

LEGISLATIVE BILL 889

Approved by the Governor April 17, 1978

Introduced by Koch, 12

AN ACT to amend sections 43-646 and 43-646.01, Revised Statutes Supplement, 1976, relating to the care and education of handicapped children; to provide for reimbursement of certain costs; to provide duties; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 43-646, Revised Statutes Supplement, 1976, be amended to read as follows:

43-646. This act shall apply to any children from age five the date of diagnosis or the date of notification of the resident school district to age twenty-one. The State Department of Education, Division of Vocational Rehabilitation shall, in compliance with federal guidelines, assume responsibility for the training of those individuals whose education or training is terminated and for whom additional supportive services are required.

Sec. 2. That section 43-646.01, Revised Statutes Supplement, 1976, be amended to read as follows:

43-646.01. ~~Any district board or board of education may establish special education programs for handicapped children below the age of five which it deems beneficial to the education of such children. Attendance at such programs shall be voluntary. Any school district which establishes programs pursuant to this section shall not be eligible for reimbursement of excess costs for such programs as would otherwise be provided in section 43-646. Participation in or attendance at programs by handicapped children below the age of five shall be voluntary as specified by the parent or guardian. Programs serving children below age three shall, to the greatest extent possible, be based upon providing parent training in the home environment.~~

Sec. 3. Effective July 1, 1979, the State Department of Education shall provide grants for ninety per cent of the costs of the special education programs, approved by the State Department of Education, to the school district of residence for handicapped children of less than five years of age, as defined in section

43-604, Revised Statutes Supplement, 1976. The grant payments shall be made by the State Department of Education to the resident school district in seven as nearly as possible equal monthly payments between the fifth and twentieth day of each month beginning December, 1979, and each December thereafter.

Sec. 4. Effective July 1, 1979, each school district shall pay an amount equal to the average per pupil cost of the servicing agency of the preceding year or the cost as agreed upon pursuant to the contract to the agency providing the educational program for every handicapped student of less than five years of age who is a resident of the district and attending an educational program not operated by the school district, including programs operated by the State Department of Education, the Department of Public Institutions, and any other servicing agency whose programs are approved by the State Department of Education.

Sec. 5. For the period beginning on the first day of each school district's 1978-79 school year until June 30, 1979, each school district providing programs approved by the State Department of Education, for handicapped children of less than five years of age, shall receive grants from the State Department of Education for the approved cost of providing such programs. The State Department of Education shall only approve programs for the 1978-79 school year which were operated by local public school districts or educational service units and were funded by the State Department of Education during the 1977-78 school year; and the grants for such programs shall be based upon the 1977-78 actual costs. If other funds are not provided, the State Department of Public Welfare shall provide continuation funds from July 1, 1978 through June 30, 1979 for children under the age of five served by the United Cerebral Palsy School of Lincoln and the Omaha Hearing School.

Sec. 6. For the period from July 1, 1978 to June 30, 1979, the community-based mental retardation regional governing board, school district of residence, and the handicapped child's parent or legal guardian shall approve the transfer of any handicapped child of less than five years of age from programs provided by the community-based mental retardation regional governing boards to programs provided by the local school district prior to such transfer.

Sec. 7. The State Department of Education shall develop and maintain search and reporting systems which assist in the early identification and provision of

educational services to handicapped children. Such system shall be operated in consultation and cooperation with public and nonpublic agencies, institutions of higher education, public and nonpublic schools, educational service units, and medical and mental health professionals. A report describing the number and type of students of less than five years of age served, the kinds of services provided, and the agencies providing the services shall be presented on December 31, 1978, and December 31 of each succeeding year by the Commissioner of Education to the State Board of Education, the Department of Administrative Services, and the Executive Board of the Legislative Council. Such report shall:

(1) Specifically set forth the status of qualifications of program personnel in relation to the standards;

(2) Include an inventory of training program capacity at each institution of higher education; and

(3) Describe the method employed by each institution of higher education to accommodate the previous experience and education of candidates for training.

Sec. 8. Before December 1, 1978, the State Department of Education shall adopt and promulgate personnel and program standards for personnel and programs serving handicapped students of less than five years of age. The standards shall be effective no later than July 1, 1979, and shall provide for successive steps toward full compliance for a period of up to three years. Programs shall qualify for grants as determined by the State Department of Education for the period July 1, 1979, to June 30, 1980.

Sec. 9. Each school district shall demonstrate participation in a plan of services for handicapped children of less than five years of age. Such plans shall be prepared on a regional basis as determined by the State Department of Education. The contents of the plans shall include but not be limited to:

(1) A listing of the programs existing during the initial planning period, the personnel involved, and their qualifications;

(2) A census by name, resident school district, and handicapping condition of all children less than five years of age;

(3) A procedure for identification and referral of handicapped children;

(4) An agreement setting forth the responsibilities and level of participation of each servicing agency within the region; and

(5) Budgets for the proposed program.

The State Board of Education shall annually approve the plans which shall be submitted no later than December 1, 1978, and February 1 of each year thereafter. Based upon the submitted plans, the State Department of Education shall submit a budget request to the Department of Administrative Services no later than December 31, 1978 for the funds required to provide appropriate services to the handicapped children identified. Such budget request shall be developed in cooperation with the Department of Public Institutions, Office of Mental Retardation.

Sec. 10. The provisions of this act shall not be construed to prevent funding from sources other than the public schools for the program for handicapped children of less than five years of age.

Sec. 11. The State Department of Education shall promulgate and publish such rules and regulations as shall be necessary to carry out the provisions of this act no later than July 1, 1979.

Sec. 12. That original sections 43-646 and 43-646.01, Revised Statutes Supplement, 1976, are repealed.