FIRST REGULAR SESSION

# HOUSE BILL NO. 40

## 96TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE LAMPE.

0325L.01I D. ADAM CRUMBLISS, Chief Clerk

## AN ACT

To repeal sections 160.900, 161.099, 162.675, 162.690, 162.700, 162.705, 168.015, 178.693, and 178.695, RSMo, and to enact in lieu thereof thirteen new sections relating to the identification, assessment, education, and services for handicapped and severely handicapped students in public school districts.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 160.900, 161.099, 162.675, 162.690, 162.700, 162.705, 168.015, 178.693, and 178.695, RSMo, are repealed and thirteen new sections enacted in lieu thereof, to be known as sections 160.900, 161.099, 162.675, 162.690, 162.700, 162.705, 162.943, 168.015, 178.692, 178.693, 178.695, 178.696, and 633.205, to read as follows:

160.900. 1. The state of Missouri shall participate in the federal Infant and Toddler Program, Part C of the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. Section 1431, et seq., and provide early intervention services to infants and toddlers determined eligible under state regulations**, including children with autism spectrum disorder as defined in section 162.675**.

2. The state agency designated by the governor as the lead agency shall be responsible for the administration and implementation of Part C of IDEA through a regional Part C early intervention system and shall promulgate rules implementing the requirements of Part C of IDEA consistent with federal regulations, 34 C.F.R. 303, et seq.

3. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in sections 160.900 to 160.925 shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. Sections 160.900 to 160.925 and chapter 536 are nonseverable and if any of the powers

EXPLANATION — Matter enclosed in bold-faced brackets **[**thus**]** in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

vested with the general assembly pursuant to chapter 536, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after July 1, 2005, shall be invalid and void.

4. Notwithstanding the provisions of section 23.253 to the contrary, the provisions of this section shall not sunset.

161.099. **[**Beginning July 1, 1998,**] 1.** When considering the evaluation and approval of teacher training programs of the state as authorized by section 161.097, the state board of education shall take into account the curriculum of the institution containing the teacher training program to ensure that the curriculum promotes the preparation of teachers to instruct in and to assess for the knowledge, skills and competencies that students must demonstrate to successfully move through the public elementary and secondary education system of the state as determined by the state board of education and which eventually leads to, or qualifies a student for, high school graduation.

**2. The department of elementary and secondary education shall require that any approved teacher training program include and require successful completion prior to graduation from the program, course work that includes preparation in recognizing the characteristics and special cognitive needs relating to students with disabilities, students with autism spectrum disorder, and students who are gifted and talented, and in instructional strategies which contribute to the education of such students.**

162.675. As used in sections 162.670 to 162.995, unless the context clearly indicates otherwise, the following terms mean:

(1) **"Autism spectrum disorder", includes Autism, Asperger Syndrome, Pervasive Development Disorder -- NOS, Rett Syndrome, and Child Disintegrative Disorder, as diagnosed by a licensed physician;**

**(2)** "Children with disabilities" or "handicapped children", children under the age of twenty-one years who have not completed an approved high school program and who, because of mental, physical, emotional or learning problems, **including but not limited to autism spectrum disorder as defined in this section,** require special educational services;

**[**(2)**] (3)** "Gifted children", children who exhibit precocious development of mental capacity and learning potential as determined by competent professional evaluation to the extent that continued educational growth and stimulation could best be served by an academic environment beyond that offered through a standard grade-level curriculum;

**[**(3)**] (4)** "Severely handicapped children", handicapped children under the age of twenty-one years who meet the eligibility criteria for Missouri schools for the severely disabled, identified in state regulations that implement the Individuals with Disabilities Education Act;

**[**(4)**] (5)** "Special educational services", programs designed to meet the **educational** needs of children with disabilities or handicapped or severely handicapped children and which include, but are not limited to, the provision of diagnostic and evaluation services, student and parent counseling, itinerant, homebound and referral assistance, organized instructional and therapeutic programs, transportation, and corrective and supporting services.

162.690. The state commissioner of education may appoint such state and area advisory committees as he deems necessary to review special educational services to handicapped and severely handicapped children**, including children with autism spectrum disorder as defined in section 162.675** and to consider any problems presented by the commissioner of education with respect to the provision of educational services to handicapped and severely handicapped children and to give advice thereon. Such committees shall include persons broadly representative of community organizations interested in the handicapped and severely handicapped, professions related to the educational needs of the handicapped and severely handicapped, and the general public. The members of such committees shall serve at the discretion of the commissioner of education.

162.700. 1. The board of education of each school district in this state, except school districts which are part of a special school district, and the board of education of each special school district shall provide special educational services for children with disabilities three years of age or more residing in the district as required by P.L. 99-457, as codified and as may be amended. Any child, determined to be a child with disabilities, shall be eligible for such services upon reaching his or her third birthday and state school funds shall be apportioned accordingly. This subsection shall apply to each full school year **[**beginning on or after July 1, 1991**]**. In the event that federal funding fails to be appropriated at the authorized level as described in 20 U.S.C. 1419(b)(2), the implementation of this subsection relating to services for children with disabilities three **[**and four**] to five** years of age may be delayed until such time as funds are appropriated to meet such level. Each local school district and each special school district shall be responsible to engage in a planning process to design the service delivery system necessary to provide special education and related services for children three **[**and four**] to five** years of age with disabilities. The planning process shall include public, private, and private not-for-profit agencies which have provided such services for this population. The school district, or school districts, or special school district, shall be responsible for designing an efficient service delivery system which uses the present resources of the local community which may be funded by the department of elementary and secondary education or the department of mental health. School districts may coordinate with public, private, and private not-for-profit agencies presently in existence. The service delivery system shall be consistent with the requirements of the

department of elementary and secondary education to provide appropriate special education services in the least restrictive environment.

2. Every local school district or, if a special district is in operation, every special school district shall obtain current appropriate diagnostic reports for each **child** with disabilities **[**child**]** prior to assignment in a special program. These records may be obtained with parental permission from previous medical or psychological evaluation, may be provided by competent personnel of such district or special district, or may be secured by such district from competent and qualified medical, psychological, or other professional personnel.

3. Evaluations of private school students suspected of having a disability under the Individuals With Disabilities Education Act will be conducted as appropriate by the school district in which the private school is located or its contractor.

4. Where special districts have been formed to serve children with disabilities under the provisions of sections 162.670 to 162.995, such children shall be educated in programs of the special district, except that component districts may provide education programs for children with disabilities ages three **[**and four**] to five** inclusive in accordance with regulations and standards adopted by the state board of education.

5. For the purposes of this act, remedial reading programs are not a special **[**education**] educational** service as defined by subdivision (4) of section 162.675.

6. Any and all state costs required to fund special education services for **[**three- and four-year-old**] three- to five-year-old** children under this section shall be provided for by a specific, separate appropriation and shall not be funded by a reallocation of money appropriated for the public school foundation program.

7. School districts providing early childhood special education shall give consideration to the value of continuing services with Part C early intervention system providers for the remainder of the school year when developing an individualized education program for a student who has received services under Part C of the Individuals with Disabilities Education Act and reaches the age of **[**three**] five** years during a regular school year. Services provided shall be only those permissible according to Section 619 of the Individuals with Disabilities Education Act.

8. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.

162.705. 1. If a school district or special district fails or is unable to provide special educational services to each handicapped or severely handicapped child as required in sections 162.670 to 162.995, **including a child with autism spectrum disorder as defined in section 162.675,** the district shall contract with a nearby district or districts or public agency or agencies for such special educational services. If the board of education of the district finds that no adequate program for handicapped or severely handicapped children is available in nearby districts or through public agencies, it may contract with any organization within the state which has programs meeting the standards established by the state board of education. If such district fails to contract for such services, the state board of education may contract for such services with a nearby district or districts or public agency or agencies. If the state board of education finds, after investigation by the state department of education, that no adequate program for handicapped or severely handicapped children is available in nearby districts or through public agencies, the state board of education may contract with any organization within the state which has programs meeting the standards established by the state board of education. Assignment of handicapped or severely handicapped children under this section shall be made to a particular school or program which, in the judgment of the state department of elementary and secondary education, can best provide special educational services to meet the needs of the child, and such assignment shall be made upon the basis of competent evaluation. The state board of education may seek the advice of established and ad hoc advisory committees in developing standards for approving programs and costs of programs operated by organizations. Nothing contained within this section shall be construed to affect the provisions of section 162.700 or 162.725.

2. Per pupil costs of contractual arrangements shall be the obligation of the district of residence, except districts which are part of a special school district, or special district of residence; provided, however, that if the contract is with another district or special district, the district providing the services under contractual arrangements shall include children served under such contractual arrangements in determining the total per pupil cost for which the district of residence is responsible. If the contract is with a public agency or an organization, the district of residence shall be entitled to receive state aid as provided in section 163.031 and in section 162.980. Where the state board of education contracts for special educational services pursuant to subsection 1 of this section, the state board of education shall submit to the responsible district a bill for the per pupil cost payable by that district under the terms of this subsection. Failure of a district to pay such cost within ninety days after a bill is submitted by the state board of education shall result in the deduction of the amount due by the state board of education from subsequent payments of state moneys due such district or special district.

3. If the state board of education determines, after inspection by the state department of elementary and secondary education and upon the recommendation of the commissioner of

education, that handicapped or severely handicapped children residing within the district may better be provided special educational services by the district or special district of residence, the state board of education shall order the district to provide special educational services in accordance with sections 162.670 to 162.995.

4. If the state board of education determines, after public hearing before the commissioner of education held in the school district on due notice, that the district has failed to provide special educational services in accordance with an order issued under subsection 3 of this section, the state board of education shall withhold all or such portion of the state aid under sections 162.670 to 162.995 and under chapter 163 as in its judgment is necessary to require the district to carry out its responsibility under sections 162.670 to 162.995. The denial of state financial assistance hereunder may continue until the failure to provide special educational services is remedied.

5. No contract shall be made under sections 162.670 to 162.995 contrary to the provisions of article I, section 7 or article IX, section 8 of the Constitution of Missouri.

**162.943. 1. The department of elementary and secondary education shall produce and provide to school districts sufficient copies of a comprehensive, easily understood document that explains the process by which an individualized education program is developed for a student in a special education program and the rights and responsibilities of a parent concerning the process. The document shall include information a parent needs to effectively participate in an admission, review, and dismissal committee meeting for the parent's child. The department of elementary and secondary education shall routinely update the document so that the document includes current state and federal law and shall provide the updated version to school districts. On receipt of an updated document, a school district shall provide a copy of the document to the parent of a student enrolled in a special education program. The agency shall update the document not later than the first anniversary of the effective date of a change in federal or state law.**

**2. At the annual meeting of a student's admission, review, and dismissal committee, a school district shall provide written notice to the parent of a student with an individualized education program that a current copy of the document required by this section is available to the parent on the request of the parent. A school district shall also include the notice in the district's student handbook. If a school district maintains an internet website, the district shall post on the website an internet link for accessing the document on the agency's internet website.**

168.015. 1. There is hereby established within the department of elementary and secondary education, the "Missouri Advisory Council of Certification for Educators", hereinafter known as the "advisory council", which shall be composed of twenty-five members to be

appointed by the state board of education on the recommendation of the commissioner of education. Of the twenty-five members of the council, fifteen must be active public school classroom teachers.

2. The duties and responsibilities of the advisory council shall include, but not be limited to:

(1) Making recommendations for the criteria and procedures whereby the quality and effectiveness of teacher and school administrator education programs within the state shall be evaluated;

(2) Making recommendations for the requirements for the certification of public school teachers and administrators;

(3) Making recommendations for the standards for renewal of certificates for public school teachers and administrators using academic course work as well as other types of professional development;

(4) Making recommendations concerning rules and regulations with respect to suspension and revocation of certificates of license to teach;

(5) Requesting and receiving reports from committees consisting of representatives from various professional groups, qualified in respective curriculum areas and other specialized areas, to assist in the formulation of recommendations of the advisory committee to the commissioner of education with respect to certification of public school teachers and administrators;

(6) Making recommendations for limiting the issuance of temporary certificates that are granted to those who do not meet the full requirements for certification**;**

**(7) Making recommendations for educator training and professional development regarding best practices for identification, assessment, and interventions for children with autism spectrum disorder**.

**178.692. 1. The department of elementary and secondary education shall appoint an ombudsman within the department who shall assist families and school districts by providing information and resources to assist with early identification and assessment of children with autism spectrum disorder, and provide information on services and interventions available for such children, families and school districts to better enable school districts to meet the educational needs of children with autism spectrum disorder.**

**2. The department of elementary and secondary education shall develop best practice guidelines for educational assessments and interventions for handicapped or severely handicapped children ages three through five which shall be disseminated to school districts for utilization in approved programs of parent education and shall be available through the department's ombudsman.**

**3. The department of elementary and secondary education shall identify an autism specialist at each regional professional development center and shall provide educator training on early identification, screenings, and appropriate educational services and interventions for autism through each regional professional development center. Such training shall be provided at no cost to public school districts throughout the state.**

**4. Subject to appropriation, the department of elementary and secondary education shall oversee the establishment of a system of early childhood education centers to serve a consortium of public school districts. These early childhood centers shall focus on the needs of children ages three through five who are handicapped or severely handicapped, including children with autism spectrum disorder. Pursuant to regulations adopted by state board of education, priority shall be given to the establishment of early childhood education centers in regions of the state where significant need is demonstrated and resources and services for children who are handicapped or severely handicapped, including children with autism spectrum disorder, are limited or nonexistent.**

**5. For children identified as handicapped or severely handicapped and who receive early childhood services commencing on or after August 1, 2013, the department of elementary and secondary education shall monitor early childhood services and educational outcomes for such children. Such monitoring shall continue until the children complete grade three. The department of elementary and secondary education shall utilize the findings from such monitoring when reviewing and revising best practice guidelines of educational assessments and interventions.**

178.693. 1. School districts that offer an approved program of parent education shall be eligible for state reimbursement, pursuant to section 163.031, subject to appropriations therefor for each participating family. If a school district fails or is unable to offer an approved program of parent education, the district shall enter into a contract which meets the requirements under section 178.697, with another district, public agency or state approved not-for-profit agency offering an approved program for such services. If the district finds that no approved program is available in another district, public agency, or through a state approved not-for-profit agency, it shall request the state department of elementary and secondary education to assist it in obtaining from an approved program, services at the reimbursable rate.

2. School districts that offer an approved program of developmental screening for all children under the age of five years shall be eligible for state reimbursement, pursuant to section 163.031, subject to appropriations therefor for each participating child. If a school district fails or is unable to offer an approved program of developmental screening, the district shall enter into a contract which meets the requirements under section 178.697, with another district, public agency or state approved not-for-profit agency offering an approved program for such services.

If the district finds that no approved program is available in another district, public agency or state approved not-for-profit agency, it shall request the state department of elementary and secondary education to assist it in obtaining from an approved program, services at the reimbursable rate.

3. School districts that offer approved programs for developmentally delayed children ages three **[**and four**] to five** who may also be eligible for programs under the provisions of sections 162.670 to 162.995 shall be eligible for state reimbursement, pursuant to section 163.031, subject to appropriations, provided the children are not receiving the same or similar services for handicapped or severely handicapped children under another program for which reimbursements from the department of elementary and secondary education are available to the district. If a school district fails or is unable to offer an approved program for developmentally delayed children ages three **[**and four**] to five**, the district shall enter into a contract which meets the requirements under section 178.697, with another district, public agency or state approved not-for-profit agency offering an approved program for such services. If the district finds that no approved program is available in another district, public agency or state approved not-for-profit agency, it shall request the state department of elementary and secondary education to assist it in obtaining from an approved program, services at the reimbursable rate.

178.695. 1. Programs shall be subject to review and approval under standards developed by the department of elementary and secondary education consisting of early childhood education and parents as teachers programs and published as an administrative rule under the provisions of chapter 536.

2. **Standards developed by the department of elementary and secondary education under subsection 1 of this section shall include standards for the evaluation of best practices for identification, assessment, and interventions for children with autism spectrum disorder.**

**3.** The lieutenant governor shall act as an advisor to the department for all such programs reviewed by the department.

**178.696. 1. There is hereby created a categorical fund to be administered by the department of elementary and secondary education which shall be titled the "Missouri Special Needs Identification and Education Program". The general assembly shall annually appropriate funds to the Missouri special needs identification and education program sufficient to meet the needs for educating, training and providing services for public school educators to identify, assess and provide interventions and educate children with special needs, including handicapped and severely handicapped children as defined in section 162.675. If funds in the Missouri special needs identification and education program are insufficient to fully reimburse the participants in the training program for**

**all costs incurred, participants shall be allowed a tax credit against their Missouri income tax liability for each dollar that is not reimbursed. If the cost of training exceeds the participant's total tax liability for the year the expense is incurred, the tax credit may be carried forward for three subsequent years and applied against the participant's state income tax liability for one or all of those years.**

**2. Educational and screening programs established under the provisions of 178.691 to 178.699, including but not limited to parents as teachers programs, shall ensure that parent educators complete a training program designed or approved by the department of elementary and secondary education which shall provide specific training on the early detection and signs of autism spectrum disorder as defined in section 162.675. Such training shall be completed prior to July 1, 2013. All employees hired on or after July 1, 2013, shall be required to complete such training prior to employment if not completed by the employee in a teacher preparation program. The cost of training shall be fully reimbursed by the Missouri special needs identification and education program including the cost of materials, speakers, transportation, meals while attending training, and participant per diem payments as established by the department of elementary and secondary education.**

**3. All employees employed in an instructional capacity for students in grades K-2 in Missouri public schools shall complete a training program designed or approved by the department of elementary and secondary education which shall provide specific training on the early detection and signs of autism spectrum disorder as defined in section 162.675. Such training shall be completed prior to July 1, 2015. All employees hired on or after July 1, 2015, shall be required to complete such training prior to employment if not completed by the employee in a teacher preparation program. The cost of training shall be fully reimbursed by the Missouri special needs identification and education program including the cost of materials, speakers, transportation, meals while attending training, and participant per diem payments as established by the department of elementary and secondary education.**

**4. All employees employed in an instructional capacity for students in grades 3-6 in Missouri public schools shall complete a training program designed and/or approved by the department of elementary and secondary education which shall provide specific training on the early detection and signs of autism spectrum disorder as defined in section 162.675. Such training shall be completed prior to July 1, 2017. All employees hired on or after July 1, 2017, shall be required to complete such training prior to employment if not completed by the employee in a teacher preparation program. The cost of training shall be fully reimbursed by the Missouri special needs identification and education**

**program including the cost of materials, speakers, transportation, meals while attending training, and participant per diem payments as established by the department of elementary and secondary education.**

**5. All employees employed in an instructional capacity for students in grades 7-12 in Missouri public schools shall complete a training program designed or approved by the department of elementary and secondary education which shall provide specific training on the early detection and signs of autism spectrum disorder as defined in section 162.675. Such training shall be completed prior to July 1, 2017. All employees hired on or after July 1, 2017, shall be required to complete such training prior to employment if not completed by the employee in a teacher preparation program. The cost of training shall be fully reimbursed by the Missouri special needs identification and education program including the cost of materials, speakers, transportation, meals while attending training, and participant per diem payments as established by the department of elementary and secondary education.**

**6. All individuals serving as a public school nurse or counselor shall complete a training program designed or approved by the department of elementary and secondary education which shall provide specific training. Such training shall be completed prior to July 1, 2017. All employees hired on or after July 1, 2017, shall be required to complete such training prior to employment if not completed by the employee in a teacher preparation program. The cost of training shall be fully reimbursed by the Missouri special needs identification and education program including the cost of materials, speakers, transportation, meals while attending training, and participant per diem payments as established by the department of elementary and secondary education.**

**633.205. 1. There is hereby created within the department of mental health the Missouri Autism Spectrum Disorder Commission. The Commission shall conduct an in-depth review of issues relating to autism spectrum disorder and, by December 1, 2012, shall develop a ten-year strategic plan for the state of Missouri to address the growing number of individuals in the state who need services for autism spectrum disorder; such plan shall be submitted to the general assembly for review and consideration.**

**2. The commission shall consist of twenty members, including but not limited to the following:**

**(1) Two members who are individuals with autism;**

**(2) One member who is the parent of a child with autism;**

**(3) One member who is the parent of an adult child with autism;**

**(4) The director of the department of mental health or his or her designee;**

**(5) The commissioner of the department of elementary and secondary education or his or her designee;**

**(6) The director of the department of insurance or his or her designee;**

**(7) The commissioner of higher education or his or her designee;**

**(8) One member who is a special education director in a school district;**

**(9) One member who is a private provider of autism services;**

**(10) One member who is a licensed physician; and**

**(11) Such other members as deemed appropriate by the governor.**

**3. The members of the commission shall be appointed by the governor with the advice and consent of the senate. A chair of the commission shall be selected by the members of the commission. Members of the commission shall serve two-year terms, not to exceed a total of eight years of service on the commission. Members shall continue to serve until a successor is duly appointed and qualified. Vacancies shall be filled in the same manner as the original appointment. Members shall serve without compensation but may be reimbursed for actual and necessary expenses from moneys appropriated by the general assembly.**

**4. The commission shall make recommendations for the development of a comprehensive ten-year strategic plan for an integrated system of training, treatment, and services for individuals with autism spectrum disorder. By December 1, 2012, the commission shall submit to the general assembly its recommended ten-year strategic plan which shall include, but not be limited to, the following:**

**(1) An assessment of the diverse needs for services and supports for individuals with autism spectrum disorder;**

**(2) Identification of state, federal, private and other appropriate funding sources to support services for individuals with autism;**

**(3) Development of comprehensive training plan to meet training needs, including training needs for families, school districts, educators, health care and mental health providers;**

**(4) An analysis of standards for provider training and qualifications, best practice standards for services, and the need for additional service providers;**

**(5) An evaluation of health benefit plans and insurance coverage for the treatment of autism spectrum disorder;**

**(6) A plan for the identification of individuals of all ages with autism spectrum disorder;**

**(7) An analysis of program and service eligibility criteria;**

**(8) An assessment of the need for coordinated, enhanced, and targeted early childhood education and special education services and treatment programs for children with autism spectrum disorder;**

**(9) An evaluation of availability and quality of regional services for individuals with autism spectrum disorder;**

**(10) A proposal for legislation to implement the recommendations contained in the strategic plan; and**

**(11) A timeline for implementing and monitoring the recommendations of the strategic plan statewide.**

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