

SESSION OF 1999

EXPLANATORY NOTE ON HOUSE BILL NO. 2191

As Recommended by First Conference Committee

Brief*

H.B. 2191 amends laws pertaining to (A) special education for exceptional children; (B) health certification of school personnel; (C) school safety; and (D) forwarding of pupil records.

A. Special Education for Exceptional Children

The bill revises the state legislation pertaining to special education for exceptional children.

Selected Definitions

The following definitions are critical to understanding the nature of the special education requirement.

Free Appropriate Public Education. The term means special education and related services that:

- are provided at public expense, under public supervision and direction, and without charge;
- meet the standards of the State Board of Education;
- include an appropriate preschool, elementary, or secondary school education; and
- are provided in conformity with an individualized education program.

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at http://www.ink.org/public/legislative/bill_search.html.

Individualized Education Program (IEP). The term means a written statement for each exceptional child that is developed, reviewed, and revised in accordance with the law.

Special Education. This term means specially designed instruction provided at no cost to parents to meet the unique needs of an exceptional child, including:

- instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings; and
- instruction in physical education.

Related Services. The term means transportation and includes developmental, corrective, and other supportive services, including speech-language pathology and audiology services; psychological services; physical and occupational therapy; recreation, including therapeutic recreation; social work services; counseling services, including rehabilitation counseling; orientation and mobility services; and medical services, except that medical services are for diagnostic and evaluation purposes only, as required to assist an exceptional child benefit from special education and includes early identification and assessment of disabling conditions in children.

Supplementary Aids and Services. The term includes aids, services, and other supports provided in regular education classes or other education-related settings to enable children with disabilities to be educated with nondisabled children to the maximum extent appropriate.

Children with Disabilities. The term means children in need of special education and related services with mental retardation, hearing impairments including deafness, speech or language impairments, visual impairments including blindness, emotional disturbances, orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities.

Substantial Change in Placement. The term means the movement of an exceptional child, for more than 25 percent of the child's school day, from a less restrictive environment to a more restrictive environment or from a more restrictive environment to a less restrictive environment, or the addition to, or deletion from,

the child's IEP of a related service or a supplementary aid or service.

Material Change in Service. The term means an increase or decrease of 25 percent or more in the duration or frequency of a special education service, a related service, or a supplementary aid or service specified on the child's IEP.

Parent and Person Acting as Parent. The term "parent" means a natural parent, an adoptive parent, a legal guardian, a person acting as parent, or an education advocate. A "person acting as parent" includes a grandparent or stepparent with whom the child lives or another person who is legally responsible for the child's welfare.

State Board of Education Duties

General Requirements. The bill imposes upon the State Board of Education the responsibility of adopting and amending a state plan for special education and adopting rules and regulations necessary to comply with federal law and to implement this act.

The State Board must assure that the requirements of the federal and state laws are met and that educational programs for exceptional children, including programs administered by any other state agency:

- are under the general supervision of individuals who are responsible for educational programs for exceptional children; and
- meet the educational standards prescribed by the State Board.

This requirement does not limit the responsibility of any other state agency to provide or pay the costs of an appropriate public education for an exceptional child.

Performance Goals and Indicators. The State Board is directed to:

- establish performance goals for children with disabilities that are consistent, to the maximum extent appropriate, with those for other children;
- establish performance indicators to assess progress toward achieving the goals that, at a minimum, address the performance of children with disabilities on assessments, drop-out rates, and graduation rates;
- every two years, report to the U.S. Secretary of Education and to the public the progress of the state and of children with disabilities toward meeting the established goals; and
- based on its assessment of that progress, revise the state improvement plan in accord with applicable federal requirements.

Assessment Programs. The State Board and each local school board must include, to the extent required by state and federal law, exceptional children in general state and districtwide assessment programs, with appropriate accommodations where necessary. The State Board and each board must:

- develop guidelines for participation of certain children with disabilities in alternate assessments; and
- develop and, beginning not later than July 1, 2000, conduct those alternate assessments.

The State Board must report to the public with the same frequency and in the same detail as it reports on the assessment of nondisabled children, the following:

- the number of children with disabilities who participate in regular assessments;
- the number of children with disabilities who participate in alternate assessments; and
- beginning not later than July 1999, the performance of children with disabilities on regular assessments, and, not later than July 1, 2000, the performance of such children on alternate assessments, if doing so would be statistically sound

and not result in disclosure of performance results identifiable of individual children.

Special Education Services Complaints. The State Board must develop a model form to assist parents in filing complaints relative to special education identification, evaluation, educational placement or provision of free appropriate public education to their child.

Special Education Rights. The State Board is required to make available a list of the rights available to parents of exceptional children under the federal and state laws.

Mediation for Dispute Resolution and Due Process Hearings. The State Board must establish voluntary mediation procedures, under direction of a qualified and impartial mediator, in an attempt to resolve complaints relating to identification, evaluation, or educational placement of a child or the provision of free appropriate public education to the child. The State Board pays the costs of the mediation process. The State Board also must provide for due process hearings. These processes and procedures must meet the requirements of the federal and state law.

State Advisory Council for Special Education

Size. The amendments change the nine members on the State Advisory Council for Special Education to a body of not more than 21 members and provide greater specificity with respect to the Council's representation and duties. Advisory Council members' service is limited to two consecutive terms (terms are three years in duration).

Representation. The Council's membership must be representative of the state population and be comprised of persons involved in, or concerned with, the education of exceptional children, including parents of exceptional children, at least one of whom must be the parent of a gifted child; individuals with disabilities; teachers; representatives of institutions of higher education that prepare special education and related services personnel; state and local education officials; administrators of programs for exceptional children; representatives of other state agencies involved in financing or delivering related services to

exceptional children; representatives of private schools and public charter schools; at least one representative of a vocational, community, or business organization concerned with provision of transition services to children with disabilities; and representatives from the state juvenile and adult corrections agencies. A majority of the members must be individuals with disabilities or parents of children with disabilities.

Duties. The Advisory Council is charged to:

- advise the State Board of unmet needs within the state in the education of exceptional children;
- comment on any rules and regulations proposed by the State Board regarding the education of exceptional children;
- advise the State Board in developing evaluations and reporting on data to the federal government;
- advise the State Board in developing corrective action plans to address findings identified in federal monitoring reports; and
- advise the State Board in developing and implementing policies relating to coordination of services for exceptional children.

Annual Organizational Meeting Location. An amendment deletes the requirement that the Advisory Council's annual organizational meeting be held in Topeka.

All State Agencies

Interagency Agreements. State agencies are directed to enter into interagency agreements in making an appropriate public education available to all exceptional children residing in the state. The State Board of Education must establish procedures for resolving interagency disputes, including procedures under which local educational agencies may initiate proceedings to secure reimbursement or enforcement of provisions of an interagency agreement.

Duties of Local School Boards

General Requirements. School district boards are required to implement procedures to assure that all exceptional children in the school district, including those enrolled in private schools, who are in need of special education and related services are identified, located, and evaluated.

Each school board must provide a free appropriate public education for exceptional children enrolled in the school district, for children with disabilities placed in a private school or facility by the school district, and for children with disabilities who have been suspended for an extended term or expelled from school.

Each board must provide for participation of exceptional children enrolled by their parents in private schools in special education and related services in accord with state and federal law.

When an exceptional child is referred by a person licensed to practice medicine and surgery to a facility outside of the school district in which the child resides, the district in which the facility is located may contract for provision of special education services with the district in which the parent of the child resides. (Currently, such contracts are mandatory.) If there is no contract, the child is deemed to be a pupil of the district which is providing special education and related services to the child.

Least Restrictive Environment. A school district must, to the maximum extent appropriate, educate children with disabilities with children who are not disabled, and provide special classes, separate schooling, or remove children with disabilities from the regular education environment only when the nature or severity of the disability of the child is such that education in regular classes with supplementary aids and services cannot be achieved satisfactorily.

Special Education Services—Nonpublic Schools. Amendments to statutes concerning special education services for children who attend nonpublic schools make the following changes:

- when the parent or guardian of a child requests that special education services be provided in a private, nonpublic elementary or secondary school, the amount the school

district shall spend for services at the nonpublic school site is an amount that is not required to exceed the average cost to the district to provide the same services in the public schools for children within the same category of exceptionality; and

- the site for provision of special education services to a nonpublic school student who resides in the school district and for whom the parent requests special education services from the school district will be determined by the school district in consultation with the parent or guardian of the child and with officials of the nonpublic school.

Duty of Parents of a Child With a Disability

In General. A duty is imposed on the parent to require the child to attend school to receive the special education and related services which are included in the child's IEP or to provide for such services privately (excludes gifted).

Evaluation and Reevaluation of Children

Initial Evaluation. Agencies are required to conduct an initial evaluation of a child before providing initial special education and related services. This evaluation determines if a child is an exceptional child and, if so, the child's educational needs.

The agency must obtain informed consent from the parent before the evaluation is conducted. This is not the same as consent for placement for special education services. If the parents refuse consent, the agency may, but is not required to, pursue an evaluation by opting for mediation or due process.

All Evaluations. Notice must be provided to the parents of a child which describes any proposed evaluation procedures. In conducting the evaluation, the agency must:

- use a variety of assessment tools and strategies to gather relevant functional and developmental information;
- not use a single procedure as the sole criterion for determining if a child is exceptional or the appropriate educational program for the child; and

- use technically sound instruments.

The agency must ensure that:

- tests and other evaluation materials used are not discriminatory on a racial or cultural basis, and are administered in the child's native language or other mode of communication (unless it is not feasible to do so);
- any standardized tests given have been validated, are administered by trained and knowledgeable personnel, and are properly administered;
- the child is assessed in all areas of suspected disability; and
- assessment tools and strategies that provide relevant information are used.

A team of professionals and the parent determine if the child is exceptional. A copy of the evaluation report and the documentation pertaining to special education services eligibility are given to the parent. A lack of instruction in reading or math or limited English proficiency may not be used in determining special education eligibility.

As part of an initial evaluation, if appropriate, and as part of a reevaluation, the IEP team and other qualified professionals must:

- review existing evaluation data on the child, current classroom-based assessments and observations, and teacher and related services providers' observations; and
- identify what additional data, if any, are needed to determine whether the child has a particular exceptionality or, in a reevaluation, whether the child continues to have such an exceptionality; the present levels of performance and educational needs of the child; whether the child needs or continues to need special education and related services; and whether additions or modifications are needed to enable the child to meet the measurable annual goals set out in the IEP of the child and to participate, as appropriate, in the general curriculum.

Reevaluations. Agencies are required to perform a reevaluation of an exceptional child when conditions warrant it or the child's parent or teacher requests it, but at least once every three years.

An agency must obtain informed parental consent prior to conducting any reevaluation of an exceptional child, unless the agency can demonstrate that it took reasonable measures to obtain informed consent and the child's parent failed to respond.

If the IEP team and other professionals determine no additional data are needed to determine if the child continues to be an exceptional child, the agency notifies the child's parents of the determination and the reasons for it and of their right to request an assessment to determine whether the child continues to be an exceptional child. The agency is not required to conduct an assessment unless requested by the child's parents.

Individualized Education Program (IEP)

In General. Each agency at the beginning of the school year is directed to have in effect an IEP for each exceptional child. However, for three- through five-year-olds an individualized family service plan as specified in federal law (20 U.S.C. 1436) may serve as the IEP, if agreed to by the agency and the child's parents. This provision also applies to two-year-olds who turn age three during the school year.

The IEP Team. The law specifies a team of persons who are responsible for developing the IEP of a child. This team must be composed of:

- the parent of a child;
- at least one regular education teacher of the child;
- at least one special education teacher or, if appropriate, at least one special education provider of the child;
- a representative of the local educational agency who is directly involved in providing educational services to the child and who is qualified to provide or supervise special education instruction and is knowledgeable about the general curriculum and available resources of the local educational agency;

- an individual who can interpret the instructional implications of evaluation results;
- at the discretion of the parent or the agency, other individuals with knowledge or special expertise regarding the child; and
- whenever appropriate, the child.

Developing the IEP. In developing a child's IEP, the following must be considered:

- the strengths of the child and the concerns of the parents for enhancing the education of the child;
- the results of the initial evaluation or most recent evaluation of the child;
- in the case of a child whose behavior impedes the child's learning or that of others, strategies, including positive behavioral interventions and supports, to address the behavior;
- in the case of a child with limited English proficiency, the language needs of the child as related to the IEP;
- in the case of a child who is blind or visually impaired, instruction in Braille and use of Braille (unless determined inappropriate by the IEP team);
- the communication needs of the child; and
- whether the child requires assistive technology devices and services.

What the IEP Must Include. The IEP for each exceptional child must include:

- a statement of the child's present levels of educational performance, including:
 - how the child's disability or giftedness affects the child's involvement and progress in the general curriculum; or

- for preschool children, how the disability affects the child's participation in appropriate activities;
- a statement of measurable annual goals, including benchmarks or short-term objectives, related to the child's involvement and progress in the general or advanced curriculum and other educational needs;
- a statement of the special education and related services and supplementary aids and services to be provided and the program modifications or supports for school personnel that will be provided for the child to advance appropriately toward attaining the annual goals, to be involved in the general curriculum, and to participate in various activities;
- an explanation of the extent to which the child will not participate with nondisabled children in the regular class and in extracurricular and nonacademic activities;
- a statement of modifications in the administration of state or districtwide assessments of student achievement in order for the child to participate in such assessment;
- if the child will not participate in all or a part of a particular state or districtwide assessment of student achievement, a statement of why that assessment is not appropriate for the child and how the child will be assessed;
- the projected date for the beginning of the services and modifications and the anticipated frequency, location, and duration thereof;
- beginning at age 14, and updated annually, a statement of the transition service needs of the child, such as participation in advanced-placement courses or a vocational education program and, beginning at age 16 or younger, a statement of needed transition services for the child, including, when appropriate, a statement of the interagency responsibilities or any needed linkages; and
- a statement explaining how the child's progress toward the annual goals will be measured, how the child's parent will be regularly informed of the child's progress toward the annual

goals, and the extent to which progress is sufficient to enable the child to achieve the goals by the end of the year.

The Regular Education Teacher. The regular education teacher of the child, a member of the IEP team, participates in the development of the IEP, including the behavioral interventions and strategies, supplementary aids and services, program modifications, support for school personnel, and review and revision of the child's IEP.

Annual IEP Review. The team must review the child's IEP at least annually to determine whether the annual goals for the child are being achieved and to revise the IEP to address: lack of expected progress toward the annual goals and in the general curriculum; the results of any reevaluation; information about the child provided to, or by, the parents; the child's anticipated needs; or other matters.

Rights of Parents of Exceptional Children

Listing of Rights. The bill contains the following listing of rights of parents of exceptional children (the listing is not exclusive):

- to examine all records relating to the child; participate in meetings on identification, evaluation, and educational placement, and provision of free appropriate public education; and obtain an independent educational evaluation of the child;
- to receive written prior notice whenever an agency proposes to initiate or change, refuses to initiate or change the identification, evaluation, or educational placement of the child;
- to receive notice in the native language, unless it clearly is not feasible to do so;
- to present complaints regarding identification, evaluation, or educational placement by providing proper notice;
- to request mediation in accord with the law;

- to consent or refuse to consent to evaluation, reevaluation, initial placement, or to any substantial change of placement or material change in services of their child (unless the change is ordered pursuant to Sec. 30 disciplinary actions or unless the agency made a reasonable effort to secure parental consent and the parent failed to respond);
- to be members of any group that makes decisions on the educational placement of the child;
- to demand that the child remain in the current educational placement pending the outcome of a due process hearing (except as otherwise provided by law);
- to request a due process hearing in regard to any complaint;
- to appeal to the State Board any adverse decision rendered by a hearing officer in a local due process hearing;
- to appeal to state or federal court any adverse decision of a review officer in a state-level due process appeal; and
- to recover attorney fees, in accordance with the federal law, if the parent is the prevailing party in a due process hearing or court action. (Only a court would have authority to award attorney fees. These fees could be reduced or denied as provided by federal law.)

Age of Majority—Transfer of Rights

In General. When a child with a disability reaches age 18, except for a child with a disability who has been determined to be incompetent under state law, the rights of the parent transfer to the individual. Also, the rights of the parent transfer to the individual if incarcerated in an adult or juvenile federal, state, or local correctional institution.

**Change in Special Education Placement or
Services—Notification**

Notification Requirements. When an agency proposes to initiate or change placement or services, the agency must give notice to the parents. The notice must include:

- a description of the action proposed or refused by the agency;
- an explanation of why the agency proposes or refuses to take the action;
- a description of any other options the agency considered and the reasons those options were rejected;
- a description of each evaluation procedure, test, record, or report the agency used as a basis for the proposed or refused action;
- a description of any other factors that are relevant to the agency's proposal or refusal;
- a statement that the parents have protection under the procedural safeguards of the law and the means by which a copy of the procedural safeguards can be obtained; and
- sources for parents to contact to obtain assistance in understanding the provisions of the federal or state law.

Due Process—Placement of the Child During Proceedings

In General. The bill contains extensive due process procedures, most of which presently are found in the state law.

Educational Placement. During the course of any due process proceedings, unless the parties otherwise agree, the child remains in the then-current educational placement. In the case of the initial admission of the child to school, the child normally will be placed in the appropriate regular education classroom or program. Some exceptions, discussed below, apply.

Change of Placement of a Child

Upon Order of School Personnel. School personnel may order a change in the placement of a child with a disability to:

- an interim alternative or other educational setting, or a short-term suspension; or
- an interim alternative educational setting for up to 45 calendar days, if the child carries a weapon to school or to a school function or knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school or a school function. In these cases, the alternative setting is determined by the IEP team.

Before, or not later than ten days after, taking the first disciplinary action (described above), if it has not already done so, the agency must conduct a functional behavioral assessment and implement a behavioral intervention plan for the child. If the child already has such a plan, the IEP team must review the plan and modify it, as necessary, to address the behavior.

Change of Placement By a Hearing Officer. A hearing officer may order a change in the placement of a child with a disability to an appropriate interim alternative educational setting for not more than 45 calendar days when the hearing officer:

- determines that the agency has demonstrated, by substantial evidence, that maintaining the current placement of the child is substantially likely to result in injury to the child or to others;
- considers the appropriateness of the child's current placement;
- considers whether the agency has made reasonable efforts to minimize the risk of harm in the child's current placement, including the use of supplementary aids and services; and
- determines that the interim alternative educational setting meets the requirements of law.

Interim Alternative Education Setting. Any interim alternative educational setting must enable the child to continue to participate in the general curriculum, although in another setting, and to continue to receive services and modifications, including those described in the child's current IEP, that will enable the child to meet the goals set out in the IEP and include services and

modifications designed to address the behavior so that it does not recur.

Disciplinary Actions

Procedures. If a disciplinary action for weapons or drug possession or for other serious misconduct for which a change of placement for more than ten school days is contemplated for a child with a disability, the following procedures apply:

- not later than the date on which the decision to take the action is made, the parents must be notified of that decision and of all of the procedural safeguards; and
- immediately if possible, but no later than ten school days after the date on which the decision to take the action is made, an IEP team review must be conducted of the relationship between the child's disability and the behavior subject to the disciplinary action.

Manifestation Determinations. A determination can be made that the child's behavior is not a manifestation of a disability when the IEP team considers all relevant information, including evaluation and diagnostic results and information supplied by the parents, observations of the child, and the child's IEP and placement, and finds:

- in relationship to the behavior subject to disciplinary action, the child's IEP and placement were appropriate and the special education services, supplementary aids and services, and behavior intervention strategies were provided consistent with the child's IEP and placement;
- the child's disability did not impair the ability of the child to understand the impact and consequences of the behavior subject to disciplinary action; and
- the child's disability did not impair the ability of the child to control the behavior subject to disciplinary action.

If the determination is that the child's behavior is not a manifestation of the disability, the disciplinary procedures

applicable to children without disabilities may be applied to the child, except that an appropriate public education must continue to be provided to the child during the period of disciplinary action.

Parent Due Process. If the parent disagrees with a determination that the child's behavior was not a manifestation of the disability or with any decision regarding placement, a due process hearing may be requested. When this occurs, an expedited hearing is held. The hearing officer then determines whether the agency has demonstrated that the child's behavior was not a manifestation of such child's disability.

The expedited hearing is conducted by a due process hearing officer appointed by the State Board. The child remains in the interim alternative educational setting pending the decision of the hearing officer or for 45 days, whichever occurs first, unless the parent and the agency agree otherwise.

Child Placement. When a child has been placed in an interim alternative educational setting and school personnel propose to change the child's placement after expiration of the interim alternative placement, during the pendency of any proceeding to challenge the proposed change in placement, the child is returned to the placement the child was in prior to the interim alternative educational setting. If the agency believes it is dangerous for the child to be returned to the child's original placement, the agency may request an expedited hearing on the proposed change in placement.

Disciplinary Actions—A Child Not Yet Identified with a Disability

Asserting a Disability. A child who has not been determined to be eligible for special education and related services and who engages in behavior that violates a rule or code of conduct of the school district or provisions of the law may assert the protections provided in the law if, before the offensive behavior occurred, the district had knowledge that the child was a child with a disability. A school district is deemed to have knowledge that a child had a disability if:

- the parent has expressed concern in writing (unless the parent is illiterate or has a disability that prevents compliance with

these requirements) to personnel of the educational agency that the child needs special education and related services;

- the behavior or performance of the child demonstrates the need for such services;
- the parent of the child previously has requested an evaluation of the child; or
- the teacher or other personnel of the school district previously have expressed concern about the behavior or performance of the child to the director of special education or to other personnel of the district.

If a school district does not have knowledge that the child had a disability prior to taking disciplinary action against the child, the child may be subject to the same disciplinary action as applies to children without disabilities.

If a request is made for evaluation of a child during the time period in which the child is subjected to disciplinary action, an expedited evaluation must be conducted. If the child is determined to have a disability, the district must provide special education and related services. However, pending the results of the evaluation, the child remains in the educational placement determined by school authorities, which may be long-term suspension or expulsion from school.

Short-Term Suspension

School districts are permitted to impose short-term suspensions of not more than ten days (current state law—five days) if a pupil:

- carries a weapon to school or to a school function;
- possesses or uses illegal drugs or sells or solicits sale of a controlled substance at school or at a school function; and
- engages in behavior which has resulted in or was likely to have resulted in injury to the pupil or others.

This applies to **all** pupils.

Reporting of Crimes

Reporting Authorized. An agency may report a crime committed by a child with a disability to appropriate authorities and these authorities may exercise their responsibilities under federal, state, or local law pertaining to crimes.

Certain Information Provided. When an agency reports a crime by a child with a disability, the agency must ensure that copies of the special education and disciplinary records of the child are available for consideration by the authority to whom the crime is reported.

Special Education Services—Correctional Institutions

Correctional institutions are exempt from the special education services requirements of the Kansas law to the extent authorized by the federal law.

B. School Health Certifications

An amendment makes it permissive rather than mandatory for local school boards to require persons who are not district employees but who perform services for the district and who come into regular contact with pupils to submit a health certification such as that required for school district employees. (As under the current law, school districts are authorized to pay for health certifications.)

C. Kansas School Safety and Security Act Amendments

Changes to the Kansas School Safety and Security Act include:

- The process for reporting potentially dangerous students is changed. School administrative employees, as well as professional and paraprofessional employees, are required to make reports to the school district superintendent when they have information (current law refers to “knowledge”) that a pupil fits one of the five criteria of a potentially dangerous student. Under current law, reports are made to school administrators.

Upon receiving a report, the superintendent is required to investigate the matter and, upon determining that the identified pupil is a pupil to whom the provisions of the law apply, report information and identify the pupil to all school employees who are directly involved or likely to be directly involved in teaching or providing other school-related services to the pupil. Students covered include those who:

- have been expelled for conduct which endangers the safety of others;
 - have been expelled for commission of a criminal offense;
 - have been expelled for possession of weapons;
 - have been adjudged to be a juvenile offender and whose offense, if committed by an adult, would constitute a felony, except a felony theft offense involving no direct threat to human life; and
 - have been tried and convicted as an adult of any felony, except theft involving no direct threat to human life.
- A report regarding a student is not required if the expulsion, adjudication as a juvenile, or conviction of a felony or conduct occurred more than 365 days prior to the report to the superintendent.
 - The Kansas Juvenile Justice Code is amended to require a copy of the court’s order in a juvenile adjudication be provided to the school district in which the juvenile offender is enrolled or will enroll.

D. Forwarding of Pupil Records

An amendment prohibits a school district from withholding a student's school records for any reason. School records are declared to be the property of the pupil. Upon the request of a pupil or parent, the school records of the pupil must be provided or, upon transfer of the pupil to another school district or to a nonpublic school, be forwarded to the new school district or nonpublic school. A pupil's records forwarded to another school district due to transfer will include original copies of all the student's records, including transcripts, grade cards, results of tests, assessments or evaluations, and all other personally identifiable records, files, and data directly related to the pupil.

Background

H.B. 2191, as introduced, dealt only with health certification of school personnel. The chief proponent, Representative Adkins, explained that the current law's mandatory health certification requirement serves as a significant impediment to recruiting volunteers to serve in the public schools. Representative Adkins explained that he recognizes the need to address public health issues and has no difficulty with a law that allows each school district to determine the appropriate level of protection. He said also that there is some confusion as to whether the current law requires most school volunteers to submit health certification and that clarification of the law is needed.

The Kansas Association of School Boards also appeared as proponents of the bill. There were no other conferees.

The House Committee on Education amendments did not change the original intent of the proposal.

The Senate Education Committee amended the bill to include the substance of S.B. 203, as passed by the Senate. That bill, which includes the School Safety and Security Act and the pupil records provisions, was assigned to the House Education Committee as of March 24, 1999.

The Conference Committee agreed to the provisions of H.B. 2191 as passed by the Senate and added to it the substance of S.B. 129, as amended by the House Education Committee, with the following changes:

- It modified the House Education Committee amendment regarding provision of special education services to a nonpublic school student specifying that a school district decision on the site for the provision of special education services be made in consultation (rather than "after" consultation) with the child's parent and with officials of the nonpublic school.
- It modified Senate and House Education Committee language to permit a school district to spend more on special education services for a child in a nonpublic school than the average cost to the district of providing the same services in the public schools for children within the same category of exceptionality.

See the Supplemental Note on S.B. 129 for background information on the special education provisions contained in the bill from introduction through the amendments adopted by the House Committee on Education.