

Introduced: 2/11/83
Referred: Health, Education &
Social Services and Finance

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

1 IN THE HOUSE

2 HOUSE BILL NO. 194

2

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to the education of exceptional
7 children; and providing for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 14.30.180 is amended to read:

10 Sec. 14.30.180. PURPOSE. It is the purpose of AS 14.30.180 --
11 14.30.350 to provide an appropriate public [COMPETENT] education [SER-
12 VICES] for [THE] exceptional children in the state who are at least
13 three years of age [AND FOR WHOM THE REGULAR SCHOOL FACILITIES ARE
14 INADEQUATE OR NOT AVAILABLE].

15 * Sec. 2. AS 14.30.186(a) is amended to read:

16 (a) A borough or city school district shall provide [FOR] spe-
17 cial education and related services for exceptional children [REPRE-
18 SENTED BY NOT LESS THAN FIVE CHILDREN] residing in the district.

19 * Sec. 3. AS 14.30.186(b) is amended to read:

20 (b) The board of a regional educational attendance area shall
21 provide [FOR] special education and related services in a school in
22 the area for exceptional children [REPRESENTED BY NOT LESS THAN FIVE
23 CHILDREN] residing in the area served by the school.

24 * Sec. 4. AS 14.30.191(a) is amended to read:

25 Sec. 14.30.191. EDUCATIONAL EVALUATION [ASSESSMENT]. (a) Be-
26 fore placement in a [SPECIAL EDUCATION] program of special education
27 and related services and not less than once every three years [A YEAR]
28 for as long as the child is assigned to the [A SPECIAL EDUCATION] pro-
29 gram, an exceptional child shall receive an educational evaluation

1 [ASSESSMENT] for the identification and classification of exceptional
2 children [THE LEARNING, MENTAL AND PHYSICAL STATUS OF THE CHILD].

3 * Sec. 5. AS 14.30.191(c) is amended to read:

4 (c) If a parent or guardian believes that the educational eval-
5 uation [ASSESSMENT] of the child is in error, the parent or guardian
6 may request an independent [EXAMINATION AND] evaluation of the child.
7 If a substantial discrepancy exists between the educational evaluation
8 [ASSESSMENT] of the school district and the independent evaluation,
9 and if the parent or guardian so requests, a hearing shall be held
10 before a hearing officer in order to resolve the discrepancy between
11 evaluations and to determine the appropriate educational program
12 [PLACEMENT] for the exceptional child. [THE DEPARTMENT OF EDUCATION
13 SHALL ADOPT REGULATIONS FOR THE CONDUCT OF HEARINGS AUTHORIZED BY THIS
14 SECTION AND FOR THE APPOINTMENT AND QUALIFICATIONS OF THE HEARING OF-
15 FICER. REGULATIONS ADOPTED AND PROCEEDINGS CONDUCTED UNDER THIS SEC-
16 TION ARE SUBJECT TO THE ADMINISTRATIVE PROCEDURE ACT.]

17 * Sec. 6. AS 14.30.191(d) is amended to read:

18 (d) The department [DEPARTMENT OF EDUCATION AND THE DEPARTMENT
19 OF HEALTH AND SOCIAL SERVICES] shall [COOPERATIVELY ESTABLISH] by
20 regulation establish, or require school districts to establish, [DIAG-
21 NOSTIC] standards and procedures for the identification and clas-
22 sification of [THE LEARNING, MENTAL AND PHYSICAL STATUS OF] exception-
23 al children. [STANDARDS RELATING TO SPECIAL EDUCATION PROGRAMS, INDI-
24 VIDUAL OR GENERAL, SHALL REMAIN THE RESPONSIBILITY OF THE DEPARTMENT
25 OF EDUCATION IN CONJUNCTION WITH THE LOCAL EDUCATION AGENCY.]

26 * Sec. 7. AS 14.30 is amended by adding a new section to read:

27 Sec. 14.30.195. HEARINGS. (a) The department shall by regu-
28 lation provide for administrative hearings to be conducted under
29 AS 14.30.180 -- 14.30.350.

1 (b) The agency conducting a hearing under this section may issue
2 subpoenas under AS 44.62.430 and may petition the superior court for
3 adjudications of contempt under AS 44.62.590.

4 * Sec. 8. AS 14.30.231 is amended to read:

5 Sec. 14.30.231. ADVISORY COMMITTEE. The Governor's Council for
6 the Handicapped and Gifted established under AS 47.80 shall serve as
7 [THE COMMISSIONER OF EDUCATION AND THE COMMISSIONER OF HEALTH AND SO-
8 CIAL SERVICES SHALL ESTABLISH] an advisory committee, the function of
9 which is to provide information and guidance for the development of
10 appropriate [SPECIAL EDUCATION] programs of special education and
11 related services for exceptional children. [MEMBERSHIP OF THE ADVISO-
12 RY COMMITTEE SHALL INCLUDE, BUT IS NOT LIMITED TO, PERSONS REPRESENT-
13 ING LOCAL EDUCATION AGENCIES, STATE AGENCIES, PARENT GROUPS AND ORGA-
14 NIZATIONS CONCERNED WITH PROGRAMS AND SERVICES FOR EXCEPTIONAL CHIL-
15 DREN.]

16 * Sec. 9. AS 14.30.250 is amended to read:

17 Sec. 14.30.250. TEACHER QUALIFICATIONS. No person may [SHALL]
18 be employed as a teacher of [TO TEACH A CLASS FOR] exceptional chil-
19 dren unless that person possesses a valid teacher certificate[,] and,
20 in addition, such training as the department may require by regula-
21 tion.

22 * Sec. 10. AS 14.30 is amended by adding a new section to read:

23 Sec. 14.30.255. ADMINISTRATOR QUALIFICATIONS. No person may be
24 employed as an administrator of a program of special education and
25 related services unless that person possesses a valid administrative
26 certificate and, in addition, such training as the department may re-
27 quire by regulation.

28 * Sec. 11. AS 14.30.270 is amended to read:

29 Sec. 14.30.270. SUBSTITUTES. AS 14.30.250 does not prohibit the

1 employment of a person, otherwise qualified to serve as a substitute
2 teacher, to serve as a substitute teacher of [A CLASS FOR] exceptional
3 children.

4 * Sec. 12. AS 14.30.285(b) is amended to read:

5 (b) An [THE] identified exceptional child may be sent to a
6 school or institution outside his school district [ANOTHER SCHOOL
7 DISTRICT OR IN-STATE EDUCATIONAL PROGRAM] if the child resides in a
8 district or school attendance area where an appropriate educational
9 program [ADEQUATE PROGRAM OF EDUCATION FOR AN EXCEPTIONAL CHILD] is
10 not available and if the department [COMMISSIONER] determines that
11 special education and related services available in another school or
12 institution are appropriate [ANOTHER SCHOOL DISTRICT OR IN-STATE
13 EDUCATIONAL PROGRAM IS ADEQUATE TO MEET THE NEEDS OF THE CHILD]. If
14 the school district approves the enrollment of the exceptional child
15 in another school district or [IN-STATE] institution and the child is
16 enrolled, the sending school district shall pay the child's education
17 expenses. [SHALL BE PAID AS FOLLOWS:

18 (1) THE SENDING SCHOOL DISTRICT SHALL PAY THE RECEIVING
19 DISTRICT OR INSTITUTION AN AMOUNT OF MONEY EQUAL TO THE SENDING DIS-
20 TRICT'S LOCAL COST-PER-PUPIL RATE;

21 (2) THE DEPARTMENT SHALL PAY THE REMAINDER OF THE ANNUAL
22 COST OF THE CHILD'S EDUCATION ABOVE THAT PROVIDED FOR IN (1) OF THIS
23 SUBSECTION.]

24 * Sec. 13. AS 14.30.285(d) is amended to read:

25 (d) For the purposes of this section a child's education ex-
26 penses are limited to the actual cost of necessary care, transporta-
27 tion, and special education and related services [INSTRUCTION], in-
28 cluding room and board [, WHILE ATTENDING THE DESIGNATED INSTITUTION].

29 * Sec. 14. AS 14.30.305 is amended to read:

1 Sec. 14.30.305. STATE SUPPORT OF PROGRAMS FOR CHILDREN HOSPI-
2 TALIZED OR CONFINED TO THEIR HOMES. [SPECIAL INSTRUCTIONAL SERVICES
3 FOR EXCEPTIONAL CHILDREN WHO ARE HOSPITALIZED OR CONFINED TO THEIR
4 HOMES MAY BE PROVIDED BY A SCHOOL DISTRICT.] A child who is hospi-

5 talized or confined to his home and who receives at least 10 hours of
6 special education and related services [INSTRUCTION] per week may be
7 counted as a pupil in average daily membership when computing state
8 support under the public school foundation program.

9 * Sec. 15. AS 14.30 is amended by adding a new section to read:

10 Sec. 14.30.315. STATE SUPPORT OF PROGRAMS FOR GIFTED CHILDREN.

11 (a) To be eligible for state support under the public school founda-
12 tion program, special education and related services for gifted chil-
13 dren must be provided in a program which has been approved in advance
14 by the department.

15 (b) State support under the public school foundation program for
16 special education and related services for gifted children is avail-
17 able for not more than five percent of the average daily membership of
18 the district or educational attendance area.

19 (c) Nothing in this section prohibits the department from
20 requiring approval of programs of special education and related ser-
21 vices for other categories of exceptional children.

22 * Sec. 16. AS 14.30 is amended by adding a new section to read:

23 Sec. 14.30.325. SURROGATE PARENTS. (a) The department may by
24 regulation provide for the appointment of surrogate parents to repre-
25 sent exceptional children in matters relating to the provision of an
26 appropriate public education.

27 (b) A surrogate parent is not liable for civil damages as a re-
28 sult of an act or omission committed in his or her official capacity,
29 except that a surrogate parent may be liable for civil damages as a

1 result of gross negligence or intentional misconduct.

2 * Sec. 17. AS 14.30 is amended by adding a new section to read:

3 Sec. 14.30.335. ELIGIBILITY FOR FEDERAL FUNDS. Notwithstanding
4 any other provision of AS 14.30.180 -- 14.30.350, the department may
5 do all things necessary to qualify for federal funds which are avail-
6 able to the state for the education of exceptional children.

7 * Sec. 18. AS 14.30.340 is amended to read:

8 Sec. 14.30.340. WHEN NOT REQUIRED TO ENROLL. No handicapped
9 child may be required to enroll in a [SPECIAL EDUCATION] program of
10 special education and related services if the parent or guardian of
11 the child demonstrates [CERTIFIES TO THE SATISFACTION OF THE SCHOOL
12 BOARD OF THE PUBLIC SCHOOL SYSTEM WHERE THE CHILD RESIDES] that the
13 child is receiving an appropriate education [ADEQUATE EDUCATIONAL AD-
14 VANTAGES. A CHILD SHALL BE EXCUSED FROM THE COMPULSORY EDUCATION RE-
15 QUIREMENTS IF A PHYSICIAN CERTIFIES IN WRITING THAT THE CHILD'S BODI-
16 LY, MENTAL OR EMOTIONAL CONDITION DOES NOT PERMIT ATTENDANCE AT
17 SCHOOL].

18 * Sec. 19. AS 14.30.350 is repealed and reenacted to read:

19 Sec. 14.30.350. DEFINITIONS. In AS 14.30.180 -- 14.30.350,
20 (1) "department" means the Department of Education;
21 (2) "exceptional children" means children who differ marked-
22 ly from their peers to the degree that special facilities, equipment,
23 or methods are required to make their educational program effective;
24 these children may be identified in the following categories:

25 (A) "deaf" children exhibit a hearing impairment
26 which hinders the child's ability to process linguistic informa-
27 tion through hearing, with or without amplification, and which
28 adversely affects educational performance;

29 (B) "deaf-blind" children exhibit concomitant

1 hearing and visual impairments, the combination of which causes
2 such severe communication and other developmental and educational
3 problems that they cannot be accommodated in a special education
4 program solely for deaf or blind children;

5 (C) "gifted" children exhibit outstanding intellect,
6 ability, or creative talent as determined in accordance with reg-
7 ulations of the department;

8 (D) "hard of hearing" children exhibit a hearing
9 impairment, whether permanent or fluctuating, which adversely
10 affects educational performance but which is not within the mean-
11 ing of (A) of this paragraph;

12 (E) "learning disabled" children exhibit a disorder
13 in one or more of the basic psychological processes involved in
14 understanding or in using language, spoken or written, which may
15 manifest itself in an imperfect ability to listen, think, speak,
16 read, write, spell, or do mathematical calculations; the term
17 includes such conditions as perceptual handicaps, brain injury,
18 minimal brain disfunction, dyslexia, and developmental aphasia;
19 this category does not include children who have learning prob-
20 lems which are primarily the result of visual, hearing, or motor
21 handicaps, of mental retardation, of emotional disturbance, or of
22 environmental, cultural, or economic disadvantage;

23 (F) "mentally retarded" children score two or more
24 standard deviations below the national norm on an individual
25 standarized test of intelligence and exhibit deficits in adaptive
26 behavior manifested during the developmental period, which ad-
27 versely affect the child's educational performance;

28 (G) "multihandicapped" children exhibit two or more
29 of the conditions described in (A), (B), (D) -- (F) and (H) --

1 (L) of this paragraph, the combination of which causes such se-
2 vere educational problems that they cannot be accommodated in a
3 special education program for any one of the conditions;

4 (H) "orthopedically impaired" children exhibit a
5 severe orthopedic impairment, including impairments caused by
6 congenital anomaly, disease, or other causes, which adversely
7 affects educational performance;

8 (I) "other health impaired" children exhibit an au-
9 tistic condition which is manifested by severe communication and
10 other developmental and educational problems or exhibit limited
11 strength, vitality, or alertness due to chronic or acute health
12 problems such as heart condition, tuberculosis, rheumatic fever,
13 nephritis, asthma, sickle cell anemia, hemophilia, epilepsy, lead
14 poisoning, leukemia, or diabetes, which adversely affects educa-
15 tional performance;

16 (J) "seriously emotionally disturbed" children ex-
17 hibit one or more of the following characteristics over a long
18 period of time and to a marked degree, which adversely affects
19 educational performance: (i) an inability to learn which cannot
20 be explained by intellectual, sensory, or health factors; (ii) an
21 inability to build or maintain satisfactory interpersonal rela-
22 tionships with peers and teachers; (iii) inappropriate types of
23 behavior or feelings under normal circumstances; (iv) a general
24 pervasive mood of unhappiness or depression; or (v) a tendency to
25 develop physical symptoms or fears associated with personal or
26 school problems; the term includes children who are schizophrenic
27 but does not include children who are socially maladjusted, un-
28 less it is determined that they are seriously emotionally dis-
29 turbed;

1 (K) "speech impaired" children exhibit a communica-
2 tion disorder, such as stuttering, impaired articulation, a lan-
3 guage impairment, or a voice impairment, which adversely affects
4 educational performance;

5 (L) "visually handicapped" children exhibit a visual
6 impairment which, even with correction, adversely affects educa-
7 tional performance;

8 (3) "related services" means transportation and develop-
9 mental, corrective, and other supportive services as are required to
10 assist a handicapped or gifted child to benefit from special educa-
11 tion, and includes but is not limited to speech pathology and
12 audiology, psychological services, physical and occupational therapy,
13 counseling services, and medical services for diagnostic or evaluation
14 purposes;

15 (4) "special education" means specially designed instruc-
16 tion to meet the unique needs of a handicapped or gifted child, and
17 includes but is not limited to classroom instruction, instruction in
18 physical education, instruction in vocational education, home instruc-
19 tion, instruction in a hospital or institution, and summer school;

20 (5) "school district" means a borough school district, a
21 city school district, and a regional educational attendance area.

22 * Sec. 20. AS 14.30.186(c) and (d), 14.30.191(b), 14.30.260, 14.30.280,
23 14.30.330, and 14.30.347 are repealed.

24 * Sec. 21. This Act takes effect July 1, 1983.