

SENATE BILL 83

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2002 Regular Session
2lr0089

(PRE-FILED)

By: **Chairman, Education, Health, and Environmental Affairs**
(Departmental - Education)

Requested: November 14, 2001

Introduced and read first time: January 9, 2002

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable

Senate action: Adopted

Read second time: February 5, 2002

CHAPTER 113

1 AN ACT concerning

2 **Education - Special Education - Transfer of Rights at Age of Majority**

3 FOR the purpose of requiring the transfer of certain parental rights to a child with
4 disabilities at the age of majority under certain circumstances; authorizing
5 certain children with disabilities to file a certain action; requiring a certain
6 notice to be given to both a child with disabilities and parental surrogate under
7 certain circumstances; requiring that certain rights of a parental surrogate be
8 transferred to the child under certain circumstances; and generally relating to
9 special education.

10 BY adding to

11 Article - Education

12 Section 8-412.1

13 Annotated Code of Maryland

14 (2001 Replacement Volume)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

16 MARYLAND, That the Laws of Maryland read as follows:

17 **Article - Education**

18 8-412.1.

19 (A) WHEN A CHILD WITH A DISABILITY REACHES THE AGE OF 18 YEARS, ALL
20 RIGHTS ACCORDED TO PARENTS UNDER THE FEDERAL INDIVIDUALS WITH
21 DISABILITIES EDUCATION ACT, 20 U.S.C. 1400 ET SEQ. 1997, SHALL TRANSFER TO THE

1 CHILD IF THE CHILD HAS NOT BEEN ADJUDGED INCOMPETENT UNDER STATE LAW
2 AND IF THERE IS DOCUMENTATION THAT:

3 (1) THE PARENTS ARE UNAVAILABLE OR UNKNOWN AS DEFINED IN §
4 8-412 OF THIS SUBTITLE, THE CHILD WOULD BE ELIGIBLE FOR A PARENT
5 SURROGATE, AND THE CHILD REQUESTS THAT THE PARENTAL RIGHTS BE
6 TRANSFERRED TO THE CHILD;

7 (2) THE PARENTS HAVE NOT PARTICIPATED IN THE SPECIAL
8 EDUCATION DECISION MAKING PROCESS FOR THE CHILD AFTER REPEATED
9 ATTEMPTS BY THE LOCAL SCHOOL SYSTEM TO INVOLVE THE PARENTS OVER THE
10 PREVIOUS YEAR AS DESCRIBED IN COMAR 13A.05.01.07C(7);

11 (3) THE PARENTS HAVE AFFIRMATIVELY REJECTED PARTICIPATION IN
12 THE SPECIAL EDUCATION DECISION MAKING PROCESS;

13 (4) THE PARENTS CANNOT PARTICIPATE IN THE SPECIAL EDUCATION
14 DECISION MAKING PROCESS DUE TO PROLONGED HOSPITALIZATION,
15 INSTITUTIONALIZATION, OR SERIOUS ILLNESS OR INFIRMITY OF ONE OR BOTH OF
16 THE PARENTS AND THE PARENTS HAVE CONSENTED TO THE TRANSFER OF RIGHTS
17 TO THE CHILD;

18 (5) THE PARENTS CANNOT PARTICIPATE IN THE SPECIAL EDUCATION
19 DECISION MAKING PROCESS DUE TO EXTRAORDINARY CIRCUMSTANCES BEYOND
20 THE CONTROL OF THE PARENTS AND THE PARENTS HAVE CONSENTED TO THE
21 TRANSFER OF RIGHTS TO THE CHILD; OR

22 (6) THE CHILD IS LIVING OUTSIDE OF THE PARENTS' HOME AND IS NOT
23 IN THE CARE OR CUSTODY OF ANOTHER PUBLIC AGENCY AS DEFINED IN § 8-412 OF
24 THIS SUBTITLE.

25 (B) A CHILD WITH DISABILITIES WHO REACHES THE AGE OF 18 YEARS AND IS
26 LIVING AT HOME WITH THE CHILD'S PARENTS AND WHOSE PARENTS DO NOT
27 CONSENT TO THE TRANSFER OF RIGHTS TO THE CHILD MAY FILE FOR DUE PROCESS
28 IN ACCORDANCE WITH § 8-413 OF THIS SUBTITLE TO DETERMINE WHETHER THE
29 RIGHTS SHOULD BE TRANSFERRED TO THE CHILD.

30 (C) IF A CHILD WITH DISABILITIES WHO HAS REACHED THE AGE OF 18 YEARS
31 HAS BEEN REPRESENTED BY A PARENT SURROGATE AS DEFINED IN § 8-412 OF THIS
32 SUBTITLE, ANY NOTICE REQUIRED BY THE INDIVIDUALS WITH DISABILITIES
33 EDUCATION ACT, 20 U.S.C. 1400 ET SEQ. 1997, SHALL BE PROVIDED TO BOTH THE
34 CHILD AND TO THE PARENT SURROGATE AND ALL OTHER RIGHTS ACCORDED TO THE
35 PARENT SURROGATE UNDER THAT ACT SHALL TRANSFER TO THE CHILD IF THE
36 CHILD HAS NOT BEEN ADJUDGED INCOMPETENT UNDER STATE LAW AND THE CHILD
37 REQUESTS THAT THE RIGHTS TRANSFER TO THE CHILD.

38 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
39 effect July 1, 2002.

