

As Introduced

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Representatives Fowler Arthur, Lear

**Cosponsors: Representatives Barhorst, Claggett, Click, Creech, Dean, Ferguson,
Gross, John, Kick, King, Klopfenstein, Lorenz, Plummer, Seitz, Stein, Stewart,
Williams**

A BILL

To amend sections 3310.41, 3310.52, and 3310.58 of 1
the Revised Code regarding the provision of 2
remote services for special needs scholarship 3
recipients and regarding credentialed 4
professionals who may provide services under the 5
Jon Peterson Special Needs Scholarship Program. 6

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 3310.41, 3310.52, and 3310.58 of 7
the Revised Code be amended to read as follows: 8

Sec. 3310.41. (A) As used in this section: 9

(1) "Alternative public provider" means either of the 10
following providers that agrees to enroll a child in the 11
provider's special education program to implement the child's 12
individualized education program or an education plan developed 13
by the school district under division (G) of this section and to 14
which the child's parent owes fees for the services provided to 15
the child: 16

- (a) A school district that is not the school district in which the child is entitled to attend school; 17
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- (b) A public entity other than a school district. 19
- (2) "Entitled to attend school" means entitled to attend school in a school district under section 3313.64 or 3313.65 of the Revised Code. 20
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- (3) "Formula ADM" has the same meaning as in section 3317.02 of the Revised Code. 23
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- (4) "Preschool child with a disability" and "individualized education program" have the same meanings as in section 3323.01 of the Revised Code. 25
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- (5) "Parent" has the same meaning as in section 3313.64 of the Revised Code, except that "parent" does not mean a parent whose custodial rights have been terminated. "Parent" also includes the custodian of a qualified special education child, when a court has granted temporary, legal, or permanent custody of the child to an individual other than either of the natural or adoptive parents of the child or to a government agency. 28
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- (6) "Qualified special education child" is a child who either was enrolled in the school district in which the child is entitled to attend school in any grade from preschool through twelve in the school year prior to the year in which a scholarship under this section is first sought for the child or is eligible to enter school in any grade preschool through twelve in the school district in which the child is entitled to attend school in the school year in which a scholarship under this section is first sought for the child and for whom any of the following conditions apply: 35
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- (a) The school district in which the child is entitled to 45

attend school has identified the child as autistic. A child who 46
has been identified as having a "pervasive developmental 47
disorder - not otherwise specified (PPD-NOS)" shall be 48
considered to be an autistic child for purposes of this section. 49

(b) The school district in which the child is entitled to 50
attend school has developed an individualized education program 51
under Chapter 3323. of the Revised Code for the child that 52
includes services related to autism. 53

(c) The child has been diagnosed as autistic by a 54
physician or psychologist. 55

(7) "Registered private provider" means a nonpublic school 56
or other nonpublic entity that has been approved by the 57
department and workforce to participate in the program 58
established under this section. 59

(8) "Special education program" means a school or facility 60
that provides special education and related services to children 61
with disabilities. 62

(B) There is hereby established the autism scholarship 63
program. Under the program, the department shall pay a 64
scholarship under section 3317.022 of the Revised Code to the 65
parent of each qualified special education child upon 66
application of that parent pursuant to procedures and deadlines 67
established by rule of the department. Each scholarship shall be 68
used only to pay tuition for the child on whose behalf the 69
scholarship is awarded to attend a special education program 70
that implements the child's individualized education program or 71
education plan and that is operated by an alternative public 72
provider or by a registered private provider, and to pay for 73
other services agreed to by the provider and the parent of a 74

qualified special education child that are not included in the 75
individualized education program or education plan but are 76
associated with educating the child. Upon agreement with the 77
parent of a qualified special education child, the alternative 78
public provider or the registered private provider may modify 79
the services provided to the child. The purpose of the 80
scholarship is to permit the parent of a qualified special 81
education child the choice to send the child to a special 82
education program, instead of the one operated by or for the 83
school district in which the child is entitled to attend school, 84
to receive the services prescribed in the child's individualized 85
education program or education plan once the individualized 86
education program or education plan is finalized and any other 87
services agreed to by the provider and the parent of a qualified 88
special education child. The services provided under the 89
scholarship shall include an educational component or services 90
designed to assist the child to benefit from the child's 91
education. 92

Services prescribed in the child's finalized 93
individualized education program or education plan may be 94
provided remotely by qualified, credentialed providers in the 95
same manner that telehealth services are provided to patients in 96
accordance with section 4743.09 of the Revised Code. Services 97
provided remotely shall be specified in the child's finalized 98
individualized education program or education plan. 99

A scholarship under this section shall not be awarded to 100
the parent of a child while the child's individualized education 101
program is being developed by the school district in which the 102
child is entitled to attend school, or while any administrative 103
or judicial mediation or proceedings with respect to the content 104
of the child's individualized education program are pending. A 105

scholarship under this section shall not be used for a child to attend a public special education program that operates under a contract, compact, or other bilateral agreement between the school district in which the child is entitled to attend school and another school district or other public provider, or for a child to attend a community school established under Chapter 3314. of the Revised Code. However, nothing in this section or in any rule adopted by the department shall prohibit a parent whose child attends a public special education program under a contract, compact, or other bilateral agreement, or a parent whose child attends a community school, from applying for and accepting a scholarship under this section so that the parent may withdraw the child from that program or community school and use the scholarship for the child to attend a special education program for which the parent is required to pay for services for the child.

Except for development of the child's individualized education program or education plan, the school district in which a qualified special education child is entitled to attend school and the child's school district of residence, as defined in section 3323.01 of the Revised Code, if different, are not obligated to provide the child with a free appropriate public education under Chapter 3323. of the Revised Code for as long as the child continues to attend the special education program operated by either an alternative public provider or a registered private provider for which a scholarship is awarded under the autism scholarship program. If at any time, the eligible applicant for the child decides no longer to accept scholarship payments and enrolls the child in the special education program of the school district in which the child is entitled to attend school, that district shall provide the child

with a free appropriate public education under Chapter 3323. of 137
the Revised Code. 138

A child attending a special education program with a 139
scholarship under this section shall continue to be entitled to 140
transportation to and from that program in the manner prescribed 141
by law. 142

(C) As prescribed in division (A) (2) (h) of section 3317.03 143
of the Revised Code, a child who is not a preschool child with a 144
disability for whom a scholarship is awarded under this section 145
shall be counted in the formula ADM of the district in which the 146
child is entitled to attend school and not in the formula ADM of 147
any other school district. 148

(D) A scholarship shall not be paid under section 3317.022 149
of the Revised Code to a parent for payment of tuition owed to a 150
nonpublic entity unless that entity is a registered private 151
provider. The department shall approve entities that meet the 152
standards established by rule of the department for the program 153
established under this section. 154

(E) The department shall adopt rules under Chapter 119. of 155
the Revised Code prescribing procedures necessary to implement 156
this section, including, but not limited to, procedures and 157
deadlines for parents to apply for scholarships, standards for 158
registered private providers, and procedures for approval of 159
entities as registered private providers. 160

The rules also shall specify that intervention services 161
under the autism scholarship program may be provided by a 162
qualified, credentialed provider, including, but not limited to, 163
all of the following: 164

(1) A behavior analyst certified by a nationally 165

recognized organization that certifies behavior analysts;	166
(2) A psychologist licensed to practice in this state	167
under Chapter 4732. of the Revised Code;	168
(3) An independent school psychologist or school	169
psychologist licensed to practice in this state under Chapter	170
4732. of the Revised Code;	171
(4) Any person employed by a licensed psychologist,	172
licensed independent school psychologist, or licensed school	173
psychologist, while carrying out specific tasks, under the	174
licensee's supervision, as an extension of the licensee's legal	175
and ethical authority as specified under Chapter 4732. of the	176
Revised Code who is ascribed as "psychology trainee,"	177
"psychology assistant," "psychology intern," or other	178
appropriate term that clearly implies their supervised or	179
training status;	180
(5) Unlicensed persons holding a doctoral degree in	181
psychology or special education from a program approved by the	182
department;	183
(6) A "registered behavior technician" as described under	184
rule 5123-9-41 of the Administrative Code working under the	185
supervision and following the intervention plan of a certified	186
Ohio behavior analyst or a behavior analyst certified by a	187
nationally recognized organization that certifies behavior	188
analysts;	189
(7) A "certified Ohio behavior analyst" under Chapter	190
4783. of the Revised Code;	191
(8) Any other qualified individual as determined by the	192
department.	193

(F) The department shall provide reasonable notice to all parents of children receiving a scholarship under the autism scholarship program, alternative public providers, and registered private providers of any amendment to a rule governing, or change in the administration of, the autism scholarship program.

(G) If a child qualifies for the autism scholarship program pursuant to a diagnosis under division (A) (6) (c) of this section and does not have an individualized education program that includes services related to autism, the school district in which the child is entitled to attend school shall develop an education plan for the child.

(H) Not later than the thirtieth day of June each year, each alternative public provider and registered private provider enrolling students receiving autism scholarships shall submit to the department, in a form and manner prescribed by the department, the tuition rates charged by the provider for the following school year.

(I) The department shall not require the parent of a student who applies for or receives a scholarship under this section to complete any kind of income verification regarding the student's family income.

Sec. 3310.52. (A) The Jon Peterson special needs scholarship program is hereby established. Under the program, beginning with the 2012-2013 school year, subject to division (B) of this section, the department of education and workforce annually shall pay a scholarship under section 3317.022 of the Revised Code to an eligible applicant for services provided by an alternative public provider or a registered private provider for a qualified special education child. The scholarship shall

be used only to pay all or part of the fees for the child to 224
attend the special education program operated by the alternative 225
public provider or registered private provider to implement the 226
child's individualized education program, in lieu of the child's 227
attending the special education program operated by the school 228
district in which the child is entitled to attend school, and 229
other services agreed to by the provider and eligible applicant 230
that are not included in the individualized education program 231
but are associated with educating the child. Beginning in the 232
2014-2015 school year, if the child is receiving special 233
education services for a disability specified in division (A) of 234
section 3317.013 of the Revised Code, the scholarship shall be 235
used only to pay for related services that are included in the 236
child's individualized education program. Upon agreement with 237
the eligible applicant, the alternative public provider or 238
registered private provider may modify the services provided to 239
the child. 240

Services prescribed in the child's finalized 241
individualized education program may be provided remotely by 242
qualified, credentialed providers in the same manner that 243
telehealth services are provided to patients in accordance with 244
section 4743.09 of the Revised Code. Services provided remotely 245
shall be specified in the child's finalized individualized 246
education program. 247

(B) The number of scholarships awarded under the program 248
in any fiscal year shall not exceed five per cent of the total 249
number of students residing in the state identified as children 250
with disabilities during the previous fiscal year. 251

(C) The department shall pay a scholarship under section 252
3317.022 of the Revised Code to the parent of each qualified 253

special education child, unless the parent authorizes a direct 254
payment to the child's provider, upon application of that parent 255
in the manner prescribed by the department. However, the 256
department shall not adopt specific dates for application 257
deadlines for scholarships under the program. 258

(D) The department shall not require the parent of a 259
student who applies for or receives a scholarship under this 260
section to complete any kind of income verification regarding 261
the student's family income. 262

Sec. 3310.58. No nonpublic school or entity shall receive 263
payments from an eligible applicant for services for a qualified 264
special education child under the Jon Peterson special needs 265
scholarship program until the school or entity registers with 266
the department of education and workforce. The department shall 267
register and designate as a registered private provider any 268
nonpublic school or entity that meets the following 269
requirements: 270

(A) The school or entity complies with the 271
antidiscrimination provisions of 42 U.S.C. 2000d, regardless of 272
whether the school or entity receives federal financial 273
assistance. 274

(B) If the school or entity is not chartered by the 275
director of education and workforce under section 3301.16 of the 276
Revised Code, the school or entity agrees to comply with 277
sections 3319.39, 3319.391, and 3319.392 of the Revised Code as 278
if it were a school district. 279

(C) The teaching and nonteaching professionals employed by 280
the school or entity, or employed by any subcontractors of the 281
school or entity, hold credentials determined by the state board 282

of education to be appropriate for the qualified special 283
education children enrolled in and the services provided through 284
the special education program it operates. In the list of 285
credentialed professionals determined to be appropriate to 286
provide services under a special education program, the state 287
board shall include all of the following: 288

(1) A behavior analyst certified by a nationally 289
recognized organization that certifies behavior analysts; 290

(2) A psychologist licensed to practice in this state 291
under Chapter 4732. of the Revised Code; 292

(3) An independent school psychologist or school 293
psychologist licensed to practice in this state under Chapter 294
4732. of the Revised Code; 295

(4) Any person employed by a licensed psychologist, 296
licensed independent school psychologist, or licensed school 297
psychologist, while carrying out specific tasks, under the 298
licensee's supervision, as an extension of the licensee's legal 299
and ethical authority as specified under Chapter 4732. of the 300
Revised Code who is ascribed as "psychology trainee," 301
"psychology assistant," "psychology intern," or other 302
appropriate term that clearly implies their supervised or 303
training status; 304

(5) An unlicensed person holding a doctoral degree in 305
psychology or special education from a program approved by the 306
department; 307

(6) A registered behavior technician as described in rule 308
5123-9-41 of the Administrative Code working under the 309
supervision and following the intervention plan of a certified 310
Ohio behavior analyst or behavior analyst certified by a 311

<u>nationally recognized organization that certifies behavior</u>	312
<u>analysts;</u>	313
<u>(7) A certified Ohio behavior analyst under Chapter 4783.</u>	314
<u>of the Revised Code;</u>	315
<u>(8) An occupational therapist licensed to practice in this</u>	316
<u>state under Chapter 4755. of the Revised Code;</u>	317
<u>(9) A speech-language pathologist licensed to practice in</u>	318
<u>this state under Chapter 4753. of the Revised Code;</u>	319
<u>(10) An intervention specialist who holds a valid license</u>	320
<u>issued by the state board;</u>	321
<u>(11) A literacy intervention specialist certified through</u>	322
<u>pathways recognized by the Ohio dyslexia committee established</u>	323
<u>by section 3323.25 of the Revised Code. To the extent that</u>	324
<u>certification for any of the following positions are approved by</u>	325
<u>the Ohio dyslexia committee under section 3323.25 of the Revised</u>	326
<u>Code, literary intervention specialists may include:</u>	327
<u>(a) A structured literacy dyslexia interventionist;</u>	328
<u>(b) A structured literacy dyslexia specialist;</u>	329
<u>(c) A certified academic language practitioner;</u>	330
<u>(d) A certified academic language therapist.</u>	331
<u>(12) Any other qualified individual as determined by the</u>	332
<u>department.</u>	333
(D) The school's or entity's educational program shall be	334
approved by the department.	335
(E) The school or entity meets applicable health and	336
safety standards established by law.	337

(F) The school or entity agrees to retain on file	338
documentation as required by the department.	339
(G) The school or entity agrees to provide a record of the	340
implementation of the individualized education program for each	341
qualified special education child enrolled in the school's or	342
entity's special education program, including evaluation of the	343
child's progress, to the school district in which the child is	344
entitled to attend school, in the form and manner prescribed by	345
the department.	346
(H) The school or entity agrees that, if it declines to	347
enroll a particular qualified special education child, it will	348
notify in writing the eligible applicant of its reasons for	349
declining to enroll the child.	350
Section 2. That existing sections 3310.41, 3310.52, and	351
3310.58 of the Revised Code are hereby repealed.	352