

Chapter 604

(House Bill 840)

AN ACT concerning

Children, Youth, and Families – Services to Children with Special Needs

FOR the purpose of altering a certain State policy relating to children and families; altering the membership of local management boards; altering the membership and chairmanship of the State Coordinating Council for Children; altering the duties of the Council; renaming local coordinating councils to be local care teams; altering the membership of local care teams; altering the duties of local care teams; providing for the administration of local care teams; providing for compensation for certain members of local care teams; altering and repealing certain definitions; defining certain terms; making certain conforming changes; and generally relating to services to children with special needs.

BY repealing and reenacting, with amendments,

Article – Human Services

Section 8–101, 8–102, 8–302, 8–402, 8–403, 8–404, 8–405, 8–406, 8–408, and 8–409

Annotated Code of Maryland

(2007 Volume and 2010 Supplement)

BY repealing

Article – Human Services

Section 8–407

Annotated Code of Maryland

(2007 Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,

Article – Family Law

Section 5–525(b)

Annotated Code of Maryland

(2006 Replacement Volume and 2010 Supplement)

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

Article – Human Services

8–101.

(a) In this title the following words have the meanings indicated.

(b) (1) “Child in need of out-of-state placement” means a child who is recommended by a [unit represented on the local coordinating council] **PUBLIC AGENCY** for out-of-home placement outside of the State.

(2) “Child in need of out-of-state placement” does not include a child:

(I) placed in foster care, as defined in § 5-501 of the Family Law Article; **OR**

(II) **WHO IS IN A HOSPITAL FOR 30 CONTINUOUS DAYS OR LESS.**

(c) [“Child in need of residential placement” means a child:

(1) who is recommended by a member of the local coordinating council for residential placement;

(2) on whose behalf the member of the local coordinating council seeks State funding for the placement; and

(3) who a unit represented on the local coordinating council has determined meets eligibility criteria for a State-funded placement.

(d) [“Child with intensive needs” means a child who has behavioral, educational, developmental, or mental health needs that cannot be met through available public agency resources because:

(1) the child’s needs exceed the resources of a single public agency; **[and] OR**

(2) there is no legally mandated funding source to meet the child’s needs.

[(e) (D) “Core service agency” means the designated county or multicounty authority that is responsible for planning, managing, and monitoring publicly funded mental health services as provided under Title 10, Subtitle 12 of the Health – General Article.

[(f) (E) “Council” means the State Coordinating Council for Children.

[(g) (F) “Executive Director” means the Executive Director of the Governor’s Office for Children.

(G) (1) “FAMILY” MEANS AN ELIGIBLE CHILD’S NATURAL, ADOPTIVE, OR FOSTER PARENTS.

(2) “FAMILY” INCLUDES:

(I) A GUARDIAN;

(II) A PERSON ACTING AS A PARENT OF A CHILD; AND

(III) A RELATIVE OR STEPPARENT WITH WHOM A CHILD LIVES.

(h) [“Lead agency” means the local government unit identified by federal or State law or by the local coordinating council as responsible for the oversight and implementation of a plan of care for a child in need of residential placement or a child with intensive needs.] **“HOSPITAL” HAS THE MEANING STATED IN § 19–301 OF THE HEALTH – GENERAL ARTICLE.**

(i) [“Local coordinating council” means a local council that coordinates services for children in need of residential placement and children with intensive needs.

(j)] “Local management board” means an entity established or designated by a county under Subtitle 3 of this title to ensure the implementation of a local, interagency service delivery system for children, youth, and families.

[(k)] (J) “Office” means the Governor’s Office for Children.

[(l)] (K) “Public agency” means a State or local government unit or a quasi-governmental entity.

[(m)] (L) (1) “Residential child care program” means an entity that provides 24-hour per day care for children within a structured set of services and activities that are designed to achieve specific objectives relative to the needs of the children served and that include the provision of food, clothing, shelter, education, social services, health, mental health, recreation, or any combination of these services and activities.

(2) “Residential child care program” includes a program:

(i) licensed by:

1. the Department of Health and Mental Hygiene;

2. the Department of Human Resources; or

3. the Department of Juvenile Services; and

(ii) that is subject to the licensing regulations of the members of the Children's Cabinet governing the operations of residential child care programs.

[(n) (1) "Residential placement" means a placement in:

(i) a hospital, under circumstances described in Children's Cabinet regulations;

(ii) a residential treatment center;

(iii) a residential school; or

(iv) another out-of-home placement as specified in Children's Cabinet regulations.

(2) "Residential placement" does not include a placement in:

(i) a facility established under § 9-226 of this article; or

(ii) foster care, as defined in § 5-501 of the Family Law Article.]

8-102.

(A) It is the policy of the State to promote a stable, safe, and healthy environment for children and families **THAT PROVIDES ACCESS TO NECESSARY SERVICES AND SUPPORTS IN THE LEAST RESTRICTIVE, MOST APPROPRIATE, AND MOST EFFECTIVE ENVIRONMENT POSSIBLE**, thereby increasing self-sufficiency and family preservation[.].

(B) THIS POLICY SHALL BE ACHIEVED through a comprehensive and coordinated interagency approach that:

(1) IS FAMILY-DRIVEN, CHILD-GUIDED, HOME- AND COMMUNITY-BASED, CULTURALLY AND LINGUISTICALLY COMPETENT, INDIVIDUALIZED, AND EFFECTIVE;

(2) provides a continuum of care [that is family- and child-oriented and emphasizes], **OPPORTUNITIES, AND SUPPORTS THAT EMPHASIZE** prevention, early intervention, and community-based services, **AS WELL AS NATURAL SUPPORTS;** [and]

[(2)] (3) gives priority to children and families most at risk; **AND**

(4) ENGAGES AND EMPOWERS FAMILIES AND CHILDREN SO THAT, TO THE EXTENT POSSIBLE, THEY WILL BE WELL-REPRESENTED IN EVERY FACET OF THE CHILD-FAMILY SERVING SYSTEM AND PARTNERS IN THEIR OWN CARE PLANNING.

8-302.

A local management board may be composed of:

(1) public and private community representatives who share the responsibility for implementing a community-based, interagency, family-focused service delivery system for children, youth, and families; [and]

(2) a senior representative or department head of the:

(i) local health department;

(ii) local office of the Department of Juvenile Services;

(iii) core service agency;

(iv) local school system; and

(v) local department of social services;

(3) FAMILY MEMBERS OR FAMILY ADVOCATES; AND

(4) YOUTH OR YOUTH ADVOCATES.

8-402.

(A) The Council consists of the following members:

(1) the Executive Director of the Governor's Office for Children, or the Executive Director's designee;

[(2) the Secretary of Budget and Management, or the Secretary's designee;

(3) the Secretary of Disabilities, or the Secretary's designee;]

[(4)] **(2)** the Secretary of Juvenile Services, or the Secretary's designee;

[(5)] (3) the Secretary of Health and Mental Hygiene, or the Secretary's designee;

[(6)] (4) the Secretary of Human Resources, or the Secretary's designee; AND

[(7)] (5) the State Superintendent of Schools, or the Superintendent's designee[; and

(8) a parent, parent advocate, or both, appointed by the Governor].

(B) THE SECRETARY OF BUDGET AND MANAGEMENT, OR THE SECRETARY'S DESIGNEE, SHALL SERVE AS A NONVOTING EX OFFICIO COUNCIL MEMBER.

(C) THE SECRETARY OF DISABILITIES, OR THE SECRETARY'S DESIGNEE, SHALL SERVE AS A NONVOTING EX OFFICIO COUNCIL MEMBER.

(D) THE CHILDREN'S CABINET SHALL DESIGNATE UP TO THREE INDIVIDUALS TO SERVE ON THE COUNCIL ON A ROTATING BASIS TO REPRESENT EACH OF THE FOLLOWING STAKEHOLDER GROUPS:

(1) FAMILY MEMBERS OR FAMILY ADVOCATES; AND

(2) YOUTH OR YOUTH ADVOCATES.

8-403.

(a) (1) The office of chair of the Council shall rotate annually among the members of the Council **APPOINTED UNDER § 8-402(A) OF THIS SUBTITLE, IN THE ORDER LISTED IN THAT SUBSECTION.**

(2) The term of the chair is 1 year.

[(3) A member from a unit represented on the Council may not serve as chair more than once every 5 years.]

(b) The Office shall provide staff support for the Council.

8-404.

[(a)] The Council shall **ADDRESS THE POPULATION OF CHILDREN WHO ARE IN OUT-OF-STATE PLACEMENTS OR ARE RECOMMENDED FOR OUT-OF-STATE PLACEMENTS, INCLUDING:**

- (1) [establish and oversee the local coordinating council in each county;
- (2) develop procedures for the operation of local coordinating councils;
- (3) review periodically the procedures of local coordinating councils for making decisions on residential placement for children in need of residential placement;
- (4) review] **REVIEWING** recommendations for State funding of the individual placement of a child in need of out-of-state placement;
- [(5) monitor local coordinating councils to ensure that the local coordinating councils consider all alternatives for the provision of services to children and their families in the community;
- (6) establish and maintain a multiple unit information system to ensure accountability and provide State service planning capability;
- (7) (2) [coordinate evaluations of] **COORDINATING THE MONITORING OF OUT-OF-STATE** residential facilities for children as required by statute;
- (3) **TRACKING THE TYPES, COSTS, AND EFFECTIVENESS OF SERVICES REQUIRED TO MEET THE NEEDS OF CHILDREN WHO ARE RECOMMENDED FOR OUT-OF-STATE PLACEMENTS;**
- (4) **PROVIDING TRAINING AND TECHNICAL ASSISTANCE TO LOCAL AGENCY AND COMMUNITY PARTNERS;**
- [(8) (5) [make] **MAKING** recommendations to the appropriate secretary on the development of regulations to carry out this subtitle; and
- [(9) (6) [perform] **PERFORMING** other related activities that the Children's Cabinet identifies.

[(b) The Council shall:

- (1) plan and coordinate with the local coordinating councils:
- (i) multiple unit services to children in need of residential placement; and

(ii) enhanced services to children with intensive needs, subject to the availability of funding and in accordance with a plan developed by the Children's Cabinet; and

(2) in cooperation with the local coordinating councils, monitor services provided to children placed in residential placements.]

8-405.

There is a local [coordinating council] **CARE TEAM** in each county.

8-406.

(a) Each local [coordinating council] **CARE TEAM** shall include:

(1) at least one representative from:

(i) the Department of Juvenile Services;

(ii) the Developmental Disabilities Administration;

(iii) the Alcohol and Drug Abuse Administration;

(iv) the Mental Hygiene Administration or the local core service agency;

(v) the local [board of education] **SCHOOL SYSTEM**;

(vi) the local health department;

(vii) the local department of social services; and

(viii) the local management board;

(2) a parent, parent advocate, or both, appointed by the chair of the local [coordinating council] **CARE TEAM** in consultation with the child advocacy community; and

(3) a nonvoting representative of the local office of the division of rehabilitative services to represent individuals who are 16 years old and older.

(b) [The Council] **EACH LOCAL CARE TEAM** shall establish the terms of [the] **ITS** members [of the local coordinating councils].

(c) Each local [coordinating council] CARE TEAM shall select its chair from among its members for a designated term of office.

~~(D) THE ADMINISTRATIVE FUNCTIONS OF EACH CARE TEAM SHALL ROTATE AMONG ITS MEMBERS~~ EACH LOCAL CARE TEAM:

(1) SHALL DETERMINE WHICH OF ITS MEMBERS WILL HAVE RESPONSIBILITY FOR ITS ADMINISTRATIVE FUNCTIONS; AND

(2) IF TWO OR MORE MEMBERS WILL SHARE THE RESPONSIBILITY, SHALL DETERMINE THE ROTATION OF THE ADMINISTRATIVE FUNCTIONS.

(E) SUBJECT TO THE AVAILABILITY OF FUNDS, A PARENT OR PARENT ADVOCATE WHO IS A MEMBER OF A LOCAL CARE TEAM MAY RECEIVE:

(1) THE COMPENSATION PROVIDED IN THE STATE OR LOCAL BUDGET; AND

(2) REIMBURSEMENT FOR EXPENSES, IN ACCORDANCE WITH THE STANDARD STATE TRAVEL REGULATIONS.

[8-407.

(a) (1) A local coordinating council shall be part of the local management board for administrative and budgetary purposes.

(2) The local coordinating council shall be independent of the local management board in its decisions regarding individual plans of care for children and policy recommendations regarding services to children.

(b) Subject to the availability of funding, the local management board shall provide administrative staff and support to the local coordinating council.]

[8-408.] ~~8-407.~~

[(a)] A local [coordinating council] CARE TEAM shall:

[(1) accept placement referrals from the units represented on the local coordinating council;

(2) review recommendations for the residential placement of children referred to the local coordinating council in accordance with subsection (b) of this section;

(3) provide an interagency plan of care for residential placement or appropriate, alternative, community-based services for a child;

(4) consistent with regulations adopted by the Children's Cabinet, submit recommended plans of care to the Council; and

(5) assist the unit primarily responsible for a child's care in implementing and monitoring the residential placement of the child.]

(1) BE A FORUM FOR:

(I) FAMILIES OF CHILDREN WITH INTENSIVE NEEDS TO RECEIVE ASSISTANCE WITH THE IDENTIFICATION OF INDIVIDUAL NEEDS AND POTENTIAL RESOURCES TO MEET IDENTIFIED NEEDS; AND

(II) INTERAGENCY DISCUSSIONS AND PROBLEM SOLVING FOR INDIVIDUAL CHILD AND FAMILY NEEDS AND SYSTEMIC NEEDS;

(2) REFER CHILDREN AND FAMILIES TO:

(I) CARE MANAGEMENT ENTITIES WHEN APPROPRIATE;
AND

(II) AVAILABLE LOCAL AND COMMUNITY RESOURCES;

(3) PROVIDE TRAINING AND TECHNICAL ASSISTANCE TO LOCAL AGENCY AND COMMUNITY PARTNERS;

(4) IDENTIFY AND SHARE RESOURCE DEVELOPMENT NEEDS AND COMMUNICATE WITH THE CARE MANAGEMENT ENTITY, LOCAL CORE SERVICE AGENCIES, PROVIDER NETWORKS, LOCAL MANAGEMENT BOARDS, AND OTHER LOCAL CARE TEAMS IN SURROUNDING JURISDICTIONS; AND

(5) DISCUSS A REQUEST FOR A VOLUNTARY PLACEMENT AGREEMENT FOR A CHILD WITH A DEVELOPMENTAL DISABILITY OR A MENTAL ILLNESS UNDER § 5-525 OF THE FAMILY LAW ARTICLE.

[(b) A local coordinating council shall:

(1) review residential placements recommended in accordance with the federal Individuals with Disabilities Education Act or federal Medicaid requirements, to provide technical assistance to the lead agency regarding the availability of community-based resources to serve the child in the least restrictive environment determined to be appropriate by the lead agency;

(2) review and approve other recommended residential placements; and

(3) review recommended out-of-state placements and refer the recommendations to the Council.

(c) Consistent with applicable federal and State laws, the Council and the local coordinating council shall develop and implement plans of care for the residential placement of children in need of residential placement and children in need of out-of-state placement.]

[8-409.] 8-408.

(a) A parent or guardian of a child and the child's attorney may attend any meeting of the Council or the local [coordinating council] **CARE TEAM** at which the child's [residential] ~~OUT-OF-STATE placement~~ CARE is discussed.

(b) At least 10 days before the meeting, the Council or local [coordinating council] **CARE TEAM** shall notify each parent or guardian of the child and the child's attorney of the date, time, and location of any meeting the Council or the local [coordinating council] **CARE TEAM** plans to hold to discuss the child's [residential] ~~OUT-OF-STATE~~ placement.

(c) The Council or the local [coordinating council] **CARE TEAM** shall notify each parent or guardian of the child and the child's attorney in writing of:

(1) any decision the Council or local [coordinating council] **CARE TEAM** makes concerning the child's [residential] ~~OUT-OF-STATE~~ placement; and

(2) the right of the parent, guardian, or attorney to appeal a decision made by the Council or the local [coordinating council] **CARE TEAM** concerning the child's [residential] ~~OUT-OF-STATE~~ placement.

Article – Family Law

5-525.

(b) (1) The Administration shall establish a program of out-of-home placement for minor children:

(i) who are placed in the custody of a local department, for a period of not more than 180 days, by a parent or legal guardian under a voluntary placement agreement;

(ii) who are abused, abandoned, neglected, or dependent, if a juvenile court:

1. has determined that continued residence in the child's home is contrary to the child's welfare; and

2. has committed the child to the custody or guardianship of a local department; or

(iii) who, with the approval of the Administration, are placed in an out-of-home placement by a local department under a voluntary placement agreement subject to paragraph (2) of this subsection.

(2) (i) A local department may not seek legal custody of a child under a voluntary placement agreement if the child has a developmental disability or a mental illness and the purpose of the voluntary placement agreement is to obtain treatment or care related to the child's disability that the parent is unable to provide.

(ii) A child described in subparagraph (i) of this paragraph may remain in an out-of-home placement under a voluntary placement agreement for more than 180 days if the child's disability necessitates care or treatment in the out-of-home placement and a juvenile court makes a finding that continuation of the placement is in the best interests of the child.

(iii) Each local department shall designate, from existing staff, a staff person to administer requests for voluntary placement agreements for children with developmental disabilities or mental illnesses.

(iv) Each local department shall report annually to the Administration on the number of requests for voluntary placement agreements for children with developmental disabilities or mental illnesses that have been received, the outcome of each request, and the reason for each denial.

(v) On receipt of a request for a voluntary placement agreement for a child with a developmental disability or a mental illness, a local department shall discuss the child's case at the next meeting of the local [coordinating council] CARE TEAM for the purpose of determining whether any alternative or interim services for the child and family may be provided by any agency.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2011.

Approved by the Governor, May 19, 2011.