

Department of Legislative Services
Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
Third Reader

Senate Bill 127

(Senator Simonaire)

Education, Health, and Environmental Affairs

Ways and Means

Education - Public School Attendance - Homeless Children

This bill updates references to federal law regarding school stability for children who are homeless or not in stable living arrangements to reflect changes in the federal Every Student Succeeds Act (ESSA) and the federal McKinney-Vento Homeless Assistance Act. **The bill takes effect July 1, 2019.**

Fiscal Summary

State Effect: The bill codifies current practice and aligns with federal requirements. Revenues and expenditures of State agencies responsible for placing children under State-supervised care are not affected.

Local Effect: None. The bill codifies current practice by local school systems and aligns with federal requirements.

Small Business Effect: None.

Analysis

Bill Summary: Specifically, the bill repeals the requirement that a child must be allowed to remain at the school the child is attending, regardless of where the child is domiciled, if the child is not subject to the educational stability provision of the federal McKinney-Vento Homeless Assistance Act (McKinney-Vento Act) as a *child awaiting foster care placement*. The bill also adds references in State law to the educational stability provision of ESSA.

Current Law: In general, each child must attend a public school in the county where the child is domiciled with his or her parent, guardian, or relative providing informal kinship care. Upon request and in accordance with a local board's policies concerning residency, a local superintendent may allow a child to attend school in the county even if the child is not domiciled in that county with the child's parent or guardian. Unique hardship circumstances, childcare needs, programming purposes, and relief of school overcrowding are among the local exceptions to required pupil attendance within designated attendance areas.

In addition, there are certain circumstances when a local superintendent must, according to State law, allow a child to remain at the school that the child is attending regardless of where the child is domiciled. Specifically, a child who is in the custody of, committed to, or otherwise placed by a local department of social services or the Department of Juvenile Services (DJS) and is subject to the educational stability provisions of the federal Fostering Connections to Success and Increasing Adoptions Act of 2008 (Fostering Connections Act) must be allowed to remain at the school the child is attending, regardless of where the child is domiciled, if the local department of social services or DJS determines, in consultation with the local school system, that it is in the best interests of the child to continue at the school.

This requirement, to allow a child to remain at the school that the child is attending regardless of where the child is domiciled, does not apply to a child who is subject to the educational stability provisions of the federal McKinney-Vento Homeless Assistance Act as a child awaiting foster care placement as defined by Maryland State Department of Education (MSDE) regulations or a child who is in any of the following placements:

- a detention facility;
- a forestry camp;
- a training school;
- any State owned and operated facility accommodating more than 25 children; or
- any other facility operated primarily for the purpose of detaining children who are determined to be delinquent.

The local department of social services or DJS must pay for the cost of transporting the child covered by this requirement to and from school.

A school that will be receiving a child who is in State-supervised care must be notified by the agency placing the child. The school that will be receiving the child must request, in writing, the child's educational records from the child's most recent school, and provide a copy of the request to the child or the adult responsible for the child. The school the child

is transferring from must immediately inform the receiving school of the child's grade level and educational status, and must send the child's educational record within three days.

Background: Provisions of two federal laws, the ESSA and the McKinney-Vento Act, were recently changed to better serve and protect children in foster care in regard to school stability. Under these changes to federal law, children awaiting foster care placement must be served under ESSA rather than the McKinney-Vento Act. To that end, "awaiting foster care placement" was removed from the definition of "homeless" for purposes of the McKinney-Vento Act. This change took effect December 10, 2017, for states that have defined the term "awaiting foster care placement" in statute or regulation, including Maryland.

Under ESSA, state education agencies must include in their state plans the steps the agencies will take to ensure, in collaboration with the state child welfare agencies, school stability for youth in care including assurances that children enroll or remain in their "school of origin" unless a determination is made that it is not in their best interest. Federal law already required state and local child welfare agencies to collaborate with state and local education agencies to ensure school stability when it is in the child's best interest; ESSA created reciprocal obligations on education agencies.

If a school change is in the best interest of the child in foster care, then under ESSA, a state plan must include steps to enroll the child immediately in a new school even if the child cannot produce normally required enrollment documents and school records. Additionally, enrolling schools must immediately contact the school last attended by the child to obtain relevant academic and other education records. To remain in the same school, some students in foster care need transportation. Under ESSA, local education and child welfare agencies must collaborate, and the education agencies must include in their local plans assurances that transportation for these students will be addressed.

After passage of ESSA, MSDE collaborated with the Maryland Department of Human Services, the Maryland Department of Juvenile Services, and the Attorney General's office to create a model agreement that addressed the requirements of the ESSA in this area. The model agreement was designed to assist local school systems in establishing policies and procedures with their local departments of social services. Each Maryland local school system has signed a Memorandum of Agreement regarding the requirements of the ESSA.

MSDE advises that there are no substantive changes to the statute, which ensures that in certain circumstances students may attend school in a county, even if the child is not living with the child's parent, guardian, or relative providing kinship care.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland State Department of Education; Department of Juvenile Services; Montgomery County Public Schools; U.S. Department of Education; U.S. Department of Health and Human Services; Foster Ed; Legal Center for Foster Care and Education; Department of Legislative Services

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