

**CHAPTER 251 , Laws of 1981**

AN ACT to amend 115.85 (2) (b) to (d); and to create 115.88 (8) and 121.05 (1) (a) 5 of the statutes, relating to the placement of children with exceptional educational needs in public programs located outside this state.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

SECTION 1. 115.85 (2) (b) to (d) of the statutes are amended to read:

115.85 (2) (b) If an agency enumerated in par. (a) does not operate a special education program which is appropriate for the child's needs, the child shall be placed in a program operated in this state by a public agency as near as possible to the place where the child resides, except as provided under pars. (c) and (d). If the local school board utilizes this the placement option under this paragraph, the school district of residence and not the county of residence shall pay tuition charges for exceptional children.

~~(c) If an appropriate program is not available in the district or cooperative educational service agency or other public agency 1. Upon the approval of the state superintendent, the child may be placed, with the approval of the state superintendent, in a private public special education program as specified in par. (d) if such placement is warranted on the basis of a less restrictive environment alternative. While preference shall be given to appropriate public or private educational programs which allow children to reside in or near their homes, where no such programs exist, the child shall be placed, with the approval of the state superintendent, in an appropriate public program located in another state.~~

2. The state superintendent shall approve a placement in a public special education program located in another state if he or she determines that it is appropriate to meet the child's exceptional educational needs and that:

a. There is no appropriate program available in this state without the use of a boarding home or residential placement and the proposed placement will enable the child to reside at home and receive daily transportation to and from the placement; or

b. The proposed placement will result in a significant reduction in daily transportation costs or the child's time in transit to the program while the child resides at home.

3. If the local school board utilizes this a placement option under this paragraph, the school district of residence and not the county of residence shall pay tuition charges for exceptional children.

(d) To provide a special education program which is appropriate to the child's needs, the school board may, upon approval of the state superintendent and if no equivalent public program is available, contract with a private special education service ~~pursuant to par. (c)~~ if the placement is warranted on the basis of a less restrictive environment alternative. Private special education services provided under this subchapter may not include religious or sectarian teachings or instruction. If the local school board utilizes this the placement option under this paragraph, the school district of residence and not the county of residence shall pay tuition charges for exceptional children.

SECTION 2. 115.88 (8) of the statutes is created to read:

115.88 (8) ENROLLMENT OUT OF STATE. If a child with exceptional educational needs is enrolled in a public special education program under s. 115.85 (2) (c) 2 and the state superintendent is satisfied that the program in which the child is enrolled complies with

this subchapter, the state superintendent shall certify to the department of administration in favor of the school district of residence a sum equal to the percentage of the approved costs under subs. (1) and (2) of the amount expended by the school district during the preceding year for the additional costs associated with the child's special education program. The department of administration shall pay the amount to the school district from the appropriation under s. 20.255 (1) (bd).

**SECTION 3.** 121.05 (1) (a) 5 of the statutes is created to read:

121.05 (1) (a) 5. Pupils who are enrolled in a public special education program located in another state under s. 115.85 (2) (c) 2.

**SECTION 4. Effective date.** This act takes effect on July 1, 1982, or on the day following publication, whichever is later.

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