

FIRST REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]

HOUSE BILL NO. 655

92ND GENERAL ASSEMBLY

1507L.01T

2003

AN ACT

To repeal sections 162.680 and 162.962, RSMo, and to enact in lieu thereof two new sections relating to special education services.

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

Section A. Sections 162.680 and 162.962, RSMo, are repealed and two new sections
2 enacted in lieu thereof, to be known as sections 162.680 and 162.962, to read as follows:

162.680. 1. No child may be denied services provided by sections 162.670 to [162.995]
2 **162.999** because of such child's disabling condition.

3 2. To the maximum extent appropriate, disabled and severely disabled children shall be
4 educated along with children who do not have disabilities and shall attend regular classes, except
5 that in the case of a disability resulting in violent behavior which causes a substantial likelihood
6 of injury to the student or others, the school district shall initiate procedures consistent with state
7 and federal law to remove the child to a more appropriate placement. [Impediments to learning
8 and to the normal functioning of such children in the regular school environment shall be
9 overcome whenever practicable by the provision of special aids and services rather than by
10 separate schooling for the disabled.] **Special classes, separate schooling, or other removal of**
11 **children with disabilities from the regular educational environment shall occur only when**
12 **the nature or severity of the disability of a child is such that education in regular classes**
13 **with the use of supplementary aids and services cannot be achieved satisfactorily.**

162.962. In a case where review of the hearing panel's decision is sought by a school
2 district or a parent or guardian, either party may appeal as follows:

3 (1) The court shall hear the case without a jury [and except as otherwise provided in
4 subsection 4 of section 536.140, RSMo, shall hear it upon the petition and record filed as
5 provided in sections 162.950 to 162.961;

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

- 6 (2) The inquiry may extend to a determination of whether the action of the agency:
- 7 (a) Is in violation of constitutional provisions;
- 8 (b) Is unsupported by competent and substantial evidence upon the entire record;
- 9 (c) Is made upon unlawful procedure or without a fair trial;
- 10 (d) Is arbitrary, capricious, or unreasonable; or
- 11 (e) Involves an abuse of discretion.] **and shall:**
- 12 **(a) Receive the records of the administrative proceedings;**
- 13 **(b) Hear additional evidence at the request of a party; and**
- 14 **(c) Grant the relief that the court determines to be appropriate, basing its decision**
- 15 **on the preponderance of the evidence;**
- 16 **(2) Appeals may be taken from the judgment of the court as in other civil cases;**
- 17 **(3) Judicial review of the hearing panel's decision may be instituted by filing a**
- 18 **petition in a state or federal court of competent jurisdiction. Appeals to state court shall**
- 19 **be filed within forty-five days after the receipt of the notice of the agency's final decision;**
- 20 **(4) Except when provided otherwise within this chapter or Part 300 of Title 34 of**
- 21 **the Code of Federal Regulations, the provisions of chapter 536, RSMo, are applicable to**
- 22 **special education due process hearings and appeal of same.**