

1 State of Arkansas
2 92nd General Assembly
3 Regular Session, 2019
4

A Bill

SENATE BILL 384

5 By: Senator J. English
6

For An Act To Be Entitled

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

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17 TO PROVIDE FOR CONSISTENCY IN THE
18 REIMBURSEMENT OF EDUCATIONAL COSTS FOR
19 STUDENTS WHO ARE PLACED IN A RESIDENTIAL
20 OR INPATIENT FACILITY THAT IS LOCATED IN
21 A BORDERING STATE.
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24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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26 SECTION 1. DO NOT CODIFY. Legislative findings.

27 The General Assembly finds that:

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

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

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



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

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

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

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

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

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

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

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

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

1 facility's educational program; ~~and~~

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

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

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

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

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

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

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

19 (B) Subject to the availability of department funding.

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22 **APPROVED: 3/20/19**
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