**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT THE “SOUTH CAROLINA SCHOOL CHOICE PILOT PROGRAM FOR CERTAIN STUDENTS WITH DISABILITIES ACT OF 2013”; BY ADDING ARTICLE 12 TO CHAPTER 63, TITLE 59 SO AS TO CREATE A PILOT PROGRAM FOR GRANTING SCHOLARSHIPS OF A CERTAIN AMOUNT OF STATE FUNDS TO CHILDREN WITH CERTAIN DISABILITIES TO ATTEND NONPUBLIC SCHOOLS, AND TO REQUIRE THE STATE BOARD OF EDUCATION TO ADOPT RULES AND PROMULGATE REGULATIONS TO ESTABLISH THE PILOT PROGRAM.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. This act is known and may be cited as the “South Carolina School Choice Pilot Program for Certain Students with Disabilities Act of 2013”.

SECTION 2. Chapter 63, Title 59 of the 1976 Code is amended by adding:

“Article 12

School Choice Pilot Program for Certain Students with Disabilities Act

Section 59‑63‑1200. (A) The purpose of the pilot program established in this section is to provide certain students with disabilities, as defined in subitem (B)(2)(a) of this section the opportunity to attend schools of their parent or guardian’s choosing that provide educational services that specifically address the needs of these students.

(B)(1) The School Choice Pilot Program for Certain Students with Disabilities is established as a two‑year pilot program in each county that has a population that exceeds one hundred ninety thousand people according to the most recent federal decennial census. The program must be implemented beginning with the 2015‑2016 school year.

(2) A student is eligible to participate in the program if he:

(a) has been evaluated by a local education agency to be in need of services for autism, a mental disability, emotional disturbance, developmental delay, other health impairment, specific learning disability, or traumatic brain injury and has an Individual Education Plan or a services plan in accordance with Title 34 of the Code of Federal Regulations Part 300.37;

(b) resides within a pilot program county;

(c) is eligible to attend public school and is entering kindergarten or grades one through eight; and

(d) is not deemed to be gifted or talented as defined in Regulation 43‑220.

(C)(1) The State Department of Education shall administer and provide for implementation of the program pursuant to rules and regulations developed and adopted for this purpose by the State Board of Education in accordance with the Administrative Procedures Act. These rules and regulations must include procedures and guidelines that permit a parent or guardian of an eligible student who chooses to enroll the student in an eligible nonpublic school as provided in subsection (D) of this section, to apply for an educational certificate, which is to be applied to the cost of educational services offered by the school and which is redeemable by the school from the department upon verification from the school that the student is enrolled in the school. The value of each certificate is determined by the department; the value is equivalent to fifty percent of the per pupil allocation of state funds to the local school district in which the eligible student resides for that school year but may not exceed the amount of tuition charged by the eligible nonpublic school. The funds to be paid for a certificate must be divided into four equal payments to be made to each participating school in September, November, February, and May of each school year. Payments must be based on per pupil count dates as determined by the department.

(2) Any cost of educational services above the amount of the certificate issued to the parent or guardian may not be paid by the State.

(D)(1) To be eligible to participate in the program and accept eligible students for enrollment in the program, a nonpublic school must:

(a) be approved by the State Board of Education and have been so approved for the school year prior to the school’s participation in the program;

(b) comply with the criteria set forth in Brumfield, et al. v. Dodd, et al. 425 F. Supp. 528 (1976);

(c) have existed and provided educational services to students with disabilities as defined in subitem (B)(2)(a) of this section, excluding students deemed to be gifted or talented, for a least two years prior to participation in the program. Provision of these services must be made pursuant to an established program in place at the school that includes instruction by teachers holding appropriate certification in special education or other appropriate education or training as defined by the department and that is in accordance with a student’s Individual Education Plan and rules and regulations developed as required in this section.

(2) In accordance with time lines determined by the department, each eligible nonpublic school that chooses to participate in the program shall inform the department of the types of student disabilities that the school is willing to serve. Each school may determine the number of eligible students it will accept in any year of program participation and may establish criteria for enrollment of students. Each school has discretion in enrolling eligible students for participation in the program and a participating school is not required to accept any eligible student.

(3) An eligible nonpublic school may not require a student who seeks to enroll and participate in the program to take an entrance examination.

(4) Prior to enrollment, each eligible nonpublic school shall inform the parent or guardian of an eligible student of all rules, policies, and procedure of the school including, but not limited to, academic policies and disciplinary policies and procedures. Enrollment of an eligible student in the school shall constitute acceptance of these rules, policies, and procedures by the parent or guardian individually and on behalf of the eligible parent. An eligible student may be expelled from the school in accordance with the school’s discipline policies or may be disqualified from enrollment if the student is no longer eligible for the program as determined by the department.

(5) Enrollment of eligible students must be completed no later than April thirtieth of the school year of participation by the school, and the school shall submit a list of all eligible students enrolled in the school to the department no later than June first of that year.

(E) The department shall submit a report the House of Representatives Education and Public Works Committee and the Senate Education Committee no later than August 1, 2015, on the implementation of the program. The report must include, but may not be limited to, the number of eligible students participating in the program, the name of each participating nonpublic school, the number of eligible students each school enrolled for participation in the program, and the department’s recommendations as to whether the pilot program should continue on a pilot basis or be implemented statewide after the initial two‑year pilot has ended.”

SECTION 3. This act takes effect upon approval by the Governor.

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