



AN ACT PROVIDING THAT THE RIGHTS AND OBLIGATIONS OF A STATE-OPERATED ADULT HEALTH CARE FACILITY PROVIDING SPECIAL EDUCATION SERVICES TO ITS RESIDENTS ARE EQUIVALENT TO THE OBLIGATIONS OF A SCHOOL DISTRICT; AND AMENDING SECTIONS 20-7-401 AND 20-7-411, MCA.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 20-7-401, MCA, is amended to read:

"20-7-401. Definitions. In this title, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Child with a disability" means a child evaluated in accordance with the regulations of the Individuals With Disabilities Education Act as having a disability and who because of the disability needs special education and related services.

(2) "Free appropriate public education" means special education and related services that:

(a) are provided at public expense under public supervision and direction and without charge;

(b) meet the accreditation standards of the board of public education, the special education requirements of the superintendent of public instruction, and the requirements of the Individuals With Disabilities Education Act;

(c) include preschool, elementary school, and high school education in Montana; and

(d) are provided in conformity with an individualized education program that meets the requirements of the Individuals With Disabilities Education Act.

(3) "Related services" means services in accordance with regulations of the Individuals With Disabilities Education Act that are required to assist a child with a disability to benefit from special education.

(4) "Special education" means specially designed instruction, given at no cost to the parents or guardians, to meet the unique needs of a child with a disability, including but not limited to instruction conducted in a classroom, home, hospital, institution, or other setting and instruction in physical education.

(5) "State-operated adult health care facility providing special education services to its residents" means the Montana state hospital, the Montana developmental center, the Montana mental health nursing care center,

or the Montana chemical dependency treatment center.

~~(5)~~(6) "Surrogate parent" means an individual appointed to safeguard a child's rights and protect the child's interests in educational evaluation, placement, and hearing or appeal procedures concerning the child."

Section 2. Section 20-7-411, MCA, is amended to read:

"20-7-411. Regular classes preferred -- obligation to establish special education program. (1) A child with a disability in Montana is entitled to a free appropriate public education provided in the least restrictive environment. To the maximum extent appropriate, a child with a disability, including a child in a public or private institution or other care facility, must be educated with children who do not have disabilities. Separate schooling or other removal of a child with a disability from the regular educational environment may occur only when the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

(2) The board of trustees of every school district or a state-operated adult health care facility providing special education services to its residents shall provide or establish and maintain a special education program for each child with a disability who is 6 years of age or older and under 19 years of age.

(3) The board of trustees of each elementary district shall provide or establish and maintain a special education program for each preschool child with a disability who is 3 years of age or older and under 7 years of age.

(4) (a) The board of trustees of a school district or a state-operated adult health care facility providing special education services to its residents may provide or establish and maintain a special education program for a child with a disability who is 2 years of age or under or who is 19 years of age or older and under 22 years of age.

(b) Programs established pursuant to subsection (4)(a) do not obligate the state, ~~or a school district,~~ or a state-operated adult health care facility providing special education services to its residents to offer regular educational programs to a similar age group unless specifically provided by law.

(5) The board of trustees of a school district or a state-operated adult health care facility providing special education services to its residents may meet its obligation to serve persons with disabilities by establishing its own special education program, by establishing a cooperative special education program, ~~or~~ by participating in a regional services program, or by contracting for services from qualified providers. A state-operated adult health

care facility providing special education services to its residents may also meet its obligation by coordinating appropriate services with the resident's school district of residence, the local high school district, or both.

(6) The trustees of a school district or a state-operated adult health care facility providing special education services to its residents shall ensure that assistive technology devices or assistive technology services, or both, are made available to a child with a disability if required as a part of the child's special education services, related services, or supplementary aids."

- END -

I hereby certify that the within bill,
SB 0073, originated in the Senate.

Secretary of the Senate

President of the Senate

Signed this _____ day
of _____, 2011.

Speaker of the House

Signed this _____ day
of _____, 2011.

SENATE BILL NO. 73

INTRODUCED BY T. MURPHY

BY REQUEST OF THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

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