

FIRST REGULAR SESSION

HOUSE BILL NO. 1212

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE STACY.

2426H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 161.825, RSMo, and to enact in lieu thereof one new section relating to educational scholarships.

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Section A. Section 161.825, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 161.825, to read as follows: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

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

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

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

(3) "Department", ~~[the department of elementary and secondary education]~~ **the office of the state treasurer;**

(4) "Director", ~~[the commissioner of education]~~ **the state treasurer;**

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

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

17 (6) "Educational scholarships", grants to students or children to cover all or part of the
18 tuition and fees at a qualified nonpublic school, a qualified public school, or a qualified service
19 provider, including transportation;

20 (7) "Eligible child", any child from birth to age five living in Missouri who has an
21 individualized family services program under the first steps program, sections 160.900 to
22 ~~[160.933]~~ **160.925**, and whose parent or guardian has completed the complaint procedure under
23 the Individuals with Disabilities Education Act, Part C, and has received an unsatisfactory
24 response; or any child from birth to age five who has been evaluated for qualifying needs as
25 defined in this section by a person qualified to perform evaluations under the first steps program
26 and has been determined to have a qualifying need but who falls below the threshold for
27 eligibility by no less than twenty-five percent;

28 (8) "Eligible student", any elementary or secondary student who attended public school
29 in Missouri the preceding semester, or who will be attending school in Missouri for the first time,
30 who has an individualized education program based on a qualifying needs condition or who has
31 a medical or clinical diagnosis by a qualified health professional of a qualifying needs condition
32 which in the case of dyslexia, may be based on the C-TOPP assessment as an initial indicator of
33 dyslexia and confirmed by further medical or clinical diagnosis;

34 (9) "Parent", includes a guardian, custodian, or other person with authority to act on
35 behalf of the student or child;

36 (10) "Program", the program established in this section;

37 (11) "Qualified health professional", a person licensed under chapter 334 or 337 who
38 possesses credentials as described in rules promulgated jointly by the department of elementary
39 and secondary education and the department of mental health to make a diagnosis of a student's
40 qualifying needs for this program;

41 (12) "Qualified school", either an accredited public elementary or secondary school in
42 a district that is accredited without provision outside of the district in which a student resides or
43 an accredited nonpublic elementary or secondary school in Missouri that complies with all of the
44 requirements of the program and complies with all state laws that apply to nonpublic schools
45 regarding criminal background checks for employees and excludes from employment any person
46 not permitted by state law to work in a nonpublic school;

47 (13) "Qualified service provider", a person or agency authorized by the department of
48 **elementary and secondary education** to provide services under the first steps program, sections
49 160.900 to ~~[160.933]~~ **160.925**, and in the case of a provider offering dyslexia therapy, the term
50 also includes a person with national certification as an academic language therapist;

51 (14) "Qualifying needs", an autism spectrum disorder, Down Syndrome, Angelman
52 Syndrome, cerebral palsy, or dyslexia;

53 (15) "Scholarship granting organization", a charitable organization that:
54 (a) Is exempt from federal income tax;
55 (b) Complies with the requirements of this program;
56 (c) Provides education scholarships to students attending qualified schools of their
57 parents' choice or to children receiving services from qualified service providers; and
58 (d) Does not accept contributions on behalf of any eligible student or eligible child from
59 any donor with any obligation to provide any support for the eligible student or eligible child.

60 3. The department [~~of elementary and secondary education~~] shall develop a master list
61 of resources available to the parents of children with an autism spectrum disorder or dyslexia and
62 shall maintain a web page for the information. The department shall also actively seek financial
63 resources in the form of grants and donations that may be devoted to scholarship funds or to
64 clinical trials for behavioral interventions that may be undertaken by qualified service providers.
65 The department may contract out or delegate these duties to a nonprofit organization. Priority
66 in referral for funding shall be given to children who have not yet entered elementary school.

67 4. The director shall determine, at least annually, which organizations in this state may
68 be classified as scholarship granting organizations. The director may require of an organization
69 seeking to be classified as a scholarship granting organization whatever information that is
70 reasonably necessary to make such a determination. The director shall classify an organization
71 as a scholarship granting organization if such organization meets the definition set forth in this
72 section.

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

76 6. Each scholarship granting organization shall provide information to the director
77 concerning the identity of each donor making a contribution to the scholarship granting
78 organization.

79 7. (1) The director shall annually make a determination on the number of students in
80 Missouri with an individualized education program based upon qualifying needs as defined in
81 this section. The director shall use ten percent of this number to determine the maximum
82 number of students to receive scholarships from a scholarship granting organization in that year
83 for students with qualifying needs who have at the time of application an individualized
84 education program, plus a number calculated by the director by applying the state's latest
85 available autism, cerebral palsy, Down Syndrome, Angelman Syndrome, and dyslexia incidence
86 rates to the state's population of children from age five to nineteen who are not enrolled in public
87 schools and taking ten percent of that number. The total of these two calculations shall
88 constitute the maximum number of scholarships available to students.

89 (2) The director shall also annually make a determination on the number of children in
90 Missouri whose parent or guardian has enrolled the child in first steps, received an individualized
91 family services program based on qualifying needs, and filed a complaint through the
92 Individuals with Disabilities Education Act, Part C, and received an unsatisfactory response. In
93 addition to this number, the director shall apply the latest available autism, cerebral palsy, Down
94 Syndrome, Angelman Syndrome, and dyslexia incidence rates to the latest available census
95 information for children from birth to age five and determine ten percent of that number for the
96 maximum number of scholarships for children.

97 (3) The director shall publicly announce the number of each category of scholarship
98 opportunities available each year. Once a scholarship granting organization has decided to
99 provide a student or child with a scholarship, it shall promptly notify the director. The director
100 shall keep a running tally of the number of scholarships granted in the order in which they were
101 reported. Once the tally reaches the annual limit of scholarships for eligible students or children,
102 the director shall notify all of the participating scholarship granting organizations that they shall
103 not issue any more scholarships and any more receipts for contributions. If the scholarship
104 granting organizations have not expended all of their available scholarship funds in that year at
105 the time when the limit is reached, the available scholarship funds may be carried over into the
106 next year. These unexpended funds shall not be counted as part of the requirement in
107 subdivision (3) of subsection 8 of this section for that year. Any receipt for a scholarship
108 contribution issued by a scholarship granting organization before the director has publicly
109 announced the student or child limit has been reached shall be valid. Beginning with school year
110 2016-17, the director may adjust the allocation of the proportion of scholarships using
111 information on unmet need and use patterns from the previous school years. The director shall
112 provide notice of the change to the state board of education for its approval.

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

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

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

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

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

123 (5) Inform the parent or guardian of the student or child applying for a scholarship that
124 accepting the scholarship is tantamount to a parentally placed private school student pursuant to

125 34 CFR 300.130 and, thus, neither the department **of elementary and secondary education** nor
126 any Missouri public school is responsible to provide the student with a free appropriate public
127 education pursuant to the Individuals with Disabilities Education Act or Section 504 of the
128 Rehabilitation Act of 1973;

129 (6) Distribute periodic scholarship payments as checks made out to a student's or child's
130 parent and mailed to the qualified school where the student is enrolled or qualified service
131 provider used by the child. The parent or guardian shall endorse the check before it can be
132 deposited;

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

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

141 (9) Demonstrate its financial accountability by:

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

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

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

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

151 (b) Financial information that demonstrates the financial viability of the scholarship
152 granting organization.

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

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

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

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

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

(5) Certify that in providing any educational services or behavior strategies to a scholarship recipient with a medical or clinical diagnosis of or an individualized education program based upon autism spectrum disorder it will:

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

(b) Not use any evidence-based interventions that have been found ineffective by the Centers for Medicare and Medicaid Services as described in the Missouri Autism Guidelines Initiative guide to evidence-based interventions; and

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

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

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

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

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

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

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

12. The department shall adopt rules and regulations consistent with this section as necessary to implement the program.

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

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

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

201 16. If the department believes that a scholarship granting organization has intentionally
202 and substantially failed to comply with the requirements of this section, the department may hold
203 a hearing before the director or the director's designee to bar a scholarship granting organization
204 from participating in the program. The director or the director's designee shall issue a decision
205 within thirty days. A scholarship granting organization may appeal the director's decision to the
206 administrative hearing commission for a hearing in accordance with the provisions of chapter
207 621.

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

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

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

222 20. The study shall assess:

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

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

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

229 (4) The percentage of participating students who exhibited behavioral problems at their
230 resident school district compared to the percentage exhibiting behavioral problems at their
231 qualified school;

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

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

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

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

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

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

247 25. ~~Under~~ **The provisions of** section 23.253 of the Missouri sunset act[:

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

250 ~~—— (2) If such program is reauthorized, the program authorized under this section shall~~
251 ~~sunset automatically on December 31, 2031; and~~

252 ~~—— (3) This section shall terminate on December thirty-first of the calendar year immediately~~
253 ~~following the calendar year in which the program authorized under this section is sunset] **shall**~~
254 **not apply to this section.**

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