

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 832

(Senator Ferguson)

Judicial Proceedings

Health and Government Operations

Child Care - Dispute Resolution

This bill establishes a dispute resolution workgroup in the Maryland State Department of Education (MSDE). The workgroup must make recommendations to the State Superintendent regarding rules and regulations to establish a uniform and timely dispute resolution process to resolve claims of discrimination by a child care provider based on a child's disability.

Fiscal Summary

State Effect: MSDE can handle the bill's requirements using existing budgeted resources.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The dispute resolution process must address the needs of children and their families to obtain and keep child care, and may include (1) voluntary mediation; (2) a fact finder with authority to make determinations and recommendations consistent with the Americans with Disabilities Act; (3) a process for child care providers to access training and technical assistance; and (4) referral of claims of discrimination to the U.S. Department of Justice or other appropriate agency with jurisdiction over the child care provider.

Current Law: The State Superintendent of MSDE is responsible for adopting rules and regulations for licensing and operating child care centers. Child care centers are

agencies, institutions, or establishments that, for part or all of a day or on a 24-hour basis on a regular schedule and at least twice a week, offer or provide child care to children who do not have the same parentage except as otherwise provided by law or regulation. Among other requirements specified in statute, the rules and regulations must ensure the health of children in child care centers by monitoring the care of infants and children with special needs. The Licensing Branch of the Office of Child Care within MSDE monitors program compliance and investigates complaints.

Background: Since 1992, the Americans with Disabilities Act has prohibited discrimination on the basis of disabilities within child care programs. Child care centers must make reasonable modifications in their policies, practices, and procedures in order to accommodate the child with a disability unless the modification would fundamentally alter the nature of the program.

Despite these requirements, the Maryland Developmental Disabilities Council has indicated that quality and inclusive child care remain inaccessible to many children with disabilities and their families. The council conducted two surveys in August and September 2011 regarding access to child care. Approximately 450 families and 480 child care providers responded, and a report was prepared in 2012 with the findings. According to the report, *Barriers to Quality Child Care and Out of School Time Activities in Maryland*, 75% of complaints about a child care provider not providing the services, supports, or accommodations a child needed were not resolved. One of the recommendations within the report was to establish a dispute resolution process to investigate and address discrimination complaints against child care providers. The Council and the Maryland Disability Law Center advise that the only remedy available to families who have a discrimination complaint under these circumstances is to file a complaint with the Office of Civil Rights in the U.S. Department of Justice. Due to the backlog of complaints, the office is not able to investigate the complaints in a timely manner.

Additional Information

Prior Introductions: None.

Cross File: HB 932 (Delegate Luedtke, *et al.*) - Health and Government Operations.

Information Source(s): Maryland State Department of Education, Maryland Developmental Disabilities Council, Maryland Disability Law Center, Department of Legislative Services

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