

Department of Planning and Budget

2021 Fiscal Impact Statement

1. Bill Number: SB1313

House of Origin	☐ Introduced	☐ Substitute	☐ Engrossed
Second House	☐ In Committee	☐ Substitute	☒ Enrolled

2. Patron: Mason

3. Committee: Passed Both Houses

4. Title: Children's Services Act; special education programs.

5. Summary: Requires that funds expended for special education services under the Children's Services Act (CSA) only be expended on educational programs that are licensed by the Department of Education who report their tuition rates to the Office of Children's Services. The bill adds 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, to the target population for eligibility for the state pool of funds. The bill requires the Secretaries of Education and Health and Human Resources, in conjunction with the Office of Children's Services and the Department of Education, 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 and to make recommendations on the use of CSA funds for wrap around services in public schools. The bill requires that the Work Group submit its plan and recommendations to the Chairmen of the House Committee on Appropriations and Senate Committee on Finance and Appropriations by November 1, 2022.

6. Budget Amendment Necessary: See 8 below.

7. Fiscal Impact Estimates: See 8 below.

8. Fiscal Implications: This fiscal impact statement has been revised to remove the administrative costs for the workgroup required by this legislation as, after further review and discussion, the Department of Education has determined that they can absorb these costs.

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 impact of the proposed changes will result in additional costs or savings to the Commonwealth. The substitute legislation provides more guidance on what qualifies as a "transitional service" but does not materially change this fiscal impact statement.

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 services provided in public schools 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. Currently, 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. As these student are added to public school enrollment, additional state costs will be incurred in the Direct Aid to Public Education budget. The local share of costs for public education likely will increase as well.

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 are currently 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).

Prior to FY 2011, public schools were permitted to access CSA funds to provide more comprehensive wrap-around services to their students. In FY 2010, the last year this was allowed 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). If these costs 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. At the end of twelve months support from the CSA pool, the cost for any increased level of services would revert back to the school district.

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 would have otherwise provided within existing budgets to children returning from private day school to public school under current statute. 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).

The legislation also requires a workgroup to be convened in order to create a plan for the transition funding for private day services from CSA to the Department of Education. The workgroup is also to determine CSA is the appropriate funding mechanism for continuing services provided in schools to children after the twelve month transition period has ended. The costs of this workgroup can be absorbed by the affected agencies.

9. Specific Agency or Political Subdivisions Affected: Children's Services Act, Department of Education, Secretary of Education.

10. Technical Amendment Necessary: No.

11. Other Comments: None.