

**Department of Legislative Services**  
 Maryland General Assembly  
 2003 Session

**FISCAL AND POLICY NOTE**  
**Revised**

House Bill 860

(The Minority Leader, *et al.*)  
 (By Request – Administration)

Judiciary

Finance

**State Government - Department of Juvenile Services - Charles H. Hickey, Jr.**  
**School Program**

This Administration bill changes the name of the Department of Juvenile Justice (DJJ) to the Department of Juvenile Services. The title of the Secretary of Juvenile Justice is also changed accordingly, as are the names of State boards and programs that use Juvenile Justice in their titles. The bill adds two programs, the Lower Eastern Shore Children’s Center and the Western Maryland Children’s Center, that DJJ is authorized to establish and operate. The bill also requires the Maryland State Department of Education (MSDE) to assume control of the educational program at the Charles H. Hickey, Jr. School, contingent on the provision of State funding for the initiative in the fiscal 2005 State budget.

The bill is effective July 1, 2003.

**Fiscal Summary**

**State Effect:** General fund expenditures would increase by an estimated \$106,000 in FY 2004 to carry out the name change at DJJ. If funding for MSDE to assume control of Hickey educational services is included in the FY 2005 State budget, general fund expenditures would increase by an additional \$163,800 in FY 2004 and by \$5.7 million in FY 2005. Beginning in FY 2005, funding for MSDE would be offset by a reduction of \$1.9 million in the Hickey contract. Future year expenditure estimates reflect salary increases, ongoing operating expenses, and inflation.

(\$ in millions)	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	.3	3.8	2.0	2.2	2.5
Net Effect	(\$.3)	(\$3.8)	(\$2.0)	(\$2.2)	(\$2.5)

*Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect*

**Local Effect:** None.

**Small Business Effect:** The Administration has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

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## Analysis

**Bill Summary:** By December 1, 2003, DJJ and MSDE must develop an implementation schedule for educational programs at Hickey. The plan must include a model for testing students at Hickey that is aligned with the federal No Child Left Behind Act. Tests must measure each student's ability to: (1) maintain and improve achievement in core subject areas; (2) accrue credits towards State graduation requirements; and (3) transition to an educational program operated by a Maryland school system. MSDE must report to the General Assembly by December 31, 2003 on the schedule for implementation of the educational and testing programs at Hickey.

If funding is provided in the fiscal 2005 State budget, MSDE must develop and fully implement the educational program for Hickey by July 1, 2004. For each student placed at Hickey, the local school system where the student was last enrolled must transmit the student's most recent complete record. When a student is released from Hickey, Hickey must transmit the student's complete record to the school system where the student will be enrolled. The State Superintendent of Schools may take appropriate corrective action, including withholding or redirecting funds, against a local school system or Hickey if transmission of a student's record does not occur within five days.

If MSDE assumes control of the educational program at Hickey, the bill authorizes MSDE to use State nonpublic placement funding to contract for services for students with disabilities who are placed at Hickey. Effective July 1, 2003, MSDE is also authorized to use emergency procurement policies to ensure that the educational program at Hickey is fully operational by July 1, 2004. The bill also specifies that any residential treatment center located on Hickey grounds and provided for in the State Health Plan is not a part of the MSDE takeover.

**Current Law:** DJJ is a cabinet-level State executive department. The department is required to develop educational programs that are designed to meet the needs of the populations at Hickey and the other juvenile facilities it manages.

**Background:** The most recent performance audit of Charles H. Hickey, Jr. School was completed in 2001 but was not released until August 2002 after a financial settlement was

reached between DJJ and the contractor at Hickey, Youth Services International (YSI). The audit revealed numerous problems in every phase of Hickey operations, including very significant issues in the educational services provided to Hickey students. The audit found that the student-teacher ratios exceeded those approved by MSDE, instructional materials and equipment were inadequate, school day requirements did not meet standards, special education services were inadequate, required educational and psychological assessments were not always readily available, and teacher certification standards were not met.

The theme of the Governor's juvenile services reform efforts is "A Child First Approach." The focus of the endeavor is on "wraparound" services for children who come in contact with the system, which explains the proposed change in the department's title. Children will receive a thorough needs assessment when they enter the juvenile justice system and will be provided enhanced mental health and substance abuse treatment while they are in it. The Governor's juvenile services reform literature also suggests that MSDE assume control of the educational programs at Hickey and other State-operated juvenile detention centers and commitment facilities in the coming years. In addition, a move away from large juvenile facilities and towards more juveniles being treated in community-based programs is proposed.

**State Expenditures:** Assuming funding for MSDE to take over educational programs at Hickey is provided in the fiscal 2005 State budget, general fund expenditures would increase by an estimated \$269,800 in fiscal 2004 and by an estimated \$3.8 million in fiscal 2005. The fiscal 2004 funding would be used to carry out the name change at DJJ (\$106,000) and to begin hiring staff (\$113,800) and assessing facility needs at Hickey (\$50,000) so MSDE can assume control of the educational program at the school on July 1, 2004. Estimates for fiscal 2005 include \$5.7 million for MSDE to operate educational programs at Hickey for a full fiscal year. The fiscal 2005 MSDE funding would be partially offset by a \$1.9 million reduction in expenditures for the current Hickey contract.

#### *Maryland State Department of Education*

In order to ensure that MSDE can enact the takeover of the educational program at Hickey by July 1, 2004, general fund expenditures for MSDE would increase by an estimated \$163,800 in fiscal 2004. This estimate reflects the cost of hiring a principal and assistant principal for the school and three education coordinators who would operate from MSDE headquarters. These new positions would begin work April 1, 2004 and would prepare for the takeover and hire teachers, classroom aides, and other school-based staff who would begin work July 1, 2004. The fiscal 2004 estimate includes three-month salaries for five employees, fringe benefits, one-time start-up costs, ongoing operating

expenses, and \$50,000 in contractual services for a professional assessment of facility needs at Hickey.

Beginning in fiscal 2005, MSDE would be responsible for the educational program at Hickey. Ongoing personnel and operating costs would total an estimated \$3.6 million, and one-time equipment and facilities improvements costs would total an estimated \$2.1 million. The assumptions used to calculate this estimate are stated below.

- Beginning July 1, 2004, 53 school-based employees would work at Hickey, including: 1 principal, 1 assistant principal, 18 classroom teachers, 18 classroom aides, 11 additional school professionals, and 4 support staff. These staffing numbers are based on a projected average daily population at the school of 270 students and would provide one classroom teacher and one classroom aide for every 15 students. Additional school-based professionals would include life skills and media specialists, student services workers (counselors and social workers), career technology teachers, and special education coordinators. The fiscal 2005 cost for school personnel is estimated at \$3.2 million.
- Four additional staff members, including one support staff member and three education specialists, would work out of MSDE headquarters and would be responsible for the overall coordination of the educational program at Hickey. The fiscal 2005 cost for headquarters staff is estimated at \$249,100.
- Ongoing operating expenditures for the school would include professional development and travel expenses for professional school-based personnel, as well as school supplies. The fiscal 2005 cost for these expenses is estimated at \$202,100. Ongoing expenses for MSDE headquarters staff would add an additional \$1,700.
- One-time school equipment costs would total an estimated \$1.2 million and would provide textbooks; diagnostic and assessment materials; equipment for occupational programs; and classroom and lab computers, software, and related technology equipment.
- One-time expenditures of nearly \$1 million would be used to provide various repairs and upgrades to the school buildings at Hickey.

	<b><u>FY 2004</u></b>	<b><u>FY 2005</u></b>
Salaries and Fringe Benefits – Hickey School	\$46,247	\$3,155,711
Salaries and Fringe Benefits – Headquarters	51,735	249,066
Ongoing Operating Expenses	1,576	203,828
One-time Equipment Costs	14,220	1,169,732
Facilities Assessment	50,000	0
One-time School Facilities Upgrades	<u>0</u>	<u>969,250</u>
<i>Total State Expenditures</i>	<b>\$163,778</b>	<b>\$5,747,587</b>

Beginning in fiscal 2006, expenditure estimates reflect: (1) full salaries with 4.5% annual increases and 3% employee turnover; (2) periodic replacement of a portion of the textbooks, assessment materials, and technology equipment; and (2) 1% annual increases in ongoing operating expenses.

The bill also authorizes MSDE to use nonpublic placement funding for students at Hickey who are in need of intensive special education services. It is assumed that this authorization would increase State spending on nonpublic special education placements, although the level of the increase cannot be reliably estimated at this time.

#### *Department of Juvenile Justice Costs*

In order to accomplish the proposed department name change, DJJ advises that it would need an additional one-time appropriation of \$106,000 in fiscal 2004 to alter signs, letterhead, business cards, and the department web site. This amount would be needed whether or not MSDE takes over educational programming at Hickey.

Assuming funding for MSDE to take over educational programming at Hickey is included in the fiscal 2005 State budget, DJJ's budget for the Hickey School contract would be reduced by \$1.9 million, the amount that YSI currently collects for the provision of educational services at Hickey. This reduction would partially offset the increase in MSDE's budget.

The two new detention centers that the bill authorizes DJJ to establish and operate, the Lower Eastern Shore Children's Center and the Western Maryland Children's Center, are scheduled to be opened for operation in 2003 or 2004. Funding for the centers is included in the fiscal 2004 State budget and therefore there are no additional costs associated with granting DJJ the authority to operate the programs.

The impact of House Bill 860, including MSDE and DJJ costs and the reduction in the Hickey contract, is shown in **Exhibit 1**.

**Exhibit 1**  
**Cost of House Bill 860**  
**Fiscal 2004 to 2008**  
**(\$ in Thousands)**

	<u>FY 2004</u>	<u>FY 2005</u>	<u>FY 2006</u>	<u>FY 2007</u>	<u>FY 2008</u>
MSDE*	\$164	\$5,748	\$3,863	\$4,084	\$4,373
DJJ	106	0	0	0	0
Reduction in Hickey Contract*	0	(1,900)	(1,900)	(1,900)	(1,900)
<b>Total Cost</b>	<b>\$270</b>	<b>\$3,848</b>	<b>\$1,963</b>	<b>\$2,184</b>	<b>\$2,473</b>

\*Contingent on the inclusion of funding in the fiscal 2005 State budget for MSDE to assume control of educational programs at Hickey.

**Additional Comments:** MSDE has composed a tentative fiscal 2005 budget of \$7.5 million for it to enact the takeover proposed in this bill, a budget approximately \$1.7 million higher than the Department of Legislative Services (DLS) estimate used for this fiscal note. A portion of the difference between MSDE's budget and projections computed by DLS are based on different assumptions about the number of students who will be served at Hickey. MSDE assumes a student count at Hickey of 325, but DLS uses 270, which is the average daily population at Hickey. The higher student count used by MSDE to compute its budget affects staffing levels, ongoing expense estimates, and initial start-up expenses. In addition, DLS made some adjustments to the MSDE budget. For example, DLS assumes that the number of specialized school personnel (media specialists, counselors, curriculum coordinators, etc.) and school-based support staff could be reduced somewhat without negatively impacting the educational program at Hickey. DLS also reduced the budgeted amounts for some recurring and one-time costs.

Although the comparison is not precise, studies conducted for the Thornton Commission in 2001 attempted to estimate the funding that would be needed to adequately educate different categories of students. The fiscal 2004 adequacy level for a student with no supplemental needs is approximately \$6,300. It could be argued, however, that the per pupil amount should be increased to include funding during the summer months since, unlike regular public schools, the educational program at Hickey operates throughout the year. If the amount per student is annualized, the fiscal 2004 adequate per pupil figure is

approximately \$7,850. By comparison, the estimated adequacy cost for students with the highest needs, special education students, was estimated by the Thornton Commission at \$13,600, or \$17,000 if it is annualized. Ongoing expenses identified in the fiscal note provide roughly \$13,400 per pupil under the DLS estimate or \$14,700 per pupil using the MSDE estimates for enrollment and ongoing costs.

In facilities operated by DJJ, fiscal 2004 education funding per pupil is estimated at nearly \$11,000. The current YSI contract includes roughly \$7,300 per pupil. In Maryland's public schools, estimated fiscal 2003 revenues per pupil – including federal, State, and local funding – total approximately \$8,800. Over the next five fiscal years, the State is scheduled to provide significant increases to its funding for public schools in Maryland through formulas modeled on the Thornton adequacy analyses.

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### **Additional Information**

**Prior Introductions:** HB 1388 of 2002 would have required MSDE to assume control of the education mission at Hickey. The bill was withdrawn. In 2001, HB 532 would have required MSDE to provide the educational services in all facilities operated by DJJ. The bill was not reported out of the House Ways and Means Committee.

**Cross File:** SB 390 (The President, *et al.*) – Finance.

**Information Source(s):** Department of Juvenile Justice, Maryland State Department of Education, Department of Legislative Services

**Fiscal Note History:** First Reader - February 13, 2003  
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