

Department of Planning and Budget 2021 Fiscal Impact Statement

1. **Bill Number:** HB2289

House of Origin Introduced Substitute Engrossed
Second House In Committee Substitute Enrolled

2. **Patron:** Austin

3. **Committee:** Health, Welfare, and Institutions

4. **Title:** Children's Services Act; special education programs.

5. **Summary:** Declares eligible for the Children's Services Act (CSA) state pool of funds any child or youth (i) who was previously placed in an approved private school educational program for at least six months and who will receive certain transitional services in a public school setting for no longer than 12 months or (ii) whose individualized education program team has determined that his placement in a private special education day school, residential program, or other out-of-school placement could be prevented by his receipt of specialized or intensive services and supports delivered in the public school setting if such services and supports are estimated to have an annual cost that is more than three times the average annual cost of educating in a public school setting a student who does not require special education services and supports.

6. **Budget Amendment Necessary:** Yes, Item 292 (\$40,000) and Item 293 (\$15,000).

7. **Fiscal Impact Estimates:** See Item 8 below.

8. **Fiscal Implications:** While this legislation will impact the Office of Children's Services (OCS) and the Department of Education (DOE), the extent of these impacts cannot be determined. It is not clear whether the net of these impacts to the Children's Service Act (CSA) program will be a cost or a savings to the Commonwealth, though it is likely to increase the number of children served in a public schools, which receive funding through Direct Aid to Public Education, administered by DOE. Additionally, while this bill does not technically add these populations to the CSA mandated population, the analysis below assumes the intention was to add these populations to the mandated CSA population based on the bill summary.

This legislation will increase the number of children who are eligible for services paid from CSA state pool funds by allowing school districts to access CSA funds for services provided in public schools for children who transition from private day programs to public school programs, provided that the services last no longer than 12 months and the student was previously enrolled in the private school for at least six months.

Additionally, CSA funds could be used for any student for whom the cost of supports and services to educate them in a public school setting exceeds three times the cost of educating a student in public school who does not require special education supports if it is determined that the student would otherwise need to be placed in a private day school.

Under current law, CSA funds cannot be accessed for services provided in a public school setting, although \$2.2 million per year is set aside in budget language for “wrap around services” in community-based (non-school) settings for children served by the public schools.

Currently, most children receive special education services in one of three settings: public regional tuition programs, private day schools, or traditional public school settings. Only private day schools are currently funded through CSA. Public Regional tuition and traditional public schools settings are funded through the Direct Aid to Public Education.. DOE indicates that the average reimbursement for services provided in regional tuition special education programs in FY 2020 was \$33,715 with an average state share of 57.5 percent (\$22,757), which is less costly than a private day placement, at \$45,496 with an average state share of 63 percent (\$28,662). According to the most recent data available in DOE’s 2018 – 2019 Superintendent’s Annual Report, traditional public schools receive an average of \$12,931 per child from state, local, and federal sources, with an average state contribution of 41.6 percent (\$5,388).

Prior to FY 2011, public schools were permitted to access CSA funds to provide more comprehensive wrap-around services to their students. In FY 2010, the last year this was allowed under CSA policy, expenditures for that category peaked at \$19,579,866 for over 1,300 children, with an average cost of \$14,656 per child at an average state share of 65 percent (\$9,526). If these costs are reflective of the costs of transition services to be provided as a result of this legislation, it does not appear that the total cost to the state for a child returning to a traditional public school setting would exceed the current costs of services provided by private day schools. At the end of twelve months support from the CSA pool, the cost for any increased level of services would revert back to the school district.

The legislation also would allow school divisions to access CSA funds for students who could be kept out of private schools if the total cost of services exceeds three times the average for students who do not need supports. DOE does not collect data on the individual cost of a special education student, however, for the purposes of this analysis it is assumed that the average cost is \$12,931 as mentioned above. In order to be eligible for CSA as a result of this legislation, a child would need to have educational costs of \$38,793 or more.

It is not clear who is responsible for projecting what the cost of these services would be, as service determinations are made in the student’s IEP without specific costs identified, nor what happens if the cost does not exceed that threshold by the end of the year. The Office of Children’s Services anticipates needing an additional \$15,000 (Item 293) to make system updates to allow for the proper tracking of such expenditures, and estimates local CSA offices would need approximately \$40,000 (Item 292) to make similar adjustments.

The number of children, the quantity of services, and the total cost of services that would be provided in public schools as a result of this legislation are indeterminate. It is possible that some school districts will be able to bill CSA for services they would have otherwise provided within existing budgets, including for those children returning from private day school to public school under current statute, thus adding costs to the CSA program that it would otherwise not have incurred. For reference, the Department of Education reports that in the 2019–2020 school year, 407 students returned to public school from private day settings. If each of those children were receive \$14,656 worth of wrap-around services, the cost to CSA would be \$5,964,992 (\$3,877,245 GF).

If children are able to be moved out of private day schools into public school settings as a result of this legislation, it is anticipated that growth in private day placements for special education private day programs would be reduced. As these student are added to public school enrollment, additional state costs will be incurred in the Direct Aid to Public Education budget. The local share of costs for public education likely will increase as well.

9. Specific Agency or Political Subdivisions Affected: Children’s Services Act, Department of Education, Secretary of Education.

10. Technical Amendment Necessary: If the intent is to expand eligibility for the state pool of funds, line 25 should be amended to strike “5” and insert “6”.

11. Other Comments: None.