

SENATE BILL 120

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4lr0091

(PRE-FILED)

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

Committee Report: Favorable

Senate action: Adopted

Read second time: January 21, 2014

Senate action: Recommitted to Committee, January 23, 2014

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 4, 2014

CHAPTER _____

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; requiring that,
 8 for purposes of a request for appointment of a parent surrogate, efforts to
 9 identify certain parents be made over a certain period of time and that
 10 documentation of those efforts include certain searches and letters sent by
 11 certified mail; and generally relating to education and the appointment of
 12 parent surrogates for children with disabilities.

13 BY repealing and reenacting, with amendments,
 14 Article – Education
 15 Section 8-412(a)
 16 Annotated Code of Maryland
 17 (2008 Replacement Volume and 2013 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 BY repealing and reenacting, without amendments,
2 Article – Education
3 Section 8–412(b) and (c)
4 Annotated Code of Maryland
5 (2008 Replacement Volume and 2013 Supplement)

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

8 **Article – Education**

9 8–412.

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

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

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

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

21 (5) (i) “Parent” means:

22 1. A child’s natural parents;

23 2. A child’s adoptive parents;

24 3. A guardian;

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

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

30 6. Any other individual who is legally responsible for a
31 child’s welfare.

1 (ii) "Parent" does not include a social worker or other employee
2 of a public agency who is responsible for the education or care of the child.

3 (6) "Parent surrogate" means a person who is appointed by the local
4 school superintendent to act in place of a parent of a child in the educational decision
5 making process.

6 (7) (I) "Public agency" includes the State Department of Education,
7 local education agencies, and other agencies that are responsible for providing
8 education to a child with a disability, including the Department of Health and Mental
9 Hygiene, Mental Hygiene Administration, the Developmental Disabilities
10 Administration, the Department of Juvenile Services, [and] the Maryland School for
11 the Deaf, **THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION, AND**
12 **THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES.**

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

15 (8) "Unaccompanied homeless youth" means a homeless youth, as
16 defined by the McKinney–Vento Homeless Assistance Act, who is not in the physical
17 custody of a parent or guardian.

18 (9) "Unavailable" means that a public agency, after reasonable efforts,
19 cannot discover the physical whereabouts of a child's parent.

20 (10) "Unknown" means that a public agency, after reasonable efforts,
21 cannot identify the child's parent.

22 (11) "Ward of the State" means a child for whom a State or county
23 agency or official has been appointed legal guardian, or who has been committed by a
24 court of competent jurisdiction to the legal custody of a State or county agency or
25 official with the express authorization that the State or county agency or official make
26 educational decisions for the child.

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

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

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

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

34 (ii) The child's rights have not been transferred in accordance
35 with § 8–412.1 of this subtitle.

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

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

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

7 (3) Documentation, as applicable, of the efforts made **OVER THE**
8 **COURSE OF 15 BUSINESS DAYS** to identify the parent if unknown or to locate the
9 parent if unavailable **THAT INCLUDE, AT A MINIMUM:**

10 (I) **A SEARCH OF TELEPHONE DIRECTORIES; AND**

11 (II) **LETTERS SENT BY CERTIFIED MAIL;** and

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

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

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.