MISSISSIPPI LEGISLATURE  

By: Representatives Baria, Brown (66th)  

To: Education; Appropriations

HOUSE BILL NO. 649

AN ACT TO CREATE THE MISSISSIPPI OFFICE OF EDUCATION SPECIAL NEEDS COUNSEL FOR THE PURPOSE OF PROVIDING GUIDANCE AND ADVOCACY TO PARENTS OF CHILDREN WITH DISABILITIES IN SECURING SPECIAL EDUCATION SERVICES; TO REQUIRE THE GOVERNOR TO APPOINT AN INDIVIDUAL TO SIMULTANEOUSLY SERVE AS THE EXECUTIVE DIRECTOR AND LEAD COUNSEL IN THE OFFICE; TO PRESCRIBE THE POWERS AND DUTIES OF THE OFFICE; TO REQUIRE AN ANNUAL REPORT TO BE SUBMITTED TO THE GOVERNOR AND LEGISLATURE ON THE OFFICE'S CASELOAD DURING THE PRECEDING FISCAL YEAR; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. (1) There is created the Mississippi Office of Education Special Needs Counsel, the purpose of which is to provide parents of children with disabilities with information, guidance and advocacy in creating the best educational plan possible for their children. The Governor shall appoint, with the advice and consent of the Senate, an individual to serve simultaneously as the executive director and lead counsel of the Office of Education Special Needs Counsel. The executive director shall serve at the will and pleasure of the Governor.

(2) The Executive Director of the Mississippi Office of Education Special Needs Counsel must be a duly licensed attorney...
admitted to the practice of law in this state who has no less than
three (3) years experience practicing as an attorney in the field
of special education law. The executive director shall devote his
full time to the proper administration of the office and
performance of the duties set forth in subsection (3) of this
section, including providing legal representation to clients in
cases accepted by the office. The executive director shall be
paid a salary in such amount as may be determined by the State
Personnel Board. Subject to the availability of funding, the
executive director may employ such personnel as may be necessary,
in the determination of the director, to effectively carry out the
duties of the office.

(3) The Mississippi Office of Education Special Needs
Counsel shall have the following powers and duties:

(a) To provide information, advice and counsel to the
parents of a child with a disability on their legal rights under
state and federal law to a free appropriate public education and
the process of securing special education services through the
child's local educational agency;

(b) To promote the parents' meaningful involvement in
their child's education by including the parents in all decisions
throughout the child's special education process, including, but
not limited to, referral, initial evaluation and the development
of the child's individualized education program;
(c) To assist parents in understanding procedural due process rights, including the right to impartial hearings and appeals and the state complaint process, and to promote early resolution of disputes between parents and local educational agencies;

(d) When determined by the executive director to be necessary or beneficial, to provide advocacy and legal representation on behalf of the child and the child's parents in all meetings before the local educational agency, due process hearings, mediation sessions and any other meetings at which decisions affecting the education of the child may be made;

(e) In collaboration with The Mississippi Bar, to offer training and support to attorneys in the state who want to develop their skills in special education law in order to provide legal representation to families in matters of special education on a pro bono basis;

(f) Subject to the availability of funding, to employ persons qualified to serve as special education advocates who, under the direction and supervision of the executive director, work with families and local educational agencies to secure the best possible education for children with disabilities;

(g) To establish the criteria by which the Mississippi Office of Education Special Needs Counsel will determine which cases are eligible for services made available by the office; and
(h) To perform such other duties not inconsistent with state or federal law which relate to the representation of families of children with disabilities in matters pertaining to special education law.

(4) Beginning in 2016, the executive director shall submit an annual report before September 1 to the Governor and Legislature on the work of the Mississippi Office of Education Special Needs Counsel during the preceding fiscal year. The report must include, at a minimum, statistical data reflecting the caseload of the office and any plans or proposals for increasing services available to families in matters relating to special education law.

(5) The Legislature shall appropriate annually to the Mississippi Office of Education Special Needs Counsel such funds as are necessary for the operation of the office and carrying out the purposes of this section.

SECTION 2. Section 1 of this act shall be codified as a new section in Chapter 23, Title 37, Mississippi Code of 1972.

SECTION 3. This act shall take effect and be in force from and after July 1, 2015.