

## **BILL ANALYSIS**

Senate Research Center  
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C.S.S.B. 1000  
By: Shapiro et al.  
Education  
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Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

One in every 150 children is diagnosed with autism each year and the number of students in Texas public schools with Autism has increased by 600 percent over the last 20 years. Unlike other disorders, research shows that with early, intensive intervention, almost 50 percent of children with autism can become indistinguishable from their peers. While some school districts provide excellent services, others do not have programs in place to meet the needs of these unique students. Children with autism can learn and progress if placed in an appropriate educational setting to meet their individual needs, but effective teaching strategies are crucial to their positive development and could be the difference between a generation of healthy, taxpaying citizens versus institutionalized adults.

C.S.S.B. 1000 creates the Autism Services Accessibility Program, giving parents the flexibility to determine the kind of education that best meets their child's particular needs by allowing students to transfer within a district, between districts, or to a private accredited school. Funding would follow the child, limited to the amount the student's public school would receive to provide educational services. To be eligible for participation, students must have an Individualized Education Program (IEP) designed by their local public school describing the services they are to receive. Non-public qualifying schools chosen by parents must administer state assessments and establish academic goals for each student enrolled under the program and must report progress to parents at least once each six week period.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the commissioner of education in SECTION 1 (Section 29.360, Section 29.363, and Section 29.364, Education Code) and SECTION 2 (Section 8.058, Education Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Chapter 29, Education Code, by adding Subchapter J, as follows:

#### **SUBCHAPTER J. AUTISM SERVICES ACCESSIBILITY PROGRAM**

Sec. 29.351. DEFINITIONS. Defines "parent," "program," and "qualifying school."

Sec. 29.352. PROGRAM. Authorizes an eligible student under Section 29.353 to attend or access services through certain schools, at the option of the student's parent.

Sec. 29.353. ELIGIBLE STUDENT. (a) Sets forth certain requirements for a student to be eligible to participate in the autism services accessibility program (program).

(b) Requires a school district, each school year, to provide written notice of the program to the parent of a student who is eligible to participate in the program under Subsection (a) and allow the parent an opportunity to enroll the student in the program.

(c) Authorizes a student who establishes eligibility under this section to continue participating in the program until the student graduates from high school or the student's 22nd birthday.

Sec. 29.354. TRANSFER OF STATE AID BETWEEN SCHOOL DISTRICTS. (a) Provides that an eligible student who, as provided by Section 29.352(2), attends a public school in a school district other than the district in which the student resides is included in the average daily attendance of the district in which the student resides for purposes of Chapters 41 (Equalized Wealth Level) and 42 (Foundation School Program), except as provided by Section 29.355.

(b) Requires the commissioner of education (commissioner) to deduct an amount equal to the amount of funding to which the school district in which the eligible student resides is entitled under Chapter 42 (Foundation School Program) for that student from the total state aid to which that district is entitled and to transfer that amount to the district in which the student is enrolled.

(c) Requires the district in which the student resides to purchase attendance credits under Section 41.093 in a certain amount if a student resides in a school district that does not receive state aid under Chapter 42. Requires the commissioner to transfer that amount to the school district in which the student is enrolled.

Sec. 29.355. STATE AID IN CERTAIN CIRCUMSTANCES. Provides that an eligible student who attends a public school in a school district other than the district the student resides in is counted in the average daily attendance of the school district in which the student attends school if the total amount of state aid that the enrolling district would receive by counting the student in the district's average daily attendance is greater than the amount of state aid the district would receive as a result of receiving a transfer of funds from the district in which the student resides under Section 29.354.

Sec. 29.356. FINANCING OF SERVICES PROVIDED BY QUALIFYING SCHOOL.

(a) Entitles a qualifying school to a certain annual amount of funding for a student who attends a qualifying school under this subchapter. Requires the Texas Education Agency (TEA) to directly distribute the funding to the qualifying school.

(b) Sets forth certain requirements for the parent of a student and TEA relating to the application process for qualifying for the program.

(c) Requires TEA to direct the distribution of funds to the qualifying school the student attends on a schedule adopted by TEA after educational services have been provided. Requires TEA to require that the qualifying school submit documentation of the student's attendance before TEA directs funds to the qualifying school.

(d) Provides that a student who attends a qualifying school under this subchapter is included in the average daily attendance of the school district in which the student resides for purposes of determining the amount of the student's program funding. Provides that the amount of the student's program funding is deducted from the total state aid to which the school district is entitled. Requires the school district to purchase attendance credits under Section 41.093 (Cost) in an amount equal to the amount of the student's program funding if a student resides in a school district that does not receive state aid under Chapter 42.

(e) Provides that the student's program funding is the entitlement of the student, under the supervision of the student's parent, and not that of any school.

(f) Prohibits a qualifying school from sharing a student's program funding with or refund or rebate a student's program funding to the parent or the student in any manner.

(g) Prohibits a student's program funding from being financed by money appropriated from the available school fund.

Sec. 29.357. PARTICIPATION BY QUALIFYING SCHOOLS. (a) Sets forth certain requirements a qualifying school must meet to participate in the program.

(b) Requires a qualifying school to comply with all state laws applicable to nongovernmental schools regarding criminal background checks for employees. Prohibits a qualifying school from employing a person who is not authorized under state law to work in a nongovernmental school.

Sec. 29.358. ADMISSIONS. (a) Prohibits a qualifying school chosen by an eligible student's parent under this subchapter from denying admission by discriminating on the basis of the student's race, ethnicity, or national origin. Requires a qualifying school to comply with the requirements of certain federal laws.

(b) Requires a qualifying school that has more qualified program applicants for attendance under this subchapter than available positions to fill the available program positions by a random selection process, except as provided by this subsection. Authorizes a school to give preference among program applicants to a previously enrolled student and to other students residing in the same household as a previously enrolled student to achieve continuity in education.

(c) Authorizes a qualifying school to submit a written request for student records from the public school previously attended by an eligible student. Requires the public school to deliver to the qualifying school a copy of the school's complete student records for that student, including certain information from each school the student previously attended not later than the 10th working day after the date the public school receives the request. Requires a public school that is required to release student records under this subsection to comply with any applicable provision of the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g).

Sec. 29.359. ACADEMIC ACCOUNTABILITY. (a) Requires a qualifying school to establish academic goals for each eligible student enrolled in the school each school year. Requires the goals to be developed in a manner similar to an individualized education program developed under Section 29.005 (Individualized Education Program). Requires the school to provide a report to the student's parent describing the student's progress toward achieving the academic goals developed for the student under this subsection at least every six weeks.

(b) Requires each qualifying school that enrolls a student under this subchapter to annually administer certain assessments in the spring.

(c) Requires the school to provide certain information regarding the results of the aforementioned assessments.

Sec. 29.360. FINANCIAL SOLVENCY. Authorizes the commissioner to adopt rules requiring a qualifying school that accepts funding under this subchapter to demonstrate financial solvency.

Sec. 29.361. QUALIFYING SCHOOL AUTONOMY. (a) Provides that a qualifying school that accepts funding under this subchapter is not an agent or arm of the state or federal government.

(b) Prohibits certain state agencies from regulating the educational program of a qualifying school that accepts funding under this subchapter except as provided by this subchapter.

(c) Exempts a qualifying school that accepts funding under this subchapter from implementing an individualized education program developed for the student under Section 29.005 (Individualized Education Program). Provides that the student's parent and the qualifying school are responsible for determining the

services and educational program to be provided to the student in accordance with the academic goals developed for the student under Section 29.359(a) .

Sec. 29.362. RESPONSIBILITIES OF PARENT AND STUDENT. (a) Sets forth certain responsibilities of the parent of an eligible student.

(b) Requires a student participating in the program to comply with the student code of conduct of the qualifying school the student attends. Requires a student to attend the qualifying school each school day unless the student is excused by the school for illness or other good cause.

Sec. 29.363. TRANSFER. (a) Authorizes an eligible student participating in the program to transfer to a public school or another qualifying school in the manner authorized by commissioner rule. Requires the commissioner to prorate the amount of the student's program funding between the qualifying schools or the qualifying school and the school district, as applicable, according to the length of the student's attendance at each school if a student transfers to another school under this section after the beginning of the school year.

(b) Authorizes the commissioner to adopt rules regarding the frequency with which a parent may transfer an eligible student from a qualifying school to another qualifying school or to a public school.

Sec. 29.364. RULES. (a) Requires the commissioner to adopt rules as necessary to implement, administer, and enforce the program, including certain rules.

(b) Provides that a rule adopted under this section is binding on any other state or local governmental entity, including a political subdivision, as necessary to implement, administer, and enforce the program.

Sec. 29.365. PROGRAM COMPLIANCE. (a) Requires TEA to enforce this subchapter and any rule adopted under this subchapter. Authorizes that agency to withhold funds from any district or qualifying school that violates this subchapter or a rule adopted under this subchapter.

(b) Authorizes the commissioner to revoke a qualifying school's permission to participate in the program if the commissioner makes certain determinations about the school.

(c) Requires TEA to immediately notify the parent of an eligible student attending the school of a revocation if the commissioner revokes a qualifying school's permission to participate in the program under Subsection (b).

Sec. 29.366. LIABILITY. Provides that TEA is not civilly liable for any action arising as the result of a student's participation in the program.

Sec. 29.367. EVALUATION OF PROGRAM. (a) Requires the commissioner to designate an impartial organization with experience in evaluating programs similar to the program established under this subchapter to conduct an annual evaluation of the program. Requires the evaluation to be conducted without the use of state funds.

(b) Requires an evaluation under this section to compare differences between qualifying schools and public schools and include consideration of certain factors.

(c) Requires the evaluation to apply appropriate analytical and behavioral science methodologies to ensure public confidence in the evaluation.

(d) Requires the commissioner to submit to each member of the legislature a copy of the evaluation conducted under this section not later than December 1, 2010.

(e) Requires school districts and qualifying schools to cooperate with the organization conducting the evaluation and provide student assessment instrument results and any other information necessary to complete the evaluation in compliance with any applicable provision of the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g).

(f) Authorizes TEA to accept grants to assist in funding the evaluation.

Sec. 29.368. APPLICATION OF SUNSET ACT. (a) Provides that the autism services accessibility program is subject to Chapter 325, Government Code (Texas Sunset Act), as if the program were a state agency. Provides for the abolition and expiration of this chapter on September 1, 2017, unless continued in existence as provided by that chapter.

(b) Requires TEA to perform that duty as it relates to the program to the extent Chapter 325, Government Code, imposes a duty on a state agency under review.

SECTION 2. Amends Subchapter B, Chapter 8, Education Code, by adding Section 8.058, as follows:

Sec. 8.058. AUTISM SERVICES ACCESSIBILITY AND TRAINING COORDINATION INITIATIVE. Defines "initiative."

(b) Requires TEA to select and contract with a regional education service center to implement an initiative to coordinate services and training on a statewide basis for educators who serve students with autism.

(c) Requires the regional education service center selected under Subsection (b) to coordinate with TEA to establish and maintain the initiative. Requires the initiative to include certain assistance to educators who serve students with autism. Requires each regional education service center to assist the selected service center in the coordination of services and training under this section.

(d) Requires the regional education service center selected by TEA under Subsection (b) to perform certain tasks.

(e) Requires the regional education service center selected by TEA under Subsection (b) to develop certain outlets of information for educators.

(f) Requires the regional education service center selected under Subsection (b) to collaborate with the Texas Council on Autism and Pervasive Developmental Disorders in administering the initiative.

(g) Authorizes the commissioner of education to adopt rules as necessary to implement the initiative.

SECTION 3. Requires TEA to expend not more than \$125,000 in each fiscal year to implement the provisions of this Act.

SECTION 4. (a) Requires TEA to make the autism services accessibility program under Subchapter J, Chapter 29, Education Code, as added by this Act, available for participation beginning with the 2008-2009 academic school year.

(b) Requires the commissioner of education to adopt and implement rules necessary for the administration of the program as soon as practicable.

SECTION 5. Effective date: September 1, 2007.