

SECOND REGULAR SESSION

HOUSE BILL NO. 1614

97TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES BURLISON (Sponsor) AND SCHARNHORST (Co-sponsor).

4603L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 161.825, RSMo, and to enact in lieu thereof one new section relating to Bryce's Law.

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

Section A. Section 161.825, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 161.825, to read as follows:

161.825. 1. This section shall be known and may be cited as "Bryce's Law".

2. As used in this section, the following terms mean:

(1) "Autism spectrum disorder", pervasive developmental disorder; Asperger syndrome; childhood disintegrative disorder; Rett syndrome; and autism;

(2) "Contribution", a donation of cash, stock, bonds, or other marketable securities, or real property;

(3) "Department", the department of elementary and secondary education;

(4) "Director", the commissioner of education;

(5) "Educational scholarships", grants to students to cover all or part of the tuition and fees at a qualified nonpublic school, a qualified public school, or a qualified service provider, including transportation;

(6) "Eligible child", any child from birth to age five living in Missouri who has an individualized family services program under the first steps program, sections 160.900 to 160.933, and whose parent or guardian has completed the complaint procedure under the Individuals with Disabilities Education Act, Part C, and has received an unsatisfactory response; or any child from birth to age five who has been evaluated for special needs as defined in this section by a person qualified to perform evaluations under the first steps program and has been

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.

18 determined to have special needs but who falls below the threshold for eligibility by no less than
19 twenty-five percent;

20 (7) "Eligible student", any elementary or secondary student who attended public school
21 in Missouri the preceding semester, or who will be attending school in Missouri for the first time,
22 who has an individualized education program based on a special needs condition or who has a
23 medical diagnosis by a qualified health professional of a special needs condition;

24 (8) "Parent", includes a guardian, custodian, or other person with authority to act on
25 behalf of the child;

26 (9) "Program", the program established in this section;

27 (10) "Qualified health professional", a person licensed under chapter 334 or 337 who
28 possesses credentials as described in rules promulgated jointly by the department of elementary
29 and secondary education and the department of mental health to make a diagnosis of a student's
30 special needs for this program;

31 (11) "Qualified school", either an accredited public elementary or secondary school in
32 a district that is accredited without provision outside of the district in which a student resides or
33 an accredited nonpublic elementary or secondary school in Missouri that complies with all of the
34 requirements of the program and complies with all state laws that apply to nonpublic schools
35 regarding criminal background checks for employees and excludes from employment any person
36 not permitted by state law to work in a nonpublic school;

37 (12) "Qualified service provider", a person or agency authorized by the department to
38 provide services under the first steps program, sections 160.900 to 160.933;

39 (13) "Scholarship granting organization", a charitable organization that:

40 (a) Is exempt from federal income tax;

41 (b) Complies with the requirements of this program;

42 (c) Provides education scholarships to students attending qualified schools of their
43 parents' choice or to children receiving services from qualified service providers; and

44 (d) Does not accept contributions on behalf of any eligible student or eligible child from
45 any donor with any obligation to provide any support for the eligible student or eligible child;

46 (14) "Special needs", an autism spectrum disorder, Down Syndrome, Angelman
47 Syndrome, [or] cerebral palsy, **or dyslexia**.

48 3. The department of elementary and secondary education shall develop a master list of
49 resources available to the parents of children with an autism spectrum disorder **or dyslexia** and
50 shall maintain a web page for the information. The department shall also actively seek financial
51 resources in the form of grants and donations that may be devoted to scholarship funds or to
52 clinical trials for behavioral interventions that may be undertaken by qualified service providers.

53 The department may contract out or delegate these duties to a nonprofit organization. Priority
54 in referral for funding shall be given to children who have not yet entered elementary school.

55 4. The director shall determine, at least annually, which organizations in this state may
56 be classified as scholarship granting organizations. The director may require of an organization
57 seeking to be classified as a scholarship granting organization whatever information which is
58 reasonably necessary to make such a determination. The director shall classify an organization
59 as a scholarship granting organization if such organization meets the definition set forth in this
60 section.

61 5. The director shall establish a procedure by which a donor can determine if an
62 organization has been classified as a scholarship granting organization. Scholarship granting
63 organizations shall be permitted to decline a contribution from a donor.

64 6. Each scholarship granting organization shall provide information to the director
65 concerning the identity of each donor making a contribution to the scholarship granting
66 organization.

67 7. (1) The director shall annually make a determination on the number of students in
68 Missouri with an individualized education program based upon special needs as defined in this
69 section. The director shall use ten percent of this number to determine the maximum number
70 of students to receive scholarships from a scholarship granting organization in that year for
71 students with special needs who have at the time of application an individualized education
72 program, plus a number calculated by the director by applying the state's latest available autism,
73 cerebral palsy, Down Syndrome, [and] Angelman Syndrome, **and dyslexia** incidence rates to the
74 state's population of children from age five to nineteen who are not enrolled in public schools
75 and taking ten percent of that number. The total of these two calculations shall constitute the
76 maximum number of scholarships available to students.

77 (2) The director shall also annually make a determination on the number of children in
78 Missouri whose parent or guardian has enrolled the child in first steps, received an individualized
79 family services program based on special needs, and filed a complaint through the Individuals
80 with Disabilities Education Act, Part C, and received a negative response. In addition to this
81 number, the director shall apply the latest available autism, cerebral palsy, Down Syndrome,
82 [and] Angelman Syndrome, **and dyslexia** incidence rates to the latest available census
83 information for children from birth to age five and determine ten percent of that number for the
84 maximum number of scholarships for children.

85 (3) The director shall publicly announce the number of each category of scholarship
86 opportunities available each year. Once a scholarship granting organization has decided to
87 provide a student or child with a scholarship, it shall promptly notify the director. The director
88 shall keep a running tally of the number of scholarships granted in the order in which they were

89 reported. Once the tally reaches the annual limit of scholarships for eligible students or children,
90 the director shall notify all of the participating scholarship granting organizations that they shall
91 not issue any more scholarships and any more receipts for contributions. If the scholarship
92 granting organizations have not expended all of their available scholarship funds in that year at
93 the time when the limit is reached, the available scholarship funds may be carried over into the
94 next year. These unexpended funds shall not be counted as part of the requirement in
95 subdivision (3) of subsection [10] 11 of this section for that year. Any receipt for a scholarship
96 contribution issued by a scholarship granting organization before the director has publicly
97 announced the student or child limit has been reached shall be valid.

98 8. Each scholarship granting organization participating in the program shall:

99 (1) Notify the department of its intent to provide educational scholarships to students
100 attending qualified schools or children receiving services from qualified service providers;

101 (2) Provide a department-approved receipt to donors for contributions made to the
102 organization;

103 (3) Ensure that at least ninety percent of its revenue from donations is spent on
104 educational scholarships, and that all revenue from interest or investments is spent on
105 educational scholarships;

106 (4) Ensure that the scholarships provided do not exceed an average of twenty thousand
107 dollars per eligible child or fifty thousand dollars per eligible student;

108 (5) Inform the parent or guardian of the student or child applying for a scholarship that
109 accepting the scholarship is tantamount to a parentally placed private school student pursuant to
110 34 CFR 300.130 and, thus, neither the department nor any Missouri public school is responsible
111 to provide the student with a free appropriate public education pursuant to the Individuals with
112 Disabilities Education Act or Section 504 of the Rehabilitation Act of 1973;

113 (6) Distribute periodic scholarship payments as checks made out to a student's or child's
114 parent and mailed to the qualified school where the student is enrolled or qualified service
115 provider used by the child. The parent or guardian shall endorse the check before it can be
116 deposited;

117 (7) Cooperate with the department to conduct criminal background checks on all of its
118 employees and board members and exclude from employment or governance any individual who
119 might reasonably pose a risk to the appropriate use of contributed funds;

120 (8) Ensure that scholarships are portable during the school year and can be used at any
121 qualified school that accepts the eligible student or at a different qualified service provider for
122 an eligible child according to a parent's wishes. If a student moves to a new qualified school
123 during a school year or to a different qualified service provider for an eligible child, the
124 scholarship amount may be prorated;

- 125 (9) Demonstrate its financial accountability by:
- 126 (a) Submitting a financial information report for the organization that complies with
- 127 uniform financial accounting standards established by the department and conducted by a
- 128 certified public accountant; and
- 129 (b) Having the auditor certify that the report is free of material misstatements;
- 130 (10) Demonstrate its financial viability, if the organization is to receive donations of fifty
- 131 thousand dollars or more during the school year, by filing with the department before the start
- 132 of the school year:
- 133 (a) A surety bond payable to the state in an amount equal to the aggregate amount of
- 134 contributions expected to be received during the school year; or
- 135 (b) Financial information that demonstrates the financial viability of the scholarship
- 136 granting organization.
- 137 9. Each scholarship granting organization shall ensure that each participating school or
- 138 service provider that accepts its scholarship students or children shall:
- 139 (1) Comply with all health and safety laws or codes that apply to nonpublic schools or
- 140 service providers;
- 141 (2) Hold a valid occupancy permit if required by its municipality;
- 142 (3) Certify that it will comply with 42 U.S.C. Section 1981, as amended;
- 143 (4) Provide academic accountability to parents of the students or children in the program
- 144 by regularly reporting to the parent on the student's or child's progress;
- 145 (5) Certify that in providing any educational services or behavior strategies to a
- 146 scholarship recipient with a diagnosis of or an individualized education program based upon
- 147 autism spectrum disorder it will:
- 148 (a) Adhere to the best practices recommendations of the Missouri Autism Guidelines
- 149 Initiative or document why it is varying from the guidelines;
- 150 (b) Not use any evidence-based interventions that have been found ineffective by the
- 151 commission on Medicare as described in the Missouri Autism Guidelines Initiative guide to
- 152 evidence-based interventions; and
- 153 (c) Provide documentation in the student's or child's record of the rationale for the use
- 154 of any intervention that is categorized as unestablished, insufficient evidence, or level 3 by the
- 155 Missouri Autism Guidelines Initiative guide to evidence-based interventions; and
- 156 (6) Certify that in providing any educational services or behavior strategies to a
- 157 scholarship recipient with a diagnosis of, or an individualized family services program based
- 158 upon Down Syndrome, Angelman Syndrome, [or] cerebral palsy, **or dyslexia**, it will use student,
- 159 teacher, teaching, and school influences that rank in the zone of desired effects in the
- 160 meta-analysis of John Hattie, or equivalent analyses as determined by the department, or

161 document why it is using a method that has not been determined by analysis to rank in the zone
162 of desired effects.

163 10. Scholarship granting organizations shall not provide educational scholarships for
164 students to attend any school or children to receive services from any qualified service provider
165 with paid staff or board members who are relatives within the first degree of consanguinity or
166 affinity.

167 11. A scholarship granting organization shall publicly report to the department, by June
168 first of each year, the following information prepared by a certified public accountant regarding
169 its grants in the previous calendar year:

170 (1) The name and address of the scholarship granting organization;

171 (2) The total number and total dollar amount of contributions received during the
172 previous calendar year; and

173 (3) The total number and total dollar amount of educational scholarships awarded during
174 the previous calendar year, including the category of each scholarship, and the total number and
175 total dollar amount of educational scholarships awarded during the previous year to students
176 eligible for free and reduced lunch.

177 12. The department shall adopt rules and regulations consistent with this section as
178 necessary to implement the program.

179 13. The department shall provide a standardized format for a receipt to be issued by a
180 scholarship granting organization to a donor to indicate the value of a contribution received.

181 14. The department shall provide a standardized format for scholarship granting
182 organizations to report the information in this section.

183 15. The department may conduct either a financial review or audit of a scholarship
184 granting organization.

185 16. If the department believes that a scholarship granting organization has intentionally
186 and substantially failed to comply with the requirements of this section, the department may hold
187 a hearing before the director or the director's designee to bar a scholarship granting organization
188 from participating in the program. The director or the director's designee shall issue a decision
189 within thirty days. A scholarship granting organization may appeal the director's decision to the
190 administrative hearing commission for a hearing in accordance with the provisions of chapter
191 621.

192 17. If the scholarship granting organization is barred from participating in the program,
193 the department shall notify affected scholarship students or children and their parents of this
194 decision within fifteen days.

195 18. Any rule or portion of a rule, as that term is defined in section 536.010, that is
196 created under the authority delegated in this section shall become effective only if it complies

197 with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028.
198 This section and chapter 536 are nonseverable and if any of the powers vested with the general
199 assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and
200 annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and
201 any rule proposed or adopted after August 28, 2013, shall be invalid and void.

202 19. The department shall conduct a study of the program with funds other than state
203 funds. The department may contract with one or more qualified researchers who have previous
204 experience evaluating similar programs. The department may accept grants to assist in funding
205 this study.

206 20. The study shall assess:

207 (1) The level of participating students' and children's satisfaction with the program in a
208 manner suitable to the student or child;

209 (2) The level of parental satisfaction with the program;

210 (3) The percentage of participating students who were bullied or harassed because of
211 their special needs status at their resident school district compared to the percentage so bullied
212 or harassed at their qualified school;

213 (4) The percentage of participating students who exhibited behavioral problems at their
214 resident school district compared to the percentage exhibiting behavioral problems at their
215 qualified school;

216 (5) The class size experienced by participating students at their resident school district
217 and at their qualified school; and

218 (6) The fiscal impact to the state and resident school districts of the program.

219 21. The study shall be completed using appropriate analytical and behavioral sciences
220 methodologies to ensure public confidence in the study.

221 22. The department shall provide the general assembly with a final copy of the
222 evaluation of the program by December 31, 2016.

223 23. The public and nonpublic participating schools and service providers from which
224 students transfer to participate in the program shall cooperate with the research effort by
225 providing student or child assessment instrument scores and any other data necessary to complete
226 this study.

227 24. The general assembly may require periodic updates on the status of the study from
228 the department. The individuals completing the study shall make their data and methodology
229 available for public review while complying with the requirements of the Family Educational
230 Rights and Privacy Act, as amended.

231 25. Under section 23.253 of the Missouri sunset act:

232 (1) The provisions of the new program authorized under this section shall sunset
233 automatically on December 31, 2019, unless reauthorized by an act of the general assembly; and

234 (2) If such program is reauthorized, the program authorized under this section shall
235 sunset automatically on December 31, 2031; and

236 (3) This section shall terminate on December thirty-first of the calendar year immediately
237 following the calendar year in which the program authorized under this section is sunset.

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