

**Sixty-second Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 4, 2011**

HOUSE BILL NO. 1073
(Representatives Mueller, D. Johnson, Rust, Wall)
(Senators Heckaman, G. Lee)

AN ACT to amend and reenact sections 15.1-32-01, 15.1-32-12, 15.1-32-13, and 15.1-32-15 of the North Dakota Century Code, relating to special education.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15.1-32-01 of the North Dakota Century Code is amended and reenacted as follows:

15.1-32-01. Definitions.

As used in this chapter:

1. "Related services" means transportation and developmental and corrective or supportive services required to assist a student with disabilities to benefit from special education.
2. "Special education" means instruction designed to meet the needs of a student with disabilities, transportation, and corrective and supporting services required to assist a student with disabilities in taking advantage of, or responding to, educational programs and opportunities.
3. "Student who is gifted" means an individual who is identified by qualified professionals as being capable of high performance and who needs educational programs and services beyond those normally provided in a regular education program.
4. a. "Student with a disability" means an individual who is at least three years of age but who has not reached the age of twenty-one before September first of the year in which the individual turns twenty-one and who requires special education and related services because of:
 - (1) ~~Mental retardation~~An intellectual disability;
 - (2) A hearing impairment, including deafness;
 - (3) Deaf-blindness;
 - (4) A speech or language impairment;
 - (5) A visual impairment, including blindness;
 - (6) An emotional disturbance;
 - (7) An orthopedic impairment;
 - (8) Autism;
 - (9) A traumatic brain injury;
 - (10) Other health impairment; or
 - (11) A specific learning disability.

- b. "Student with a disability" includes a student age eighteen through twenty-one who is incarcerated in an adult correctional facility and who, in the last educational placement prior to incarceration, was identified as being a student with a disability and did not have an individualized education program or was identified as being a student with a disability and had an individualized education program.

SECTION 2. AMENDMENT. Section 15.1-32-12 of the North Dakota Century Code is amended and reenacted as follows:

15.1-32-12. Multidisciplinary teams - Individualized education programs - Services plans.

If a school district has evidence of a student's disability, the school district shall convene a multidisciplinary team ~~consisting of. The team must include~~ educational professionals, ~~medical professionals,~~ and the student's parent ~~and may include medical professionals.~~ The team shall share assessment information related to the student's suspected disability. If necessary, the team shall develop an individualized education program or services plan and make recommendations for the delivery of special education and related services to the student.

SECTION 3. AMENDMENT. Section 15.1-32-13 of the North Dakota Century Code is amended and reenacted as follows:

15.1-32-13. Related services - Insurance options - School district responsibility.

Each school district shall ~~require that all family insurance options be exhausted in paying the costs of determining a student's medically related disability~~ obtain parental consent before accessing any family insurance options, whether public or private, to pay for the cost of determining a student's medically related disability and ~~in paying to pay~~ for the provision of related services to the student, provided there is no financial loss to the student or the student's parent. The school district is responsible for all costs not covered by the family's insurance.

SECTION 4. AMENDMENT. Section 15.1-32-15 of the North Dakota Century Code is amended and reenacted as follows:

15.1-32-15. Student with disabilities - Attendance at private institution or out-of-state public school.

1. If in the opinion of an individualized education program team or an education services team a student is unable to attend a public school in the student's school district of residence because of a ~~physical disability, a mental disability, or a learning~~ disability, and if no public school in the state will accept the student and provide the necessary services, the student's school district of residence shall contract with:
 - a. A private, accredited, nonsectarian, nonprofit institution that is located within or outside of this state and which has the proper facilities for the education of the student; or
 - b. A public school located outside of this state that has proper facilities for the education of the student.
2. The superintendent of public instruction shall approve in advance the terms of the contract and the services to be provided by the admitting institution or school.
3. The contract must provide that the student's school district of residence is liable for the cost of educating the student.
4. A student who receives services under this section is deemed to be enrolled in the student's school district of residence for purposes of determining average daily membership.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-second Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1073.

House Vote: Yeas 93 Nays 0 Absent 1

Senate Vote: Yeas 44 Nays 0 Absent 3

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2011.

Approved at _____ M. on _____, 2011.

Governor

Filed in this office this _____ day of _____, 2011,

at _____ o'clock _____ M.

Secretary of State