

By: Representatives Baria, Brown (66th)

To: Education;
Appropriations

HOUSE BILL NO. 649

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

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

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

20 (2) The Executive Director of the Mississippi Office of
21 Education Special Needs Counsel must be a duly licensed attorney



22 admitted to the practice of law in this state who has no less than
23 three (3) years experience practicing as an attorney in the field
24 of special education law. The executive director shall devote his
25 full time to the proper administration of the office and
26 performance of the duties set forth in subsection (3) of this
27 section, including providing legal representation to clients in
28 cases accepted by the office. The executive director shall be
29 paid a salary in such amount as may be determined by the State
30 Personnel Board. Subject to the availability of funding, the
31 executive director may employ such personnel as may be necessary,
32 in the determination of the director, to effectively carry out the
33 duties of the office.

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

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

41 (b) To promote the parents' meaningful involvement in
42 their child's education by including the parents in all decisions
43 throughout the child's special education process, including, but
44 not limited to, referral, initial evaluation and the development
45 of the child's individualized education program;



46 (c) To assist parents in understanding procedural due
47 process rights, including the right to impartial hearings and
48 appeals and the state complaint process, and to promote early
49 resolution of disputes between parents and local educational
50 agencies;

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

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

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

67 (g) To establish the criteria by which the Mississippi
68 Office of Education Special Needs Counsel will determine which
69 cases are eligible for services made available by the office; and



70 (h) To perform such other duties not inconsistent with
71 state or federal law which relate to the representation of
72 families of children with disabilities in matters pertaining to
73 special education law.

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

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

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

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

