

# SENATE BILL 120

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(PRE-FILED)

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By: **Chair, Education, Health, and Environmental Affairs Committee (By Request – Departmental – Education)**

Requested: November 5, 2013

Introduced and read first time: January 8, 2014

Assigned to: Education, Health, and Environmental Affairs

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## A BILL ENTITLED

1 AN ACT concerning

2 **Education – Children With Disabilities – Parent Surrogates**

3 FOR the purpose of adding the Department of Labor, Licensing, and Regulation and  
4 the Department of Public Safety and Correctional Services to the list of public  
5 agencies required to request a local school system superintendent to appoint a  
6 parent surrogate to represent a child at any point in the educational decision  
7 making process if it is suspected that the child may be disabled; and generally  
8 relating to education and the appointment of parent surrogates for children  
9 with disabilities.

10 BY repealing and reenacting, with amendments,  
11 Article – Education  
12 Section 8–412(a)  
13 Annotated Code of Maryland  
14 (2008 Replacement Volume and 2013 Supplement)

15 BY repealing and reenacting, without amendments,  
16 Article – Education  
17 Section 8–412(b) and (c)  
18 Annotated Code of Maryland  
19 (2008 Replacement Volume and 2013 Supplement)

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

22 **Article – Education**

23 8–412.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (a) (1) In this section the following words have the meanings indicated.

2 (2) “Child” means an individual who is eligible to receive education  
3 services in accordance with the Individuals with Disabilities Education Act and  
4 applicable State law and regulation.

5 (3) “Educational decision making process” means all procedures  
6 relating to the identification, evaluation, or educational placement of a child and the  
7 provision of a free appropriate public education, including the appeal procedures  
8 provided for by § 8–413 of this subtitle.

9 (4) “Local school superintendent” means the school system  
10 superintendent or the administrative head in charge of a public agency as defined in  
11 paragraph (7) of this subsection that provides educational services to children.

12 (5) (i) “Parent” means:

13 1. A child’s natural parents;

14 2. A child’s adoptive parents;

15 3. A guardian;

16 4. A person acting as a parent of a child such as a  
17 relative or a stepparent with whom a child lives;

18 5. A foster parent with whom a child lives if the foster  
19 parent has been granted limited guardianship for educational decision making  
20 purposes by the court that has placed the child in foster care; or

21 6. Any other individual who is legally responsible for a  
22 child’s welfare.

23 (ii) “Parent” does not include a social worker or other employee  
24 of a public agency who is responsible for the education or care of the child.

25 (6) “Parent surrogate” means a person who is appointed by the local  
26 school superintendent to act in place of a parent of a child in the educational decision  
27 making process.

28 (7) **(I)** “Public agency” includes the State Department of Education,  
29 local education agencies, and other agencies that are responsible for providing  
30 education to a child with a disability, including the Department of Health and Mental  
31 Hygiene, Mental Hygiene Administration, the Developmental Disabilities  
32 Administration, the Department of Juvenile Services, [and] the Maryland School for  
33 the Deaf, **THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION, AND**  
34 **THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES.**

1                   **(II)** For the purpose of this section, the Maryland School for the  
2 Blind shall be considered a public agency.

3                   (8) “Unaccompanied homeless youth” means a homeless youth, as  
4 defined by the McKinney–Vento Homeless Assistance Act, who is not in the physical  
5 custody of a parent or guardian.

6                   (9) “Unavailable” means that a public agency, after reasonable efforts,  
7 cannot discover the physical whereabouts of a child’s parent.

8                   (10) “Unknown” means that a public agency, after reasonable efforts,  
9 cannot identify the child’s parent.

10                  (11) “Ward of the State” means a child for whom a State or county  
11 agency or official has been appointed legal guardian, or who has been committed by a  
12 court of competent jurisdiction to the legal custody of a State or county agency or  
13 official with the express authorization that the State or county agency or official make  
14 educational decisions for the child.

15                  (b) Public agency personnel shall request that the local school  
16 superintendent appoint a parent surrogate to represent a child at any point in the  
17 educational decision making process if it is suspected that the child may be disabled  
18 and if:

19                   (1) The child is a ward of the State;

20                   (2) The child is an unaccompanied homeless youth; or

21                   (3) (i) The parents of the child are unknown or unavailable; and

22                                 (ii) The child’s rights have not been transferred in accordance  
23 with § 8–412.1 of this subtitle.

24                  (c) Any request to the local school superintendent for the appointment of a  
25 parent surrogate under subsection (b) of this section shall include:

26                   (1) The name, date of birth, sex, legal domicile, and present residence  
27 of the child;

28                   (2) A statement that the child is eligible for the appointment of a  
29 parent surrogate in accordance with subsection (b) of this section;

30                   (3) Documentation, as applicable, of the efforts made to identify the  
31 parent if unknown or to locate the parent if unavailable; and

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1                   (4)    The name and qualifications of the proposed parent surrogate  
2   whom the public agency considers to be qualified to represent the child in the  
3   educational decision making process.

4                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
5   July 1, 2014.