

## Department of Planning and Budget 2021 Fiscal Impact Statement

1. **Bill Number:** SB1133

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

2. **Patron:** Suetterlein

3. **Committee:** Education and Health

4. **Title:** Community policy and management teams; use of funds.

5. **Summary:** The substitute version of the bill expands eligibility for the use of the state pool funds under the Children’s Services Act (CSA) to include children and youth previously placed in approved private school educational programs for at least six months, who will receive transitional services in a public school setting for no longer than 12 months. The substitute bill also expands eligibility for the use of state pool funds for any ongoing services required for any child who has transitioned to public school from a private setting after the 12 month period has ended.

The bill requires the Secretary of Education, in conjunction with the Office of Children's Services (OCS) and the Department of Education (DOE), to establish a work group (the Work Group) with appropriate stakeholders to develop a detailed plan to direct the transfer of Children's Services Act funds currently reserved for children requiring an educational placement in a private special education day school or residential facility to the Department of Education.

The bill requires the Department of Education and relevant local school boards to develop and implement a pilot program for up to four years in two to eight local school divisions in the Commonwealth. In developing the pilot, the Department is required to partner with the appropriate school board employees in each such local school division to: (i) identify the resources, services, and supports required by each student who resides in each such local school division and who is educated in a private school setting pursuant to his Individualized Education Program; (ii) study the feasibility of transitioning each such student from his private school setting to an appropriate public school setting in the local school division and providing the identified resources, services, and supports in such public school setting; and (iii) recommend a process for redirecting federal, state, and local funds, including funds provided pursuant to the Children's Services Act, provided for the education of each such student to the local school division for the purpose of providing the identified resources, services, and supports in the appropriate public school setting. The bill requires the Department of Education to make a report to the Governor, the Senate Committees on Education and Health and Finance and Appropriations, and the House Committees on Education and Appropriations on the findings of each pilot program after two and four years.

The bill also requires that funds expended for special education services under the Children's Services Act only be expended on educational programs that are licensed by the Department of Education.

6. **Budget Amendment Necessary:** See Item 8.
7. **Fiscal Impact Estimates:** Indeterminate.
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 will result in overall cost or savings to the Commonwealth.

This legislation will increase the number of children who are eligible for services paid from Children's Services Act (CSA) state pool funds by allowing school divisions to access CSA funds for children receiving special education services in public schools. It increases eligibility for transition services 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, this legislation will allow for the continued use of CSA funds for any ongoing services that are determined necessary for a child to continue to attend public school beyond the 12 month transitional period, so long as the cost does not exceed the cost of a private day placement.

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 non-school settings for children served by the public schools. 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.

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 currently are funded through CSA. Public regional tuition and traditional public schools settings are funded through the Direct Aid to Public Education budget administered by DOE. 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).

The scope and cost of services for students that would be eligible for CSA funds under this legislation are unclear. If the bill is intended to limit the service expansion to "wrap around" services provided in public school settings, historical data may be a good indicator of future use. Prior to FY 2011, public schools were permitted to access CSA funds to provide more

comprehensive wrap-around services to their students within the public school setting. In FY 2010, the last year this was allowable 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).

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 divisions will be able to bill CSA for services they otherwise would have 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 otherwise would 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).

It is not known how many additional children will be able to transition from private day as a result of this legislation to provide an offset, thus the overall costs of the bill is indeterminate. However, if the costs of wrap-around services provided prior to FY 2011 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.

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 exceeds the average cost of private day placements at some point in 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.

This legislation requires a stakeholder workgroup organized by the Secretary of Education to develop a plan to move funding dedicated to private day placements currently authorized through the Children's Services Act program to the Department of Education (DOE). DOE estimates the administrative cost of the workgroup to be approximately \$40,000 (\$5,000 per meeting for an estimated eight meetings).

In addition, the bill requires the Department of Education and relevant local school boards to develop and implement a pilot program for up to four years in two to eight local school divisions in the Commonwealth. In developing the pilot, DOE is required to partner with the appropriate school board employees in each such local school division to: (i) identify the resources, services, and supports required by each student who resides in each such local school division and who is educated in a private school setting pursuant to his Individualized Education Program; (ii) study the feasibility of transitioning each such student from his private school setting to an appropriate public school setting in the local school division and providing the identified resources, services, and supports in such public school setting; and (iii) recommend a process for redirecting federal, state, and local funds, including funds

provided pursuant to the Children's Services Act, provided for the education of each such student to the local school division for the purpose of providing the identified resources, services, and supports in the appropriate public school setting. The bill requires the Department of Education to make a report to the Governor, the Senate Committees on Education and Health and Finance and Appropriations, and the House Committees on Education and Appropriations on the findings of each pilot program after two and four years.

VDOE uses regional technical assistance centers to support students with intensive needs. These regional infrastructures are three-pronged: (a) keep students with intensive support needs in their home, schools, and communities; (b) establish additional continuum options locally or regionally to support students remaining in comprehensive public schools; and, (c) to transition students back from private placement into supportive continuum options available in the local school division or region.

The purpose of the regional technical assistance is to increase the capacity of any professional responsible for supporting individuals with autism and other high-support needs. VDOE believes that these technical assistance centers can serve as the platform for the pilot program. An extension of the regional model could help to reverse the trajectory of students exiting public schools without returning.

The amount of state support needed for the pilot program will depend upon the amount of staff that would need to be deployed. Areas with a high volume of students with intensive needs may require two technical assistance associates, while lower volume regions may only need one. Assuming \$80,000 in contractual support per associate, VDOE estimates that it would need \$320,000 (four technical assistance associates) per year in state funding to provide direct support to school divisions during the pilot program. VDOE also would require an additional \$30,000 per year in contract support at the Central Office to study how the funding streams could be redirected and to develop a plan to support the identified resources. The total estimated cost to DOE is \$350,000 per year (Item 138) of the pilot program.

**9. Specific Agency or Political Subdivisions Affected:** Children's Services Act, Department of Education, local school divisions.

**10. Technical Amendment Necessary:** No.

**11. Other Comments:** No.