(3)(A)(C)(i)~~ Each educational program authorization precedes the placement.

~~(B)(ii)~~ If the educational program is not authorized before placement, the department, public school districts, or open-enrollment public charter schools shall not be responsible for ~~education~~ educational or other related costs, nor shall they be subject to any order to pay for educational or other related costs; and

(D) The out-of-state residential or inpatient facility is located within a state that borders Arkansas.

(2) Payment under this subsection (b) shall be:

(A) Limited to twenty (20) students at any one (1) time during a calendar year unless:

(i) The juvenile under subdivision (b)(1) of this section qualifies as disabled under the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq.; and

(ii) Payment is required under the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq; and

(B) Subject to the availability of department funding.

APPROVED: 3/20/19