

**CS FOR HOUSE BILL NO. 235(HES)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**EIGHTEENTH LEGISLATURE - FIRST SESSION**

**BY THE HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE**

**Offered: 3/24/93**

**Referred: Finance**

**Sponsor(s): REPRESENTATIVES BUNDE, Grussendorf**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to educational programs and services for children with  
2 disabilities and other exceptional children and to persons with a handicap; and  
3 providing for an effective date."

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 \* **Section 1.** AS 14.30.180 is amended to read:

6 Sec. 14.30.180. **PURPOSE.** It is the purpose of AS 14.30.180 - 14.30.350 to

7 (1) provide an appropriate public education for exceptional  
8 children in the state who are at least three years of age but less than 22 years of age;

9 (2) allow procedures and actions necessary to comply with the  
10 requirements of federal law, including 20 U.S.C. 1400 - 1485 (Individuals with  
11 Disabilities Education Act).

12 \* **Sec. 2.** AS 14.30.191(a) is amended to read:

13 (a) A school district shall obtain the consent of the child's parent [OR  
14 GUARDIAN] before an initial evaluation or placement in a program of special

1 education and related services.

2 \* Sec. 3. AS 14.30.191(b) is amended to read:

3 (b) After initial placement in a program of special education and related  
4 services and not less than once every three years for as long as the child is assigned  
5 to the program, a [AN EXCEPTIONAL] child with disabilities shall receive an  
6 educational evaluation for the identification and classification of [EXCEPTIONAL]  
7 children with disabilities.

8 \* Sec. 4. AS 14.30.191(c) is amended to read:

9 (c) Before a school district initiates or refuses a change in a child's placement  
10 or program, the district shall notify the child's parent [OR GUARDIAN].

11 \* Sec. 5. AS 14.30.191(d) is amended to read:

12 (d) Upon completion of the evaluation and before placement, the school  
13 district shall provide to the parent [OR GUARDIAN] of each exceptional child an  
14 opportunity for consultation about the evaluation. A consultation must be available  
15 after each reevaluation of the condition and placement of the exceptional child.

16 \* Sec. 6. AS 14.30.191(e) is amended to read:

17 (e) A parent may obtain an independent educational evaluation at the expense  
18 of the school district if the parent disagrees with an evaluation obtained by the school  
19 district. [THE SCHOOL DISTRICT MAY INITIATE A HEARING TO SHOW  
20 THAT ITS EVALUATION IS APPROPRIATE.] If, as a result of a hearing under  
21 AS 14.30.193(c), the hearing officer determines that the school district's evaluation  
22 is appropriate, the school district may not be required to pay for the independent  
23 educational evaluation.

24 \* Sec. 7. AS 14.30.191(f) is amended to read:

25 (f) If the parent [OR GUARDIAN] obtains an independent educational  
26 evaluation at private expense, the results of the evaluation

27 (1) must be considered by the school district in a decision made with  
28 respect to the provision of an appropriate public education to the child;

29 (2) may be presented as evidence at a hearing regarding the child.

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

31 Sec. 14.30.193. SCHOOL DISTRICT HEARINGS. (a) If a parent refuses to

1 consent, or does not respond promptly to the school district's request for consent,  
2 under AS 14.30.191(a) or 14.30.285(f), the school district may appoint an impartial  
3 hearing officer to conduct a hearing to determine whether the school district may  
4 initiate the evaluation or placement of the child, or transfer the child.

5 (b) If a parent disagrees with the school district's intended placement of a  
6 child or program for a child, the parent may request a hearing. If a hearing is  
7 requested under this subsection, the school district shall appoint an impartial hearing  
8 officer to conduct the hearing.

9 (c) If a parent wishes to obtain an independent educational evaluation at the  
10 expense of the school district under AS 14.30.191(e), the school district may appoint  
11 an impartial hearing officer to conduct a hearing to determine whether the school  
12 district's evaluation is appropriate.

13 (d) If, after a hearing under (a) or (b) of this section, the hearing officer  
14 determines that the school district's intended action is in accordance with law and is  
15 in the child's best interest, the hearing officer shall approve that action.

16 (e) A hearing officer's decision under this section is final and binding on the  
17 school district and the parent, unless appealed under (f) of this section.

18 (f) A parent or a school district may appeal a hearing officer's decision under  
19 this section to the department by requesting an appeal hearing under AS 14.30.195.  
20 The appeal hearing request must be in writing and must be received by the department  
21 within 30 days after receipt of the relevant hearing officer's decision.

22 \* Sec. 9. AS 14.30.195(a) is amended to read:

23 (a) The department shall, by regulation, provide for administrative appeal  
24 hearings, based on the record, of impartial hearing officers' decisions under  
25 AS 14.30.193. An administrative appeal hearing shall comply with all  
26 requirements necessary for participation in federal grant-in-aid programs,  
27 including 20 U.S.C. 1400 - 1485 (Individuals with Disabilities Education Act) [TO  
28 BE CONDUCTED UNDER AS 14.30.180 - 14.30.350].

29 \* Sec. 10. AS 14.30.195 is amended by adding new subsections to read:

30 (c) After an appeal hearing under this section, the department shall render its  
31 decision affirming, reversing, modifying, or remanding the hearing officer's decision

1 under AS 14.30.193.

2 (d) A parent or the school district may appeal to the superior court for review  
3 of the department's decision on appeal under (c) of this section.

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

5 Sec. 14.30.235. WITHDRAWAL OF CONSENT. If under a provision of this  
6 chapter the consent of the parent is required, the parent may withdraw the parent's  
7 consent.

8 \* Sec. 12. AS 14.30.272 is amended to read:

9 Sec. 14.30.272. PROCEDURAL SAFEGUARDS. A school district shall  
10 inform the parent [OR GUARDIAN] of an exceptional child of the right to review the  
11 child's educational record, to review evaluation tests and procedures, to refuse to  
12 permit evaluation or a change in the child's educational placement, to be informed of  
13 the results of evaluation, to obtain an independent evaluation, to request an impartial  
14 hearing, to appeal a hearing officer's decision, and to give consent or deny access  
15 to others to the child's educational record.

16 \* Sec. 13. AS 14.40.272 is amended by adding a new subsection to read:

17 (b) The department shall establish, by regulation, impartial procedures for a  
18 school district to follow for hearings under AS 14.30.193 to comply with requirements  
19 necessary to participate in federal grant-in-aid programs, including 20 U.S.C. 1400 -  
20 1485 (Individuals with Disabilities Education Act).

21 \* Sec. 14. AS 14.30.278(b) is amended to read:

22 (b) Each meeting concerning an exceptional child must include

23 (1) a representative of the school district, other than the child's teacher,  
24 who is qualified to provide or supervise the provision of special education;

25 (2) the child's teacher;

26 (3) at least one of the child's parents [OR GUARDIANS];

27 (4) the child, when appropriate;

28 (5) other individuals selected by the parent [, GUARDIAN,] or school  
29 district.

30 \* Sec. 15. AS 14.30.285(f) is amended to read:

31 (f) A school district shall obtain the consent of the child's parent before

1        a child may [NOT] be transferred to a school outside the district in which the child  
2        resides [WITHOUT THE CONSENT OF THE PARENT OR GUARDIAN].

3        \* Sec. 16. AS 14.30.285(g) is amended to read:

4                (g) The withholding of consent by a parent [OR GUARDIAN] or departmental  
5        approval for the transfer of an exceptional child under this section does not relieve a  
6        school district of the obligation to provide special education and related services to an  
7        exceptional child under AS 14.30.186.

8        \* Sec. 17. AS 14.30.340 is repealed and reenacted to read:

9                Sec. 14.30.340. PROVISION OF SPECIAL EDUCATION IN A PRIVATE  
10        SCHOOL, HOME, OR HOSPITAL SETTING. (a) If a parent of an exceptional child  
11        enrolls the child in a private school at the parent's expense or teaches the child at  
12        home, the school district in which the child is located shall make special education and  
13        related services available in conformance with an individualized education program  
14        under AS 14.30.278.

15                (b) If a physician certifies in writing that, and if the child's individualized  
16        education program team then determines that, a child's bodily, mental, or emotional  
17        condition does not permit attendance at a school, the school district in which the child  
18        is located shall enroll the child in public school and provide the child with special  
19        education and related services in conformance with an individualized education  
20        program under AS 14.30.278 at the child's home or at a medical treatment facility.

21        \* Sec. 18. AS 14.30.347 is amended to read:

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

31        \* Sec. 19. AS 14.30.350(2) is amended to read:

1 (2) "consent" means [IS ONLY OBTAINED IF] the parent [OR  
2 GUARDIAN] has been fully informed of all information relevant to the activity or the  
3 release of records for which [OBJECT OF THE] consent is sought and the parent  
4 understands and voluntarily agrees to the activity or release of records;

5 \* Sec. 20. AS 14.30.350(3) is repealed and reenacted to read:

6 (3) "exceptional children" means children with disabilities, and gifted  
7 children, who differ markedly from their peers to the degree that special facilities,  
8 equipment, or methods are required to make their educational program effective;

9 \* Sec. 21. AS 14.30.350(4) is amended to read:

10 (4) "related services" means transportation and developmental,  
11 corrective, and other supportive services required to assist children with disabilities  
12 [A HANDICAPPED] or gifted children [CHILD] to benefit from special education  
13 and includes but is not limited to speech pathology and audiology, psychological  
14 services, physical and occupational therapy, recreation, counseling services including  
15 rehabilitation counseling, and medical services for diagnostic or evaluation purposes;  
16 the term also includes school health services, school social work services, and parent  
17 counseling and training;

18 \* Sec. 22. AS 14.30.350(5) is amended to read:

19 (5) "special education" means specially designed instruction, at no cost  
20 to the parent, to meet the unique needs of exceptional children [A HANDICAPPED  
21 CHILD], including classroom instruction, instruction in physical education, home  
22 instruction, and instruction in hospitals and institutions; the term includes speech  
23 pathology, or any other related service, if the service consists of specially designed  
24 instruction, at no cost to the parents, to meet the unique needs of exceptional children  
25 [A HANDICAPPED CHILD], and is considered special education rather than a related  
26 service under state standards; the term also includes vocational education if it consists  
27 of specially designed instruction, at no cost to the parents, to meet the unique needs  
28 of exceptional children [A HANDICAPPED CHILD]; in this paragraph

29 (A) "at no cost" means that all specially designed instruction is  
30 provided without charge but does not preclude incidental fees that are normally  
31 charged to nonexceptional [NONHANDICAPPED] students or their parents

1 as a part of the regular education program;

2 (B) "physical education" means the development of physical and  
3 motor fitness, fundamental motor skills and patterns, skills in aquatics, dance,  
4 and individual and group games, and sports (including intramural and lifetime  
5 sports); the term includes special physical education, adapted physical  
6 education, movement education, and motor development;

7 (C) "vocational education" means organized educational  
8 programs that are directly related to the preparation of individuals for paid or  
9 unpaid employment, or for additional preparation for a career requiring other  
10 than a baccalaureate or advanced degree;

11 \* Sec. 23. AS 14.30.350 is amended by adding new paragraphs to read:

12 (7) "children with disabilities" means children with mental retardation;  
13 hearing impairments, including deafness; speech or language impairments; visual  
14 impairments, including blindness; serious emotional disturbance; orthopedic  
15 impairments; autism; traumatic brain injury; other health impairments; specific learning  
16 disabilities; or preschool developmental delays;

17 (8) "educational records" means those files, documents, records, and  
18 other material that contain information directly related to a student and are maintained  
19 by a school district or a person acting for a school district; the term "educational  
20 records" does not include the personnel records of the school district, maintained in the  
21 normal course of business, that relate exclusively to a person's capacity as an  
22 employee, or other records as designated by the department in regulation;

23 (9) "gifted children" means children who exhibit outstanding intellect,  
24 ability, or creative talent as determined under regulations adopted by the department;

25 (10) "individualized education program team" means a group of people  
26 that translates child assessment information regarding a child into a practical plan for  
27 specially designed instruction and delivery of services for the child, and includes the  
28 following:

29 (A) a representative of the school district, other than the child's  
30 teacher, who is qualified to provide or supervise the provision of special  
31 education;

- 1 (B) the child's teacher;  
2 (C) the child's parent;  
3 (D) the child, if appropriate;  
4 (E) other individuals, at the discretion of the child's parent or  
5 the school district;

6 (11) "parent" includes a guardian, a person acting as a parent of a child,  
7 and a surrogate parent appointed under AS 14.30.325.

8 \* Sec. 24. This Act takes effect June 30, 1993.