



# SENATE BILL No. 1128

September 10, 1996, Introduced by Senator YOUNG and referred to the Committee on Education.

A bill to amend sections 1703, 1711, and 1751 of Act No. 451 of the Public Acts of 1976, entitled as amended "The school code of 1976," being sections 380.1703, 380.1711, and 380.1751 of the Michigan Compiled Laws; and to add section 1704.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1 Section 1. Sections 1703, 1711, and 1751 of Act No. 451 of  
2 the Public Acts of 1976, being sections 380.1703, 380.1711, and  
3 380.1751 of the Michigan Compiled Laws, are amended and  
4 section 1704 is added to read as follows:

5 Sec. 1703. (1) Special education personnel shall meet the  
6 qualifications and requirements of the rules promulgated by the  
7 state board. THE QUALIFICATIONS AND REQUIREMENTS ESTABLISHED BY  
8 STATE BOARD RULE FOR SPECIAL EDUCATION TEACHERS WHO TEACH PUPILS  
9 WHO ARE BLIND OR VISUALLY IMPAIRED SHALL INCLUDE AT LEAST A

1 REQUIREMENT THAT THE TEACHER DEMONSTRATE COMPETENCE IN READING  
2 AND WRITING BRAILLE. THE STATE BOARD SHALL ESTABLISH PROCEDURES  
3 AND STANDARDS TO ASSESS THAT COMPETENCY THAT ARE CONSISTENT WITH  
4 THOSE ADOPTED BY THE NATIONAL LIBRARY SERVICE FOR THE BLIND AND  
5 PHYSICALLY HANDICAPPED OF THE UNITED STATES LIBRARY OF CONGRESS.

6 (2) Curriculum, eligibility of specific persons for special  
7 education programs and services and for each particular program  
8 or service, review procedures regarding the placement of persons  
9 in the programs or services, size of classes, size of programs,  
10 quantity and quality of equipment, supplies and housing, adequacy  
11 of methods of instruction, and length and content of school day  
12 shall be in accordance with rules promulgated by the state board  
13 relative to special education programs and services.

14 SEC. 1704. (1) THE EVALUATION OF EACH BLIND PUPIL BY AN  
15 INDIVIDUALIZED EDUCATIONAL PLANNING COMMITTEE SHALL INCLUDE AN  
16 ASSESSMENT UNDER THIS SUBSECTION OF THE APPROPRIATENESS OF  
17 INSTRUCTION IN BRAILLE FOR THE BLIND PUPIL. THE EVALUATION SHALL  
18 PROCEED UNDER THE PRESUMPTION THAT PROFICIENCY IN BRAILLE READING  
19 AND WRITING IS ESSENTIAL FOR THE BLIND PUPIL TO ACHIEVE SATISFAC-  
20 TORY EDUCATIONAL PROGRESS. THE ASSESSMENT SHALL INCLUDE AT LEAST  
21 ALL OF THE FOLLOWING:

22 (A) A BRAILLE SKILLS INVENTORY WITH A STATEMENT OF STRENGTHS  
23 AND DEFICIENCIES.

24 (B) A LOW VISION ASSESSMENT AND EVALUATION PROVIDED THROUGH  
25 THE MICHIGAN COMMISSION FOR THE BLIND.

26 (C) A PRINT SKILLS INVENTORY WITH A STATEMENT OF STRENGTHS  
27 AND DEFICIENCIES.

1           (2) IF A BLIND PUPIL'S INDIVIDUALIZED EDUCATIONAL PLANNING  
2 COMMITTEE UNANIMOUSLY DETERMINES AFTER THE ASSESSMENT DESCRIBED  
3 IN SUBSECTION (1), AND USING A STANDARD EVALUATION GUIDELINE  
4 DEVELOPED BY THE STATE BOARD, THAT A BLIND PUPIL'S VISUAL IMPAIR-  
5 MENT DOES NOT AFFECT HIS OR HER READING AND WRITING PERFORMANCE  
6 COMMENSURATE WITH HIS OR HER ABILITY, THE BLIND PUPIL'S INDIVIDU-  
7 ALIZED EDUCATION PROGRAM IS NOT REQUIRED TO INCLUDE BRAILLE  
8 INSTRUCTION PURSUANT TO SUBSECTION (3). HOWEVER, THE BLIND  
9 PUPIL'S INDIVIDUALIZED EDUCATIONAL PLANNING COMMITTEE SHALL SPEC-  
10 IFY IN WRITING THE EVIDENCE USED TO DETERMINE THAT THE BLIND  
11 PUPIL'S ABILITY TO READ AND WRITE EFFECTIVELY WITHOUT BRAILLE  
12 INSTRUCTION IS NOT IMPAIRED. THE STATE BOARD SHALL DEVELOP AND  
13 MAKE AVAILABLE A STANDARD EVALUATION GUIDELINE FOR USE UNDER THIS  
14 SUBSECTION, AND SHALL INCLUDE IN THE STANDARD EVALUATION A  
15 REQUIREMENT THAT THE INDIVIDUALIZED EDUCATIONAL PLANNING COMMIT-  
16 TEE MUST REVIEW PERTINENT LITERATURE DESCRIBING THE EDUCATIONAL  
17 BENEFITS OF BRAILLE INSTRUCTION AND USE.

18           (3) THE INDIVIDUALIZED EDUCATION PROGRAM OF EACH BLIND PUPIL  
19 WHO IS NOT EXEMPTED UNDER SUBSECTION (2) SHALL INCLUDE INSTRUC-  
20 TION IN BRAILLE READING AND WRITING THAT IS SUFFICIENT TO ENABLE  
21 THE BLIND PUPIL TO COMMUNICATE EFFECTIVELY AND EFFICIENTLY WITH  
22 THE SAME LEVEL OF PROFICIENCY EXPECTED OF HIS OR HER SIGHTED  
23 PEERS OF COMPARABLE ABILITY IN THE SAME GRADE LEVEL. THE INDI-  
24 VIDUALIZED EDUCATION PROGRAM FOR EACH BLIND PUPIL RECEIVING  
25 BRAILLE INSTRUCTION SHALL SPECIFY IN WRITING AT LEAST ALL OF THE  
26 FOLLOWING:

1 (A) THE RESULTS OF THE ASSESSMENT DESCRIBED IN  
2 SUBSECTION (1).

3 (B) HOW BRAILLE WILL BE IMPLEMENTED AS THE PRIMARY MODE FOR  
4 LEARNING AND INTEGRATED WITH OTHER CLASSROOM ACTIVITIES.

5 (C) THE DATE ON WHICH BRAILLE INSTRUCTION WILL BEGIN FOR THE  
6 PUPIL.

7 (D) THE LENGTH OF THE PERIOD OF BRAILLE INSTRUCTION AND THE  
8 FREQUENCY AND LENGTH OF EACH BRAILLE INSTRUCTIONAL SESSION.

9 (E) THE LEVEL OF COMPETENCY IN BRAILLE READING AND WRITING  
10 TO BE ACHIEVED BY THE CONCLUSION OF THE BRAILLE INSTRUCTION AND  
11 THE ASSESSMENT MEASURES TO BE USED TO OBJECTIVELY ASSESS  
12 COMPETENCY.

13 (4) THIS SECTION DOES NOT REQUIRE THE EXCLUSIVE USE OF  
14 BRAILLE IF OTHER SPECIAL EDUCATION METHODS ARE APPROPRIATE TO A  
15 BLIND PUPIL'S EDUCATIONAL NEEDS, AS DETERMINED BY HIS OR HER  
16 INDIVIDUALIZED EDUCATIONAL PLANNING COMMITTEE. A DETERMINATION  
17 TO PROVIDE OTHER APPROPRIATE SPECIAL EDUCATION METHODS TO A BLIND  
18 PUPIL DOES NOT PRECLUDE BRAILLE USE OR INSTRUCTION FOR THE BLIND  
19 PUPIL.

20 (5) AS USED IN THIS SECTION:

21 (A) "BLIND PUPIL" MEANS A HANDICAPPED PERSON WHO HAS A  
22 VISUAL ACUITY OF 20/200 OR LESS IN THE BETTER EYE WITH CORRECTIVE  
23 LENSES OR HAS A LIMITED FIELD OF VISION SUCH THAT THE WIDEST  
24 DIAMETER SUBTENDS AN ANGULAR DISTANCE OF 20 DEGREES OR LESS, OR  
25 WHO HAS A MEDICALLY INDICATED EXPECTATION OF VISUAL DETERIORATION  
26 TO 1 OR BOTH OF THOSE CONDITIONS.

1 (B) "BRAILLE" MEANS THE SYSTEM OF READING WRITING THROUGH  
2 TOUCH COMMONLY KNOWN AS STANDARD ENGLISH BRAILLE.

3 (C) "INDIVIDUALIZED EDUCATION PROGRAM" AND "INDIVIDUALIZED  
4 EDUCATIONAL PLANNING COMMITTEE" MEAN THOSE TERMS AS DEFINED IN  
5 R 340.1701A OF THE MICHIGAN ADMINISTRATIVE CODE.

6 Sec. 1711. (1) The intermediate school board shall:

7 (a) Develop, establish, and continually evaluate and modify  
8 in cooperation with its constituent districts, a plan for special  
9 education ~~which shall provide~~ THAT PROVIDES for the delivery of  
10 special education programs and services designed to develop the  
11 maximum potential of each handicapped person of whom the interme-  
12 diate school board is required to maintain a record under subdi-  
13 vision (f). The plan shall coordinate the special education pro-  
14 grams and services operated or contracted for by the constituent  
15 districts and shall be submitted to the state board for its  
16 approval.

17 (b) Contract for the delivery of a special education program  
18 or service, in accordance with the intermediate school district  
19 plan in compliance with ~~section~~ SECTIONS 1701 AND 1704. Under  
20 the contract the intermediate school board may operate special  
21 education programs or services and furnish transportation serv-  
22 ices and room and board.

23 (c) Employ or engage special education personnel in accord-  
24 ance with the intermediate school district plan, and appoint a  
25 director of special education meeting the qualifications and  
26 requirements of the rules promulgated by the state board.

1 (d) Accept and use available funds or contributions from  
2 governmental or private sources for the purpose of providing  
3 special education programs and services consistent with this  
4 article.

5 (e) Lease, purchase, or otherwise acquire vehicles, sites,  
6 buildings, or portions ~~thereof~~ OF SITES OR BUILDINGS, and equip  
7 them for its special education staff, programs, and services.

8 (f) Maintain a record of each handicapped person under 26  
9 years of age ~~—~~ who is a resident of 1 of its constituent dis-  
10 tricts and who has not completed a normal course of study and  
11 graduated from high school, and the special education programs or  
12 services in which the handicapped person is participating on the  
13 fourth Friday after Labor day and Friday before Memorial day.  
14 The sole basis for determining the local school district in which  
15 a handicapped person is a resident ~~shall be~~ IS the rules  
16 promulgated by the state board notwithstanding the provisions of  
17 section 1148. The records shall be maintained in accordance with  
18 rules promulgated by the state board.

19 (g) Have the authority to place in appropriate special edu-  
20 cation programs or services a handicapped person for whom a con-  
21 stituent district is required to provide special education pro-  
22 grams or services under section 1751.

23 (h) Investigate special education programs and services  
24 operated or contracted for by the intermediate school board or  
25 constituent district boards and report in writing failures to  
26 comply with the provisions of a contract, statute, or rule  
27 governing the special education programs and services or with the

1 intermediate school district plan, to the local school district  
2 board and to the state board.

3 (i) Operate the special education programs or services or  
4 contract for the delivery of special education programs or serv-  
5 ices by local school district boards, in accordance with  
6 ~~section~~ SECTIONS 1702 AND 1704, as if a local school district  
7 under section 1751. The contract shall provide for items  
8 ~~stated~~ SPECIFIED in section 1751 and shall be approved by the  
9 state board. The intermediate school board shall contract for  
10 the transportation, or room and board, or both, ~~or~~ OF persons  
11 participating in the program or service IN THE SAME MANNER as  
12 ~~if~~ a local school district board under sections 1756 and 1757.

13 (j) Receive the report of a parent or guardian or, with the  
14 consent of a parent or guardian, receive the report of a licensed  
15 physician, registered nurse, social worker, or school or other  
16 appropriate professional personnel whose training and relation-  
17 ship to handicapped persons provide competence to ~~judge same~~  
18 EVALUATE HANDICAPPED PERSONS and who in good faith believes that  
19 a person under 26 years of age examined by the professional is or  
20 may be handicapped, and immediately evaluate the person pursuant  
21 to rules promulgated by the state board. A person making or  
22 filing this report or a local school district board ~~shall~~ IS  
23 not ~~incur liability~~ LIABLE to a person by reason of filing the  
24 report or seeking the evaluation, unless lack of good faith is  
25 proven.

26 (k) Evaluate pupils in accordance with section 1311.

1 (2) The intermediate school board may expend up to 10% of  
2 ~~the~~ ITS annual budget but not to exceed \$12,500.00, for special  
3 education programs approved by the intermediate school board  
4 without having to secure the approval of the state board.

5 Sec. 1751. (1) The board of a local school district shall  
6 provide special education programs and services designed to  
7 develop the maximum potential of each handicapped person in its  
8 district on record under section 1711 for whom an appropriate  
9 educational or training program can be provided in accordance  
10 with the intermediate school district special education plan AND  
11 THIS ACT, in either of the following ways or a combination  
12 ~~thereof~~ OF THEM:

13 (a) Operate the special education program or service.

14 (b) Contract with its intermediate school board, another  
15 intermediate school board, another local school district board,  
16 an adjacent school district board in a bordering state, the  
17 Michigan school for the blind, the Michigan school for the deaf,  
18 the department of mental health, the department of social serv-  
19 ices, or any combination ~~thereof~~ OF THEM, for delivery of the  
20 special education programs or services, or with an agency  
21 approved by the state board for delivery of an ancillary profes-  
22 sional special education service. The intermediate school dis-  
23 trict of which the local school district is constituent shall be  
24 a party to each contract even if the intermediate school district  
25 does not participate in the delivery of the program or services.

1 (2) A local school district contract for the provision of a  
2 special education program or service shall provide specifically  
3 for:

4 (a) Special education buildings, equipment, and personnel  
5 necessary for the operation of the subject program or service.

6 (b) Transportation or room and board, or both, for persons  
7 participating in the programs or services as required under sec-  
8 tions 1756 and 1757.

9 (c) The contribution to be made by the sending local school  
10 district if the program or service is to be operated by another  
11 party to the contract. The contribution shall be in accordance  
12 with rules promulgated by the state board.

13 (d) Other matters which the parties ~~deem~~ CONSIDER  
14 appropriate.

15 (3) Each program or service operated or contracted for by a  
16 local school district shall be OPERATED in accordance with the  
17 intermediate school district's plan established pursuant to  
18 section 1711.

19 (4) A local school district may provide additional special  
20 education programs and services not included in, or required by,  
21 the intermediate school district plan.

22 (5) This section ~~shall be construed to allow~~ ALLOWS opera-  
23 tion of programs by departments of state government without local  
24 school district contribution.