

1 SENATE BILL NO. 73

2 INTRODUCED BY T. MURPHY

3 BY REQUEST OF THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

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

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

11
12 **Section 1.** Section 20-7-401, MCA, is amended to read:

13 **"20-7-401. Definitions.** In this title, unless the context clearly indicates otherwise, the following
14 definitions apply:

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

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

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

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

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

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

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

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

30 (5) "State-operated adult health care facility providing special education services to its residents" means

1 the Montana state hospital, the Montana developmental center, the Montana mental health nursing care center,
 2 or the Montana chemical dependency treatment center.

3 ~~(5)~~(6) "Surrogate parent" means an individual appointed to safeguard a child's rights and protect the
 4 child's interests in educational evaluation, placement, and hearing or appeal procedures concerning the child."
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6 **Section 2.** Section 20-7-411, MCA, is amended to read:

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

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

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

20 (4) (a) The board of trustees of a school district or a state-operated adult health care facility providing
 21 special education services to its residents may provide or establish and maintain a special education program
 22 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
 23 of age.

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

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

1 ~~care facility providing special education services to its residents may meet its obligation by enrolling a resident~~
2 ~~in the local high school district pursuant to 20-7-424~~ ALSO MEET ITS OBLIGATION BY COORDINATING APPROPRIATE
3 ~~SERVICES WITH THE RESIDENT'S SCHOOL DISTRICT OF RESIDENCE, THE LOCAL HIGH SCHOOL DISTRICT, OR BOTH.~~

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

8 - END -