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HOUSE JOINT RESOLUTION NO. 231
AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the House Committee on Rules
on February 11, 2000)

(Patron Prior to Substitute—Delegate McEachin [HJR 231 and 232])

Continuing the Joint Subcommittee Studying the Overrepresentation of African-American Students in Special Education Programs.

WHEREAS, with the passage of the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), as amended, America recognized the unique needs and the rights of special needs children to "a free and appropriate education in the least restrictive environment"; and

WHEREAS, the nation began the revision of its public school system to accommodate and include such children in the American mainstream, especially in public school classrooms; and

WHEREAS, under federal and state laws, identification of these children and the development of an individualized education plan (IEP) to address their unique learning requirements became the responsibility of parents, teachers, counselors, pupil services personnel, physicians, therapists, and specialists; and

WHEREAS, although professionals engaged in the identification of special needs children are experts in their respective fields, some have no real exposure to African-American and other minority students and others labor under erroneous perceptions and stereotypes about minorities, making it very difficult for them to distinguish between the influence of socioeconomic and cultural deprivations and the manifestations of certain disabilities; and

WHEREAS, due to cultural differences in child-rearing among African-Americans and other minorities, such young children approach learning, social interaction, and personal relationships differently than white students; and

WHEREAS, these cultural characteristics are too often misinterpreted and misdiagnosed as learning and emotional disabilities, resulting in a disproportionate number of African-American students, particularly males, identified for such programs; and

WHEREAS, once identified, these students are labeled for the rest of their school career, without any efficacious way to remove this negative imprimatur, and hindered throughout life by the inability to complete high school, obtain gainful employment or higher education, or to pursue their life goals and dreams; and

WHEREAS, although all special education placements of African-American and other minority students are not unwarranted, statistical odds indicate that the disproportionate number of minority students identified and placed in special education programs deserves scrutiny; and

WHEREAS, the cumulative effect of this practice if continued unabated will be the crippling of inquisitive minds, wasted talents and gifts, and the evisceration of the spirits of a generation of minority children; and

WHEREAS, simple justice and fairness, and the Commonwealth's dedication to high principles, especially as public policies affect our progeny, require that we are resolute in addressing this problem to correct this travesty; and

WHEREAS, the joint subcommittee has found that data indicates a disproportionate number of African-American students have been placed in certain special education categories, to include being classified as learning disabled, educable mentally retarded, emotionally disturbed/behavioral disorders; and

WHEREAS, during the course of the joint subcommittee's study, it was determined that certain data that needed to be collected and questions that needed to be answered regarding this problem could be ascertained simultaneously via the Department of Education's collection of such information; and

WHEREAS, the Individuals with Disabilities Education Act Amendments of 1997 require states to collect, analyze, and report data concerning minorities in special education programs, and the joint subcommittee has requested the Department of Education to collect certain related data and statistics vital to the joint subcommittee's work while gathering information to comply with new federal reporting requirements; and

WHEREAS, the Department of Education has agreed to collaborate with the joint subcommittee and also to keep it apprised of the State Improvement Plan for Special Education; and

WHEREAS, established in 1999, pursuant to House Joint Resolution 707, the joint subcommittee has labored arduously during the legislative interim; however, due to the complexity of the problem, changes in federal laws and regulations, continued United States Department of Education's Office for Civil Rights' (OCR) reviews of school division compliance, and the lack of a centralized database upon which to depend, it requires more time to complete its work; now, therefore, be it

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60 RESOLVED by the House of Delegates, the Senate concurring, That the Joint Subcommittee
61 Studying the Overrepresentation of African-American Students in Special Education Programs be
62 continued. The joint subcommittee shall be composed of 13 members as follows: eight members of the
63 House of Delegates, to be appointed by the Speaker, in accordance with the principles of Rule 16 of the
64 Rules of the House of Delegates; and five members of the Senate, to be appointed by the Senate
65 Committee on Privileges and Elections.

66 In its deliberations, the joint subcommittee shall (i) monitor the development and implementation of
67 the State Improvement Plan for Special Education; (ii) monitor recent changes in federal and state laws
68 and regulations governing special education, particularly the collection and reporting requirements
69 concerning minority students; (iii) continue to review the process of identifying students for special
70 education; (iv) evaluate the training and recommend ways to address the shortage of special education
71 teachers, and other professionals typically involved in developing IEP plans for students; (v) determine
72 the demographic composition of students identified for special education in Virginia public schools, for
73 grades K-12, by gender, race, age, disability, grade level, if applicable, and school division; (vi) review
74 the criteria for determining whether a student is learning disabled, educable mentally retarded, or
75 emotionally disturbed; (vii) assess the impact of poverty, language, and culture on the identification of
76 minority students for special education; (viii) complete objectives under HJR 707 (1999); (ix) determine
77 the number and reasons for the reversal of special education placements; and (x) consider such other
78 related issues as the joint subcommittee may deem appropriate.

79 During the course of its study, the joint subcommittee shall request the Department of Education to
80 provide a comprehensive briefing concerning the State Improvement Plan for Special Education, and to
81 collect, analyze, and report to the joint subcommittee the following information:

82 1. The adequacy of the preparation and training of prospective and in-service classroom teachers,
83 guidance counselors, psychometricians, and administrators concerning cultural diversity issues; the
84 impact of race, culture, language, socioeconomic status, and class on the education of students; and the
85 identification of students for special education programs.

86 2. The number of special education students by gender, race, grade level, disability, and the reason
87 for withdrawal from a special education placement or designation of students who were re-assigned to
88 the regular instructional program during the 1994 through 1999 school years. Of the number of students
89 returned to the regular instructional program, the number of such students who were accelerated or
90 provided supplemental instruction and support services to elevate students to grade level and assist them
91 in the transition from special education to regular education programs shall also be reported.

92 3. The outcomes of student-teacher arrangements in special education programs that permit students
93 to remain with a primary teacher for most of the school day.

94 4. The number of students who have Standard English as a Second Language (SESL), the prevalence
95 of this phenomenon, the regions of the Commonwealth primarily affected, and the implications of the
96 problem relative to the disproportionate representation of African-American students in special education
97 programs, and equity in programmatic, learning opportunities and outreach and support services afforded
98 other students, i.e., limited English proficiency (LEP) students with similar social disadvantages,
99 economic deprivations, and cultural and language limitations.

100 5. A comprehensive briefing regarding the State improvement Plan for Special Education, including,
101 but not limited to, the outline of the plan and the report submitted to the U.S. Department of Education's
102 Office for Civil Rights in December 1999.

103 6. The collection, examination, analysis, synthesis, and reporting of data regarding new federal
104 monitoring and reporting requirements pursuant to the Individuals with Disabilities Education Act
105 Amendments of 1997 for determining (i) whether race is the basis of significant disproportionality in the
106 identification and placement of African-American students in particular educational settings for students
107 with disabilities, (ii) dropout rates of racial and ethnic minorities in special education, and (iii) the
108 mandate that states address such problems.

109 The direct costs of this study shall not exceed \$16,250.

110 The Division of Legislative Services shall provide staff support for the study. Technical assistance
111 shall be provided by the Department of Education. All agencies of the Commonwealth shall provide
112 assistance to the joint subcommittee, upon request.

113 The joint subcommittee shall complete its work in time to submit its written findings and
114 recommendations to the Governor and the 2001 Session of the General Assembly as provided in the
115 procedures of the Division of Legislative Automated Systems for the processing of legislative
116 documents.

117 Implementation of this resolution is subject to subsequent approval and certification by the Joint
118 Rules Committee. The Committee may withhold expenditures or delay the period for the conduct of the
119 study.