

Offered: 5/25/83
Referred: Finance

Original sponsor: Rules/Governor

1 IN THE HOUSE BY THE HEALTH, EDUCATION AND
2 CS FOR HOUSE BILL NO. 194 (HESS) SOCIAL SERVICES COMMITTEE
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 14.30.020 is amended to read:
10 Sec. 14.30.020. VIOLATION. A person violating AS 14.30.010 or
11 AS 14.30.337 is guilty of a misdemeanor and upon conviction is punish-
12 able by a fine of not less than \$50 nor more than \$200, plus the cost
13 of prosecution, and may be imprisoned until the fine and costs are
14 paid or until the convicted person has served one day for every \$2 of
15 the fine and costs, at which time the fine and costs are automatically
16 discharged. Each unlawful absence is a violation and if an absence is
17 extensive there is a new violation each time five consecutive days of
18 the absence elapse. The court may suspend sentence, stay or postpone
19 enforcement of execution, or release from custody a person found
20 guilty upon the conditions which are in the best interests of the
21 child. In any event, at the expiration of the school year, the person
22 shall be released and discharged from all penalties provided by this
23 section.
24 * Sec. 2. AS 14.30.030 is amended to read:
25 Sec. 14.30.030. REPORT OF VIOLATIONS AND PROCEDURES. The chief
26 administrative officer of a district or state-operated school shall
27 report all apparent violations of AS 14.30.010 or AS 14.30.337 to the
28 governing body of the district. The governing body shall, on receiv-
29 ing the report or on the complaint of any person, provide for a full

1 and impartial investigation of all charges of violation. In private
2 or federal schools, the chief administrative officer shall make a full
3 and impartial investigation of all apparent violations. If it rea-
4 sonably appears upon investigation that a person has violated AS 14.-
5 30.010 or AS 14.30.337, the governing body of a district or state-
6 operated school, or the chief administrative officer of a private or
7 federal school, shall make and file with the district court a com-
8 plaint against the person, charging the violation. The judge or mag-
9 istrate may issue a warrant for the arrest of the person and may act
10 upon the complaint.

11 * Sec. 3. AS 14.30.050 is amended to read:

12 Sec. 14.30.050. TRUANT OFFICERS. (a) If it is not practical
13 for an existing law enforcement agency to enforce AS 14.30.010 or
14 AS 14.30.337, the governing body of the school district or the Bureau
15 of Indian Affairs may appoint the necessary truant officers to enforce
16 AS 14.30.010 or AS 14.30.337. The state shall not contribute to the
17 expenses of an officer appointed by the Bureau of Indian Affairs.

18 (b) A truant officer may arrest and bring before any district
19 court judge or magistrate, a person violating AS 14.30.010 or AS 14.-
20 30.337 upon a warrant issued by the district court judge or magis-
21 trate.

22 * Sec. 4. AS 14.30.180 is amended to read:

23 Sec. 14.30.180. PURPOSE. It is the purpose of AS 14.30.180 -
24 14.30.350 to provide an appropriate public [COMPETENT] education [SER-
25 VICES] for [THE] exceptional children in the state who are at least
26 three years of age [AND FOR WHOM THE REGULAR SCHOOL FACILITIES ARE IN-
27 ADEQUATE OR NOT AVAILABLE].

28 * Sec. 5. AS 14.30.186(a) is amended to read:

29 (a) A borough or city school district shall provide [FOR]

1 special education and related services for exceptional children [REP-
2 RESENTED BY NOT LESS THAN FIVE CHILDREN] residing in the district.

3 * Sec. 6. AS 14.30.186(b) is amended to read:

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

8 * Sec. 7. AS 14.30.191 is repealed and reenacted to read:

9 Sec. 14.30.191. EDUCATIONAL EVALUATION. (a) Before placement
10 in a program of special education and related services and not less
11 than once every three years for as long as the child is assigned to
12 the program, an exceptional child shall receive an educational eval-
13 uation for the identification and classification of exceptional chil-
14 dren.

15 (b) Before completion of the evaluation and before placement,
16 the school district shall provide to the parent or guardian of each
17 exceptional child an opportunity for consultation about the evalua-
18 tion. A consultation shall be available after each reevaluation of
19 the condition and placement of the exceptional child.

20 (c) If a parent or guardian believes that the educational eval-
21 uation of the child is in error, the parent or guardian may request an
22 independent evaluation of the child. If a substantial discrepancy
23 exists between the educational evaluation of the school district and
24 the independent evaluation, and if the parent or guardian so requests,
25 a hearing shall be held before a hearing officer in order to resolve
26 the discrepancy between evaluations and to determine the appropriate
27 educational program for the exceptional child.

28 (d) The department, after consultation with the Department of
29 Health and Social Services shall by regulation establish, or require

1 school districts to establish, standards and procedures for the iden-
2 tification and classification of exceptional children.

3 * Sec. 8. AS 14.30 is amended by adding a new section to read:

4 Sec. 14.30.195. HEARINGS. (a) The department shall by regula-
5 tion provide for administrative hearings to be conducted under AS 14.-
6 30.180 - 14.30.350.

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

10 * Sec. 9. AS 14.30.231 is amended to read:

11 Sec. 14.30.231. ADVISORY COMMITTEE. The Governor's Council for
12 the Handicapped and Gifted established under AS 47.80 shall serve as
13 [THE COMMISSIONER OF EDUCATION AND THE COMMISSIONER OF HEALTH AND SO-
14 CIAL SERVICES SHALL ESTABLISH] an advisory committee, the function of
15 which is to provide information and guidance for the development of
16 appropriate [SPECIAL EDUCATION] programs of special education and re-
17 lated services for exceptional children. [MEMBERSHIP OF THE ADVISORY
18 COMMITTEE SHALL INCLUDE, BUT IS NOT LIMITED TO, PERSONS REPRESENTING
19 LOCAL EDUCATION AGENCIES, STATE AGENCIES, PARENT GROUPS AND ORGANIZA-
20 TIONS CONCERNED WITH PROGRAMS AND SERVICES FOR EXCEPTIONAL CHILDREN.]

21 * Sec. 10. AS 14.30.250 is amended to read:

22 Sec. 14.30.250. TEACHER QUALIFICATIONS. A [NO] person may not
23 [SHALL] be employed as a teacher of [TO TEACH A CLASS FOR] exceptional
24 children unless that person possesses a valid teacher certificate [,]
25 and, in addition, such training as the department may require by regu-
26 lation.

27 * Sec. 11. AS 14.30 is amended by adding a new section to read:

28 Sec. 14.30.255. ADMINISTRATOR QUALIFICATIONS. A person may not
29 be employed as an administrator of a program of special education and

1 related services unless that person possesses a valid administrative
2 certificate and, in addition, such training as the department may re-
3 quire by regulation.

4 * Sec. 12. AS 14.30.270 is amended to read:

5 Sec. 14.30.270. SUBSTITUTES. AS 14.30.250 does not prohibit the
6 employment of a person, otherwise qualified to serve as a substitute
7 teacher, to serve as a substitute teacher of [A CLASS FOR] exceptional
8 children.

9 * Sec. 13. AS 14.30.285(b) is amended to read:

10 (b) An [THE] identified exceptional child may be sent to a
11 school or institution outside the child's school district [ANOTHER
12 SCHOOL DISTRICT OR IN-STATE EDUCATIONAL PROGRAM] if the child resides
13 in a district or school attendance area where an appropriate educa-
14 tional program [ADEQUATE PROGRAM OF EDUCATION FOR AN EXCEPTIONAL
15 CHILD] is not available and if the department [COMMISSIONER] deter-
16 mines that provision of special education and related services in
17 another school or institution is appropriate [ANOTHER SCHOOL DISTRICT
18 OR IN-STATE EDUCATIONAL PROGRAM IS ADEQUATE TO MEET THE NEEDS OF THE
19 CHILD]. If the school district approves the enrollment of the excep-
20 tional child in another school district or [IN-STATE] institution and
21 the child is enrolled, the child's education expenses shall be paid as
22 follows:

23 (1) the sending school district shall pay the receiving
24 district or institution an amount of money equal to the sending dis-
25 trict's local cost-per-pupil rate;

26 (2) the department shall pay the remainder of the annual
27 cost of the child's education above that provided for in (1) of this
28 subsection.

29 * Sec. 14. AS 14.30.285(d) is amended to read:

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

5 * Sec. 15. AS 14.30.285 is amended by adding a new subsection to read:

6 (g) The withholding of parental consent or departmental approval
7 for the transfer of an exceptional child under this section does not
8 relieve a school district or a regional educational attendance area of
9 the obligation to provide special education and related services to an
10 exceptional child under AS 14.30.186.

11 * Sec. 16. AS 14.30.305 is amended to read:

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

16 talized or confined to home and who receives at least 10 hours of spe-
17 cial education and related services [INSTRUCTION] per week may be
18 counted as a pupil in average daily membership when computing state
19 support under the public school foundation program.

20 * Sec. 17. AS 14.30 is amended by adding new sections to read:

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

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

26 (b) Nothing in this section prohibits the department from re-
27 quiring approval of programs of special education and related services
28 for other categories of exceptional children.

29 Sec. 14.30.325. SURROGATE PARENTS. (a) The department may by

1 regulation provide for the appointment of surrogate parents to repre-
2 sent exceptional children in matters relating to the provision of an
3 appropriate public education.

4 (b) A surrogate parent is not liable for civil damages as a re-
5 sult of an act or omission committed in the surrogate parent's offi-
6 cial capacity, except that a surrogate parent may be liable for civil
7 damages as a result of gross negligence or intentional misconduct.

8 * Sec. 18. AS 14.30 is amended by adding new sections to read:

9 Sec. 14.30.335. ELIGIBILITY FOR FEDERAL FUNDS. Notwithstanding
10 any other provision of AS 14.30.180 - 14.30.350, the department may do
11 all things necessary to qualify for federal funds that are available
12 to the state for the education of exceptional children.

13 Sec. 14.30.337. ATTENDANCE REQUIRED. The parent or guardian of
14 an exceptional child shall ensure that the child attends a program of
15 special education and related services provided under AS 14.30.180 -
16 14.30.350 unless the parent or guardian demonstrates to the satisfac-
17 tion of the school district that the child is receiving an appropriate
18 education.

19 * Sec. 19. AS 14.30.347 is amended to read:

20 Sec. 14.30.347. TRANSPORTATION OF EXCEPTIONAL CHILDREN. When
21 transportation is required to be provided as related [PART OF SPECIAL]
22 services, exceptional children shall be carried with other children,
23 except when the nature of their physical or mental handicaps is such
24 that it is in the best interest of the exceptional children, as de-
25 termined by the school district, that they be transported separately.
26 State reimbursement for transportation of exceptional children shall
27 be as provided for transportation of all other pupils except that eli-
28 gibility for reimbursement shall not be subject to restriction based
29 on the minimum distance between the school and the residence of the

1 exceptional child.

2 * Sec. 20. AS 14.30.350 is repealed and reenacted to read:

3 Sec. 14.30.350. DEFINITIONS. In AS 14.30.180 - 14.30.350,

4 (1) "department" means the Department of Education;

5 (2) "exceptional children" means children who differ marked-
6 ly from their peers to the degree that special facilities, equipment,
7 or methods are required to make their educational program effective;
8 these children may be identified in the following categories:

9 (A) "deaf" children exhibit a hearing impairment
10 that hinders the child's ability to process linguistic informa-
11 tion through hearing, with or without amplification, and that ad-
12 versely affects educational performance;

13 (B) "deaf-blind" children exhibit concomitant hear-
14 ing and visual impairments, the combination of which causes such
15 severe communication and other developmental and educational
16 problems that they cannot be accommodated in a special education
17 program solely for deaf or blind children;

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

21 (D) "hard of hearing" children exhibit a hearing im-
22 pairment, whether permanent or fluctuating, that adversely af-
23 fects educational performance but that is not within the meaning
24 of (A) of this paragraph;

25 (E) "learning disabled" children exhibit a disorder
26 in one or more of the basic psychological processes involved in
27 understanding or in using language, spoken or written, that may
28 manifest itself in an imperfect ability to listen, think, speak,
29 read, write, spell, or do mathematical calculations; the term

1 includes such conditions as perceptual handicaps, brain injury,
2 minimal brain disfunction, dyslexia, and developmental aphasia;
3 this category does not include children who have learning prob-
4 lems that are primarily the result of visual, hearing, or motor
5 handicaps, of mental retardation, of emotional disturbance, or of
6 environmental, cultural, or economic disadvantage;

7 (F) "mentally retarded" children score two or more
8 standard deviations below the national norm on an individual
9 standardized test of intelligence and exhibit deficits in adap-
10 tive behavior manifested during the developmental period, that
11 adversely affect the child's educational performance;

12 (G) "multihandicapped" children exhibit two or more
13 of the conditions described in (A), (B), (D) - (F) and (H) - (L)
14 of this paragraph, the combination of which causes such severe
15 educational problems that they cannot be accommodated in a spe-
16 cial education program for any one of the conditions;

17 (H) "orthopedically impaired" children exhibit a se-
18 vere orthopedic impairment, including impairments caused by con-
19 genital anomaly, disease, or other causes, that adversely affects
20 educational performance;

21 (I) "other health impaired" children exhibit an au-
22 tistic condition that is manifested by severe communication and
23 other developmental and educational problems or exhibit limited
24 strength, vitality, or alertness due to chronic or acute health
25 problems such as heart condition, tuberculosis, rheumatic fever,
26 nephritis, asthma, sickle cell anemia, hemophilia, epilepsy, lead
27 poisoning, leukemia, or diabetes, that adversely affects educa-
28 tional performance;

29 (J) "seriously emotionally disturbed" children

1 exhibit one or more of the following characteristics over a long
2 period of time and to a marked degree, that adversely affects
3 educational performance: (i) an inability to learn that cannot
4 be explained by intellectual, sensory, or health factors; (ii) an
5 inability to build or maintain satisfactory interpersonal rela-
6 tionships with peers and teachers; (iii) inappropriate types of
7 behavior or feelings under normal circumstances; (iv) a general
8 pervasive mood of unhappiness or depression; or (v) a tendency to
9 develop physical symptoms or fears associated with personal or
10 school problems; the term includes children who are schizophrenic
11 but does not include children who are only socially maladjusted;

12 (K) "speech impaired" children exhibit a communica-
13 tion disorder, such as stuttering, impaired articulation, a lan-
14 guage impairment, or a voice impairment, that adversely affects
15 educational performance;

16 (L) "visually handicapped" children exhibit a visual
17 impairment that, even with correction, adversely affects educa-
18 tional performance;

19 (3) "related services" means transportation and develop-
20 mental, corrective, and other supportive services required to assist a
21 handicapped or gifted child to benefit from special education, and in-
22 cludes but is not limited to speech pathology and audiology, psycho-
23 logical services, physical and occupational therapy, counseling ser-
24 vices, and medical services for diagnostic or evaluation purposes;

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

1 (5) "school district" means a borough school district, a
2 city school district, or a regional educational attendance area.

3 * Sec. 21. AS 14.30.186(c) and (d), 14.30.260, 14.30.280, 14.30.330,
4 and 14.30.340 are repealed.

5 * Sec. 22. This Act takes effect July 1, 1983.