

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 455
Appropriations Committee Substitute Adopted 7/10/90

Short Title: Handicapped Education Age Change.

(Public)

Sponsors:

Referred to:

March 16, 1989

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE EARLY INTERVENTION, DEVELOPMENTAL
3 SERVICES, AND EDUCATION TO HANDICAPPED CHILDREN FROM BIRTH
4 TO FIVE YEARS OF AGE.

5 Whereas, the General Assembly finds that there is an urgent and substantial
6 need to enhance the development of children from birth to their fifth birthday, including
7 infants and toddlers, with or at risk for handicapping conditions and to minimize their
8 potential for developmental delay; and

9 Whereas, the General Assembly finds that there is an urgent and substantial
10 need to enhance the capacity of families to meet the special needs of their children from
11 birth to their fifth birthday, including infants and toddlers, who have handicapping
12 conditions; Now, therefore,

13 The General Assembly of North Carolina enacts:

14 Section 1. Article 3 of Chapter 143B of the General Statutes is amended by
15 adding a new Part to read:

16 **PART 13A. INTERAGENCY COORDINATING COUNCIL FOR**
17 **HANDICAPPED**
18 **CHILDREN FROM BIRTH TO FIVE YEARS OF AGE.**

19 **"§ 143B-179.5. Interagency Coordinating Council for Handicapped Children from**
20 **Birth to Five Years of Age; establishment, composition, organization;**
21 **duties, compensation, reporting.**

22 (a) There is established an Interagency Coordinating Council for Handicapped
23 Children from Birth to Five Years of Age in the Department of Human Resources.

1 **(b)** The Interagency Coordinating Council for Early Intervention Services shall
2 have 20 members, appointed by the Governor, for terms of two years and until their
3 successors are appointed and qualify. The Governor shall have the power to remove
4 any member of the Council from office in accordance with the provisions of G.S. 143B-
5 16. Any appointment to fill a vacancy on the Council created by the resignation,
6 dismissal, death, or disability of a member shall be for the balance of the unexpired
7 term. Members may succeed themselves for one term and may be appointed again, after
8 being off the Council for one term.

9 The composition of the Council shall be as follows:

- 10 (1) At least three members who are parents of infants or toddlers eligible
11 for services pursuant to G.S. 122C-3(13a) or of handicapped children
12 aged three through six;
- 13 (2) At least three other members who are providers of early intervention
14 services;
- 15 (3) Two members of the Senate, appointed from recommendations of the
16 President Pro Tempore and two members of the House of
17 Representatives, appointed from recommendations of the Speaker;
- 18 (4) At least one other member who is a person involved in staff
19 development;
- 20 (5) Other members who represent the Department of Public Instruction,
21 the Department of Human Resources, the Department of Environment,
22 Health, and Natural Resources, and other appropriate agencies
23 involved in the provision of or payment for early intervention services
24 to infants and toddlers and their families; and
- 25 (6) At least two members to represent the public at large.

26 **(c)** At the first meeting following the appointments, the Council shall elect a
27 parent and a professional as cochairs, who may establish those standing and ad hoc
28 committees and task forces as may be necessary to carry out the functions of the
29 Council and appoint Council members or other individuals to serve on these committees
30 and task forces. The Council shall meet at least quarterly. A majority of the Council
31 shall constitute a quorum for the transaction of business.

32 **(d)** The Council shall advise the Departments of Human Resources, and
33 Environment, Health, and Natural Resources, and other appropriate agencies in carrying
34 out their early intervention services and the Department of Public Instruction, and other
35 appropriate agencies, in their activities related to the provision of special education
36 services for preschoolers. The Council shall specifically address in its studies and
37 evaluations that it considers necessary to its advising:

- 38 (1) The identification of sources of fiscal and other support for the early
39 intervention system;
- 40 (2) The development of policies related to the early intervention services;
- 41 (3) The preparation of applications for available federal funds;
- 42 (4) The resolution of interagency disputes; and
- 43 (5) The promotion of interagency agreements.

1 (e) Members of the Council and parents on ad hoc committees and task forces of
2 the Council shall receive travel and subsistence expenses in accordance with the
3 provisions of G.S. 138-5.

4 (f) The Council shall prepare and submit an annual report to the Governor and to
5 the General Assembly on the status of the early intervention system for eligible infants
6 and toddlers and on the status of special education services for preschoolers.

7 All clerical and other services required by the Council shall be supplied by the
8 Secretary of Human Resources and the Superintendent of Public Instruction, as
9 specified by the interagency agreement authorized by G.S. 122C-112(a)(13).

10 **"§ 143B-179.6. Interagency Coordinating Council for Handicapped Children from**
11 **Birth to Five Years of Age; agency cooperation.**

12 All appropriate agencies, including the Department of Human Resources, the
13 Department of Environment, Health, and Natural Resources, and the Department of
14 Public Instruction, and other public and private service providers shall cooperate with
15 the Council in carrying out its mandate."

16 Sec. 2. G.S. 122C-3 reads as rewritten:

17 **"§ 122C-3. Definitions.**

18 As used in this Chapter, unless another meaning is specified or the context clearly
19 requires otherwise, the following terms have the meanings specified:

- 20 (1) 'Area authority' means the area mental health, developmental
21 disabilities, and substance abuse authority.
- 22 (2) 'Area board' means the area mental health, developmental disabilities,
23 and substance abuse board.
- 24 (3) 'Camp Butner reservation' means the original Camp Butner reservation
25 as may be designated by the Secretary as having been acquired by the
26 State and includes not only areas which are owned and occupied by the
27 State but also those which may have been leased or otherwise disposed
28 of by the State.
- 29 (4) 'City' has the same meaning as in G.S. 153A-1(1).
- 30 (5) 'Catchment area' means the geographic part of the State served by a
31 specific area authority.
- 32 (6) 'Client' means an individual who is admitted to and receiving service
33 from, or who in the past had been admitted to and received services
34 from, a facility.
- 35 (7) 'Client advocate' means a person whose role is to monitor the
36 protection of client rights or to act as an individual advocate on behalf
37 of a particular client in a facility.
- 38 (8) 'Commission' means the Commission for Mental Health,
39 Developmental Disabilities, and Substance Abuse Services,
40 established under Part 4 of Article 3 of Chapter 143B of the General
41 Statutes.
- 42 (9) 'Confidential information' means any information, whether recorded or
43 not, relating to an individual served by a facility that was received in
44 connection with the performance of any function of the facility.

1 'Confidential information' does not include statistical information from
2 reports and records or information regarding treatment or services
3 which is shared for training, treatment, habilitation, or monitoring
4 purposes that does not identify clients either directly or by reference to
5 publicly known or available information.

6 (10) 'County of residence' of a client means the county of his domicile at
7 the time of his admission or commitment to a facility. A county of
8 residence is not changed because an individual is temporarily out of
9 his county in a facility or otherwise.

10 (11) 'Dangerous to himself or others' means:

11 a. 'Dangerous to himself' means that within the relevant past:

12 1. The individual has acted in such a way as to show:

13 I. That he would be unable, without care,
14 supervision, and the continued assistance of
15 others not otherwise available, to exercise self-
16 control, judgment, and discretion in the conduct
17 of his daily responsibilities and social relations, or
18 to satisfy his need for nourishment, personal or
19 medical care, shelter, or self-protection and
20 safety; and

21 II. That there is a reasonable probability of his
22 suffering serious physical debilitation within the
23 near future unless adequate treatment is given
24 pursuant to this Chapter. A showing of behavior
25 that is grossly irrational, of actions that the
26 individual is unable to control, of behavior that is
27 grossly inappropriate to the situation, or of other
28 evidence of severely impaired insight and
29 judgment shall create a **prima facie** inference that
30 the individual is unable to care for himself; or

31 2. The individual has attempted suicide or threatened
32 suicide and that there is a reasonable probability of
33 suicide unless adequate treatment is given pursuant to
34 this Chapter; or

35 3. The individual has mutilated himself or attempted to
36 mutilate himself and that there is a reasonable
37 probability of serious self-mutilation unless adequate
38 treatment is given pursuant to this Chapter.

39 Previous episodes of dangerousness to self, when applicable, may be
40 considered when determining reasonable probability of physical
41 debilitation, suicide, or self-mutilation.

42 b. 'Dangerous to others' means that within the relevant past, the
43 individual has inflicted or attempted to inflict or threatened to
44 inflict serious bodily harm on another, or has acted in such a

1 way as to create a substantial risk of serious bodily harm to
2 another, or has engaged in extreme destruction of property; and
3 that there is a reasonable probability that this conduct will be
4 repeated. Previous episodes of dangerousness to others, when
5 applicable, may be considered when determining reasonable
6 probability of future dangerous conduct. Clear, cogent, and
7 convincing evidence that an individual has committed a
8 homicide in the relevant past is **prima facie** evidence of
9 dangerousness to others.

10 (12) 'Department' means the North Carolina Department of Human
11 Resources.

12 (12a) 'Developmental disability' means a severe, chronic disability of a
13 person which:

- 14 a. Is attributable to a mental or physical impairment or
15 combination of mental and physical impairments;
- 16 b. Is manifested before the person attains age 22, unless the
17 disability is caused by a traumatic head injury and is manifested
18 after age 22;
- 19 c. Is likely to continue indefinitely;
- 20 d. Results in substantial functional limitations in three or more of
21 the following areas of major life activity: self-care, receptive
22 and expressive language, capacity for independent living,
23 learning, mobility, self-direction and economic self-sufficiency;
24 and
- 25 e. Reflects the person's need for a combination and sequence of
26 special interdisciplinary, or generic care, treatment, or other
27 services which are of a lifelong or extended duration and are
28 individually planned and coordinated; or
- 29 f. When applied to children from birth through four years of age,
30 may be evidenced as a developmental delay.

31 (13) 'Division' means the Division of Mental Health, Developmental
32 Disabilities, and Substance Abuse Services of the Department.

33 (13a) 'Eligible infants and toddlers' means children with or at risk for
34 developmental delays or atypical development until:

- 35 a. They have reached their third birthday;
- 36 b. Their parents have requested to have them receive services in
37 the preschool program for handicapped children established
38 pursuant to Part 14 of Article IX of Chapter 115C of the
39 General Statutes; and
- 40 c. They have been placed in the program by the local educational
41 agency.

42 In no event shall a child be considered an eligible toddler after the
43 beginning of the school year immediately following the child's third
44 birthday.

1 The early intervention services that may be provided for these
2 children and their families include early identification and screening,
3 multidisciplinary evaluations, case management services, family
4 training, counseling and home visits, psychological services, speech
5 pathology and audiology, and occupational and physical therapy. All
6 evaluations performed as part of early intervention services shall be
7 appropriate to the individual child's age and development.

8 (13a b) 'Eligible psychologist' means a licensed practicing psychologist
9 who has at least two years' clinical experience.

10 (14) 'Facility' means any person at one location whose primary
11 purpose is to provide services for the care, treatment,
12 habilitation, or rehabilitation of the mentally ill, the
13 developmentally disabled, or substance abusers, and includes:

14 a. An 'area facility', which is a facility that is operated by
15 or under contract with the area authority. A facility that
16 is providing services under contract with the area
17 authority is an area facility for purposes of the contracted
18 services only. Area facilities may also be licensable
19 facilities in accordance with Article 2 of this Chapter. A
20 State facility is not an area facility;

21 b. A 'licensable facility', which is a facility that provides
22 services for one or more minors or for two or more
23 adults. When the services offered are provided to
24 individuals who are mentally ill or developmentally
25 disabled, these services shall be day services offered to
26 the same individual for a period of three hours or more
27 during a 24-hour period, or residential services provided
28 for 24 consecutive hours or more. When the services
29 offered are provided to individuals who are substance
30 abusers, these services shall include all outpatient
31 services, day services offered to the same individual for
32 a period of three hours or more during a 24-hour period,
33 or residential services provided for 24 consecutive hours
34 or more. Facilities for individuals who are substance
35 abusers include chemical dependency facilities;

36 c. A 'private facility', which is a facility that is either a
37 licensable facility or a special unit of a general hospital
38 or a part of either in which the specific service provided
39 is not covered under the terms of a contract with an area
40 authority;

41 d. The psychiatric service of the University of North
42 Carolina Hospitals at Chapel Hill;

43 e. A 'residential facility', which is a 24-hour facility that is
44 not a hospital, including a group home;

- 1 f. A 'State facility', which is a facility that is operated by
2 the Secretary;
- 3 g. A '24-hour facility', which is a facility that provides a
4 structured living environment and services for a period
5 of 24 consecutive hours or more and includes hospitals
6 that are facilities under this Chapter; and
- 7 h. A Veterans Administration facility or part thereof that
8 provides services for the care, treatment, habilitation, or
9 rehabilitation of the mentally ill, the developmentally
10 disabled, or substance abusers.
- 11 (15) 'Guardian' means a person appointed as a guardian of the person
12 or general guardian by the court under Chapters 7A, 33, or 35A
13 of the General Statutes.
- 14 (16) 'Habilitation' means training, care, and specialized therapies
15 undertaken to assist a client in maintaining his current level of
16 functioning or in achieving progress in developmental skills
17 areas.
- 18 (17) 'Incompetent adult' means an adult individual adjudicated
19 incompetent.
- 20 (18) 'Intoxicated' means the condition of an individual whose mental
21 or physical functioning is presently substantially impaired as a
22 result of the use of alcohol or other substance.
- 23 (19) 'Law-enforcement officer' means sheriff, deputy sheriff, police
24 officer, State highway patrolman, or an officer employed by a
25 city or county under G.S. 122C-302.
- 26 (20) 'Legally responsible person' means: (i) when applied to an adult,
27 who has been adjudicated incompetent, a guardian; or (ii) when
28 applied to a minor, a parent, guardian, a person standing **in loco**
29 **parentis**, or a legal custodian other than a parent who has been
30 granted specific authority by law or in a custody order to consent
31 for medical care, including psychiatric treatment.
- 32 (21) 'Mental illness' means: (i) when applied to an adult, an illness
33 which so lessens the capacity of the individual to use self-
34 control, judgment, and discretion in the conduct of his affairs
35 and social relations as to make it necessary or advisable for him
36 to be under treatment, care, supervision, guidance, or control;
37 and (ii) when applied to a minor, a mental condition, other than
38 mental retardation alone, that so impairs the youth's capacity to
39 exercise age adequate self-control or judgment in the conduct of
40 his activities and social relationships so that he is in need of
41 treatment.
- 42 (22) 'Mental retardation' means significantly subaverage general
43 intellectual functioning existing concurrently with deficits in
44 adaptive behavior and manifested before age 22.

- 1 (23) 'Mentally retarded with accompanying behavior disorder' means
2 an individual who is mentally retarded and who has a pattern of
3 maladaptive behavior that is recognizable no later than
4 adolescence and is characterized by gross outbursts of rage or
5 physical aggression against other individuals or property.
- 6 (24) 'Next of kin' means the individual designated in writing by the
7 client or his legally responsible person upon the client's
8 acceptance at a facility; provided that if no such designation has
9 been made, 'next of kin' means the client's spouse or nearest
10 blood relation in accordance with G.S. 104A-1.
- 11 (25) 'Operating costs' means expenditures made by an area authority
12 in the delivery of services for mental health, developmental
13 disabilities, and substance abuse as provided in this Chapter and
14 includes the employment of legal counsel on a temporary basis
15 to represent the interests of the area authority.
- 16 (26) Repealed by Session Laws 1987, c. 345, s. 1.
- 17 (27) 'Outpatient treatment' as used in Part 7 of Article 5 means
18 treatment in an outpatient setting and may include medication,
19 individual or group therapy, day or partial day programming
20 activities, services and training including educational and
21 vocational activities, supervision of living arrangements, and
22 any other services prescribed either to alleviate the individual's
23 illness or disability, to maintain semi-independent functioning,
24 or to prevent further deterioration that may reasonably be
25 predicted to result in the need for inpatient commitment to a 24-
26 hour facility.
- 27 (28) 'Person' means any individual, firm, partnership, corporation,
28 company, association, joint stock association, agency, or area
29 authority.
- 30 (29) 'Physician' means an individual licensed to practice medicine in
31 North Carolina under Chapter 90 of the General Statutes or a
32 licensed medical doctor employed by the Veterans
33 Administration.
- 34 (30) 'Provider of support services' means a person that provides to a
35 facility support services such as data processing, dosage
36 preparation, laboratory analyses, or legal, medical, accounting,
37 or other professional services, including human services.
- 38 (30a) 'Psychologist' means an individual licensed to practice
39 psychology under Chapter 90. The term 'eligible psychologist' is
40 defined in subdivision (13a).
- 41 (31) 'Qualified professional' means any individual with appropriate
42 training or experience as specified by the General Statutes or by
43 rule of the Commission in the fields of mental health or
44 developmental disabilities or substance abuse treatment or

1 habilitation, including physicians, psychologists, psychological
 2 associates, educators, social workers, registered nurses, and
 3 certified counselors.

4 (32) 'Responsible professional' means an individual within a facility
 5 who is designated by the facility director to be responsible for
 6 the care, treatment, habilitation, or rehabilitation of a specific
 7 client and who is eligible to provide care, treatment, habilitation,
 8 or rehabilitation relative to the client's disability.

9 (33) 'Secretary' means the Secretary of the Department of Human
 10 Resources.

11 (34) 'Single portal of entry and exit policy' means an admission and
 12 discharge policy for State and area facilities that may be adopted
 13 by an area authority and shall be approved by the Secretary
 14 before it is in force. The policy and its provisions shall be
 15 designed to promote quality client care in and among State and
 16 area facilities. Furthermore, the policy shall be designed to
 17 integrate otherwise independent facilities into a unified and
 18 coordinated system, in which system the area authority shall be
 19 responsible for assuring that the individual client can receive
 20 services from the facility that is best able to meet his needs.
 21 However, the policy may not be inconsistent with any other
 22 provisions of the General Statutes, nor may the policy include
 23 the complete exclusion of clients from admission to any specific
 24 State or area facility.

25 (35) 'Single portal area' means the county or counties that comprise
 26 the catchment area of an area authority that has adopted a single
 27 portal of entry and exit policy.

28 (36) 'Substance abuse' means the pathological use or abuse of
 29 alcohol or other drugs in a way or to a degree that produces an
 30 impairment in personal, social, or occupational functioning.
 31 'Substance abuse' may include a pattern of tolerance and
 32 withdrawal.

33 (37) 'Substance abuser' means an individual who engages in
 34 substance abuse."

35 Sec. 3. G.S. 122C-112(a) reads as rewritten:

36 **"§ 122C-112. Powers and duties of the Secretary.**

37 (a) The Secretary shall:

38 (1) Enforce the provisions of this Chapter and the rules of the
 39 Commission and the Secretary;

40 (2) Assist counties and area authorities in the establishment and
 41 operation of community-based programs within catchment areas
 42 specified in rules adopted by the Commission;

43 (3) Operate State facilities and adopt rules pertaining to their
 44 operation;

- 1 (4) Promote a unified system of services for the citizens of this State
2 by coordinating services provided in State facilities and area
3 facilities;
- 4 (5) Approve the plans and budgets of an area authority and adopt
5 rules pertaining to the content and format of these plans and
6 budgets;
- 7 (6) Adopt rules governing the expenditure of all area authority
8 funds;
- 9 (7) Adopt rules for the establishment of single portal designation
10 and approve an area as a single portal area;
- 11 (8) Except as provided in G.S. 122C-26(4), adopt rules establishing
12 procedures for waiver of rules adopted by the Secretary under
13 this Chapter;
- 14 (9) Notify the clerks of superior court of changes in the designation
15 of State facility regions and of facilities designated under G.S.
16 122C-252;
- 17 (10) Promote public awareness and understanding of mental health,
18 mental illness, developmental disabilities, and substance abuse;
- 19 (11) Administer and enforce rules that are conditions of participation
20 in federal or State financial aid; and
- 21 (12) Carry out ~~G.S. 122C-361~~ G.S. 122C-361; and
- 22 (13) Coordinate and facilitate the development and administration of
23 the early intervention system for eligible infants and toddlers
24 and shall assign among the cooperating agencies the
25 responsibility, including financial responsibility, for services.
26 The Secretary shall be advised by the Interagency Coordinating
27 Council for Handicapped Children from Birth to Five Years of
28 Age, established by G.S. 143B-179.5, and may enter into formal
29 interagency agreements to establish the collaborative
30 relationships with the Department of Environment, Health, and
31 Natural Resources, the Department of Public Instruction, other
32 appropriate agencies, and other public and private service
33 providers necessary to administer the system and deliver the
34 services.
35 The Secretary shall adopt rules to implement the early
36 intervention system, in cooperation with all other appropriate
37 agencies."

38 Sec. 4. G.S. 122C-146 reads as rewritten:

39 **"§ 122C-146. Fee for service.**

40 The area authority and its contractual agencies shall prepare fee schedules for
41 services and shall make every reasonable effort to collect appropriate reimbursement for
42 costs in providing these services from individuals able to pay, including insurance and
43 third-party ~~payment~~ payment, except that individuals may not be charged for services
44 involving multidisciplinary evaluations, intervention plan development, and case

1 management services provided to eligible infants and toddlers and their families. This
2 exemption from charges does not exempt insurers or other third party payors from being
3 charged for payment for these services. However, no individual may be refused
4 services because of an inability to pay. All funds collected from fees from area authority
5 operated services shall be used for the fiscal operation or capital improvements of the
6 area authority's programs. The collection of fees by an area authority may not be used as
7 justification for reduction or replacement of the budgeted commitment of local tax
8 revenue."

9 Sec. 5. Article IX of Chapter 115C of the General Statutes is amended by
10 adding a new Part to read:

11 **"PART 14. HANDICAPPED CHILDREN, AGES THREE TO FIVE.**

12 **"§ 115C-146.1. Definitions.**

13 The term 'preschool handicapped children' means all handicapped children:

- 14 (1) Who have reached their third birthday and whose parents have
15 requested services from the public schools, which services shall start
16 no later than the beginning of the school year immediately following
17 the children's third birthday;
- 18 (2) Who are not eligible to enroll in public kindergarten; and
- 19 (3) Who, because of permanent or temporary mental, physical, or
20 emotional handicaps, need special education and related services in
21 order to prepare them to benefit from the educational programs
22 provided by the public schools, beginning with kindergarten. This
23 term includes children who are mentally retarded, learning disabled,
24 seriously emotionally disturbed, autistic, cerebral palsied,
25 orthopedically impaired, hearing impaired, speech impaired, blind or
26 visually impaired, multiply handicapped, or other health impaired. All
27 evaluations performed pursuant to this Part shall be appropriate to the
28 individual child's age and development.

29 **"§ 115C-146.2. Entitlement to services.**

30 Preschool handicapped children are entitled, at no cost to their parents or guardians,
31 to individualized programs specifically designed to meet their unique needs for special
32 education and related services.

33 **"§ 115C-146.3. Obligation to provide services.**

34 (a) The General Assembly finds:

- 35 (1) That preschool handicapped children will benefit from the special
36 education and related services required by this Part;
- 37 (2) That the General Assembly has evaluated the known needs of the State
38 and has endeavored to satisfy those needs in comparison to the social
39 and economic problems of the State;
- 40 (3) That the funds appropriated to serve these preschool handicapped
41 children are a reasonable amount to provide such children with special
42 education and related services; and
- 43 (4) That, therefore, (i) State funds appropriated to implement this Part are
44 the only State funds for public schools that may be used to provide

1 special education and related services to preschool handicapped
2 children; and (ii) preschool handicapped children will continue to be
3 served by all other State funds they are otherwise entitled to.

4 (b) The Department of Public Education shall cause local school administrative
5 units to make available special education and related services to all preschool
6 handicapped children whose parents or guardians request these services.

7 (c) State funds appropriated to implement the provisions of this Part shall be used
8 to supplement and not supplant existing federal, State, and local funding for the public
9 schools.

10 (d) Related services provided under this Part shall be provided by qualified
11 services providers. The term 'qualified services provider' means a person who meets
12 State standards for licensure or State Board of Education standards for certification for a
13 specific profession or discipline.

14 To the extent that the State Board of Education standards include provisions for
15 certification that are less than the standard for certification or licensure for a specific
16 profession, the Department of Public Instruction may certify individuals on a temporary
17 or provisional basis, provided that the State Board of Education shall establish a
18 comprehensive plan and reasonable time-lines to ensure that only professionals who
19 meet the appropriate standard for licensure or certification may be employed in the
20 future.

21 **"§ 115C-146.4. Rules.**

22 The State Board of Education shall adopt rules implementing this Part, including
23 rules necessary in order to receive federal funding pursuant to Part B of the Education
24 of the Handicapped Act, 20 U.S.C. § 1400 et seq. These rules shall include a provision
25 that, where a local education agency finds that appropriate services are available from
26 other public agencies or private organizations, that local education agency shall, in
27 accordance with G.S. 115C-149, contract for those services rather than provide them
28 directly. These rules shall also include a provision that, where a local education agency
29 finds that a child is already receiving appropriate services, that local education agency
30 shall continue those services as long as appropriate."

31 Sec. 6. Sections 1 through 4 of this act shall become effective July 1, 1990,
32 and Section 5 of this act shall become effective July 1, 1991, if and only if specific
33 funds are appropriated for the specific programs established by this act. Funds
34 appropriated for the 1990-91 fiscal year or for any fiscal year in the future do not
35 constitute any entitlement to services beyond those provided for that fiscal year.
36 Nothing in this act creates any rights except to the extent that funds are appropriated by
37 the State to implement its provisions from year to year and nothing in this act obligates
38 the General Assembly to appropriate any funds to implement its provisions.