
By: **Delegate Shriver**

Introduced and read first time: February 8, 2002

Assigned to: Ways and Means

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 21, 2002

CHAPTER 563

1 AN ACT concerning

2 **Education - Disabled Children - Nonpublic Educational Programs and**
3 **Related Services**

4 FOR the purpose of providing that a child with a disability who needs special
5 education and related services is eligible for an appropriate nonpublic
6 educational placement if a State or local agency provides documentation that
7 the child cannot attend a local public school because of the child's home
8 circumstances or, subject to a certain provision, because of a medical necessity;
9 defining a certain term; requiring that the cost of providing certain services
10 shall be paid by the State and the county according to a certain formula, subject
11 to the availability of funds in the State budget; prohibiting payment or
12 reimbursement for certain services under a certain formula if alternative
13 funding is available; requiring a local management board to pay for certain
14 student transportation costs under certain circumstances; and generally
15 relating to children with disabilities and nonpublic educational programs and
16 related services.

17 BY repealing and reenacting, with amendments,
18 Article - Education
19 Section 8-406 and 8-410(b)
20 Annotated Code of Maryland
21 (2001 Replacement Volume)

22 BY repealing and reenacting, without amendments,
23 Article - Education
24 Section 8-415(d)
25 Annotated Code of Maryland

1 (2001 Replacement Volume)

2 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
3 MARYLAND, That the Laws of Maryland read as follows:

4 **Article - Education**

5 8-406.

6 (A) IN THIS SECTION, "WRAPAROUND SERVICES":

7 (1) MEANS INDIVIDUALIZED SERVICES, EXCLUDING REGULAR SCHOOL
8 PROGRAMS OR SERVICES, THAT ARE PROVIDED TO A CHILD WITH A DISABILITY AND
9 THE CHILD'S FAMILY; AND

10 (2) ~~DOES NOT INCLUDE REGULAR SCHOOL PROGRAMS OR SERVICES;~~
11 ~~AND~~

12 ~~(3)~~ INCLUDES THE FOLLOWING SERVICES:

13 (I) BEHAVIORAL AIDE IN HOME;

14 (II) EDUCATION TUTORING;

15 (III) FAMILY THERAPY;

16 (IV) MEDICATION MANAGEMENT;

17 (V) RESPITE CARE; ~~AND~~

18 (VI) VOCATIONAL MENTORING; AND

19 (VII) ENVIRONMENTAL ACCESSIBILITY ADAPTATIONS.

20 [(a)] (B) (1) A child with a disability who needs special education and
21 related services that cannot be provided in a public county, regional, or State program
22 shall be placed in an appropriate nonpublic educational program that offers these
23 services.

24 (2) A CHILD WITH A DISABILITY WHO NEEDS SPECIAL EDUCATION AND
25 RELATED SERVICES IS ELIGIBLE FOR AN APPROPRIATE NONPUBLIC EDUCATIONAL
26 PLACEMENT UNDER THIS SECTION IF A STATE OR LOCAL AGENCY PROVIDES
27 DOCUMENTATION THAT THE CHILD CANNOT ATTEND A PUBLIC SCHOOL IN THE
28 LOCAL SCHOOL SYSTEM;

29 (I) BECAUSE OF THE CHILD'S HOME CIRCUMSTANCES; OR

30 (II) SUBJECT TO SUBSECTION (D)(1) AND (2) OF THIS SECTION,
31 BECAUSE OF MEDICAL NECESSITY.

1 [(b)] (C) (1) The cost of the nonpublic educational program shall be paid by
 2 the State and the county in which the child is domiciled in accordance with § 8-415(d)
 3 of this subtitle, as appropriate.

4 (2) ~~SUBJECT TO AVAILABILITY OF FUNDING IN THE STATE BUDGET, FOR~~
 5 ~~A CHILD WHO IS PLACED IN~~ QUALIFIES FOR A NONPUBLIC EDUCATIONAL PROGRAM
 6 UNDER SUBSECTION (B)(2) OF THIS SECTION AND WHO REQUIRES WRAPAROUND
 7 SERVICES IN ORDER TO RECEIVE SPECIAL EDUCATION AND RELATED SERVICES IN
 8 THE LEAST RESTRICTIVE ENVIRONMENT, THE COST OF PROVIDING THE SERVICES
 9 SHALL BE PAID BY THE STATE AND THE COUNTY IN WHICH THE CHILD IS DOMICILED
 10 IN ACCORDANCE WITH § 8-415(D) OF THIS SUBTITLE, IF A STATE OR LOCAL AGENCY
 11 DOCUMENTS THAT THE CHILD'S PARENT OR LOCAL GUARDIAN IS UNABLE TO
 12 PROVIDE THE WRAPAROUND SERVICES.

13 [(c)] (D) (1) Payment or reimbursement for a nonpublic program may not be
 14 provided if the payment or reimbursement would require an additional contribution
 15 from the State under § 8-415(d)(2) of this subtitle unless the Department approves:

- 16 (i) The nonpublic program;
- 17 (ii) The placement of the child in the program;
- 18 (iii) The cost of the program; and
- 19 (iv) The amount of payment or reimbursement.

20 (2) FOR WRAPAROUND SERVICES, PAYMENT OR REIMBURSEMENT MAY
 21 NOT BE PROVIDED IN ACCORDANCE WITH § 8-415(D) OF THIS SUBTITLE IF ~~NOT~~
 22 ~~ELIGIBLE FOR RETURN/DIVERSION, OR;~~

23 (I) THE CHILD IS ELIGIBLE FOR FUNDING FOR OUT-OF-STATE
 24 PLACEMENT OF CHILDREN UNDER ARTICLE 49D, §§ 4.3 AND 20.1 OF THE CODE; OR

25 (II) ALTERNATIVE FEDERAL, STATE, OR LOCAL FUNDING IS
 26 AVAILABLE.

27 [(2)] (3) Department approval is not required for a nonpublic program if:

- 28 (i) The local school system approves the placement of the child in
 29 the program; and
- 30 (ii) The local school system makes the payment or reimbursement
 31 from local funds.

32 [(3)] (4) The State Board shall adopt regulations that establish
 33 standards and guidelines for approvals required by paragraph [(2)] (3) of this
 34 subsection.

35 [(d)] (E) A nonpublic placement recommended by a local school system for
 36 approval under subsection [(c)(1)] (D)(1) of this section shall be approved or

1 disapproved pursuant to the regulations of the State Board. However, the
2 Department may not disapprove a nonpublic placement recommended by a local
3 school system for a child unless the Department provides an appropriate alternative
4 placement in conformity with the regulations of the State Board and applicable
5 federal laws and regulations. The Department may not terminate funding for the last
6 approved nonpublic placement of a child during the pendency of an administrative or
7 judicial review of a recommended placement change.

8 [(e)] (F) In addition to meeting the requirements of this subtitle, a local school
9 system seeking nonpublic tuition payment must also meet the requirements of Article
10 49D of the Code, as applicable, and obtain funding approval from the local
11 coordinating council and the State Coordinating Council.

12 8-410.

13 (b) (1) [The] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
14 SUBSECTION, THE local school system of the county in which the child with a
15 disability resides shall certify and pay the cost of his daily or other reasonable
16 transportation to school under the rules and regulations adopted by the State Board
17 if:

18 [(1)] (I) The school is outside this State or the county in which the child
19 resides; and

20 [(2)] (II) State aid has provided for the education of the child under this
21 subtitle.

22 (2) IF A LOCAL MANAGEMENT BOARD ESTABLISHED UNDER ARTICLE
23 49D, § 11 OF THE CODE FUNDS THE PLACEMENT OF A CHILD IN A SCHOOL THAT IS
24 OUTSIDE THE STATE OR THE COUNTY IN WHICH THE CHILD RESIDES WITHOUT
25 CONSULTING THE LOCAL SCHOOL SYSTEM, THE LOCAL MANAGEMENT BOARD SHALL
26 CERTIFY AND PAY THE COST OF THE STUDENT'S DAILY OR OTHER REASONABLE
27 TRANSPORTATION TO SCHOOL.

28 8-415.

29 (d) (1) In this subsection, "basic cost" as to each county, means the average
30 amount spent by the county from county, State, and federal sources for the public
31 education of a nonhandicapped child. "Basic cost" does not include amounts
32 specifically allocated and spent for identifiable compensatory programs for
33 disadvantaged children.

34 (2) As provided in paragraphs (3) and (4) of this subsection, the State
35 and the counties shall share collectively in the cost of educating children with
36 disabilities in nonpublic programs under § 8-406 of this subtitle.

37 (3) (i) Subject to the limitation under subparagraph (ii) of this
38 paragraph, for each of these children domiciled in the county, the county shall
39 contribute for each placement the sum of:

