

Department of Legislative Services
 Maryland General Assembly
 2020 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 798 (Senator Kelley)
 Education, Health, and Environmental Affairs

Education - Juvenile Services Education System - Establishment, Powers, and Duties

This bill repeals statutory provisions regarding the Juvenile Services Education Program within the Maryland State Department of Education (MSDE) and instead establishes a Board of Education for the Juvenile Services Education (JSE) System to oversee and provide for educational services to all juveniles who are in the custody of the Department of Juvenile Services (DJS). Beginning July 1, 2021, the board has the authority and responsibility for all functions relating to JSE programs in the State and may contract with a local board of education to provide educational services. By December 1, 2020, MSDE must submit to the General Assembly a report detailing plans for the transition of juvenile services educational programs to the board. **The bill takes effect July 1, 2020.**

Fiscal Summary

State Effect: General fund expenditures increase by approximately \$510,000 in FY 2021 to establish the new JSE and decrease beginning in FY 2022 to reflect a transfer of responsibilities from MSDE to the JSE board.

(\$ in millions)	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	0.5	(7.2)	(7.5)	(7.8)	(8.1)
Net Effect	(\$0.5)	\$7.2	\$7.5	\$7.8	\$8.1

Local Effect: Potential increase in revenues and expenditures if a local board of education or community college contracts with the new board to provide educational services to juveniles.

Small Business Effect: None.

Analysis

Bill Summary:

Board of Education for the JSE System

The board consists of 11 members; 9 members are appointed by the Governor with the advice and consent of the Senate and must have a high level of knowledge and expertise in at least one of several specified areas, including teaching, social work, or working with institutionalized youth. Appointed board members serve four-year terms. The board must elect a chair and a vice chair. Each member of the board is entitled to an annual stipend of \$2,500 and reimbursement for expenses under the standard State travel regulations.

The board must develop, recommend, and approve an educational program for each residential facility. Each educational program must meet the specified needs and circumstances of the juveniles in the residential facility and be accredited by an approved accrediting agency. The board must adopt appropriate regulations, as specified.

JSE System Superintendent

The board must appoint a system superintendent who has specified responsibilities, including (1) overseeing JSE, including implementing and administering the educational programs developed by the board; (2) consulting with the Secretary of Juvenile Services and the senior administrator of each residential facility about the operation of educational services for the facility; (3) meeting with and advising the board about educational programs and outcomes for juveniles; and (4) selecting, organizing, and directing the staff of the board and JSE. The superintendent is entitled to the salary provided in the State budget and serves at the pleasure of the board. The superintendent may hire additional staff as provided in the State budget.

Funding for JSE

A local board of education must pay to the board the average cost for each juvenile who was domiciled in the county before placement in a residential facility if the juvenile is in detention for 15 consecutive days or more, does not meet the criteria for shared State and local payment of educational costs, as specified, and was included in the full-time equivalent enrollment of the county, as specified. "Average cost" means the average amount spent by a local board from local and State funds for the public education of a nondisabled child.

MSDE must pay to the board three times the annual per pupil foundation amount for each juvenile who is in a residential facility, is in detention for 15 consecutive days or more, and

does not meet the criteria for shared State and local payment of educational costs, as specified.

JSE Requirements

The board and DJS must work cooperatively to implement the bill's requirements. A juvenile in the custody of DJS who is enrolled in a school at the time the juvenile is taken into custody may not be disenrolled from that school until after disposition of the juvenile's case. The public school in which a juvenile is enrolled must provide the juvenile with the educational materials necessary to remain current with the juvenile's educational program at the school. The JSE superintendent and DJS, in consultation with the board and the local boards, must develop and implement a procedure to transfer a copy of a juvenile's education records from the school in which the juvenile is enrolled to the facility in which the juvenile is placed within 48 hours of notice that the juvenile is receiving services in JSE. The records must include copies of specified materials, including an Individualized Education Program.

The board and DJS, after consultation with the local boards, must develop and implement a procedure for the re-enrollment of a school-aged juvenile in a public or private school before the juvenile is released from the custody of DJS.

The board must develop intake classrooms for juveniles newly placed in residential facilities. The board must also offer postsecondary education programs, including vocational and online programs, to eligible juveniles. The board may contract with a community college or other institution of postsecondary education in the State to provide such programs.

Reporting Requirements

By December 1, 2020, and annually thereafter, the board must submit a report to the State Superintendent, the Governor, and the General Assembly on the aggregate educational outcomes of the educational program for each residential facility.

Board Accountability

The board is subject to audit by the Office of Legislative Audits in the Department of Legislative Services and investigation by the Maryland Office of the Inspector General for Education.

Current Law/Background: MSDE first assumed responsibility for educating juveniles within residential facilities operated by DJS in 2003, when it assumed control over educational programming at one facility. Chapter 535 of 2004 expanded on these efforts

and required MSDE to provide educational services in all of the residential facilities within specified timeframes. By July 1, 2013, MSDE had assumed control of educational programming at all DJS facilities. At the time Chapter 535 was enacted, it was assumed that MSDE, being the overseer of education services for the State, was better positioned to ensure the provision of adequate education services to the population of youth under the care of DJS. However, concerns have been raised questioning whether MSDE is providing the appropriate level of services to students in DJS facilities.

State Expenditures: The Governor's proposed fiscal 2021 budget includes \$23.4 million in funding for the current juvenile education program as operated by MSDE. This includes \$16.9 million in general funds, \$3.5 million in federal funds, and \$2.9 million in reimbursable funds (representing cost reimbursements from local jurisdictions). No change in expenditures associated with this funding is anticipated in fiscal 2021, as MSDE is assumed to continue juvenile education operations until the newly established board assumes control in fiscal 2022.

However, general fund expenditures associated with the newly established board increase by \$509,452 in fiscal 2021. Although the board does not assume oversight (and begin receiving reimbursements from local boards and MSDE) until July 1, 2021, the superintendent and associated staff are necessary in fiscal 2021 to prepare for the assumption of duties over JSE programming. It is assumed that *at a minimum*, staffing needs in fiscal 2021 (in addition to the superintendent) include administrative support, a chief financial officer, a human resources officer, information technology support, and two education specialists. This estimate assumes a December 1, 2020 start date for the superintendent and a January 1, 2021 start date for remaining staff.

It is also assumed that four more staff members (deputy/assistant superintendent, two education specialists, and one administrator) are added in fiscal 2022 to provide additional oversight and administrative support to JSE programming. Beginning in fiscal 2022, MSDE must pay to the board three times the annual per pupil foundation amount, as specified. Based on a projected annual per pupil amount of \$7,484 in fiscal 2022 and assuming an average daily population of 400 juveniles in residential facilities, board funding from MSDE totals \$9.0 million in fiscal 2022. As shown in **Exhibit 1**, general fund expenditures associated with the education of juveniles are anticipated to decrease with the programming structure established by the bill.

Exhibit 1
Juvenile Education General Fund Expenditures
Fiscal 2021-2025

	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>	<u>FY 2025</u>
Projected Annual Per Pupil Funding		\$7,484	\$7,635	\$7,814	\$7,998
Average Daily Population		400	400	400	400
JSE Annual Per Pupil Funding Required by Bill		\$22,452	\$22,905	\$23,442	\$23,994
MSDE reimbursements (Per Pupil Funding)		\$8,980,800	\$9,162,000	\$9,376,800	\$9,597,600
Staffing/Operating Costs for Board	\$509,452	1,293,397	1,304,414	1,347,575	1,392,235
Total Board Expenditures	\$509,452	\$10,274,197	\$10,466,414	\$10,724,375	\$10,989,835
Projected MSDE JSES expenditures (Current Law)		\$17,441,571	\$17,964,818	\$18,503,763	\$19,058,875
Net General Fund Impact	\$509,452	(\$7,167,374)	(\$7,498,404)	(\$7,779,388)	(\$8,069,040)

JSE: Juvenile Services Education
 JSES: Juvenile Services Education System
 MSDE: Maryland State Department of Education

Notes: Assumes average daily population of juveniles of 400. The fiscal 2022-2025 estimate for current law assumes annual 3% growth over fiscal 2021 allocation of \$16,933,564.

Source: Department of Legislative Services

In addition to funding from MSDE reimbursements, local boards must pay to the board the average cost for each juvenile who was included in the enrollment count, as specified. For purposes of this fiscal and policy note, reimbursements from local boards are estimated at \$2.9 million annually, which is consistent with prior year amounts. Furthermore, it is assumed that once the board assumes control of juvenile services education, federal funds currently available to MSDE are instead used by the board. Thus, the fiscal estimate accounts only for the *net* impact on general fund expenditures.

Local Fiscal Effect: Because the bill does not alter the requirement for local boards of education to reimburse another entity for the costs associated with providing education for

juveniles in specified circumstances, no additional impact is associated with local reimbursements. However, local expenditures and revenues may be impacted to the extent that the JSE board contracts with (1) a local board to assume operational control of any juvenile facility administered by the JSE board or (2) a community college to provide postsecondary education programs. Any such impact on local finances cannot be reliably estimated beforehand.

Additional Information

Prior Introductions: None.

Designated Cross File: HB 1513 (Delegate Luedtke, *et al.*) - Ways and Means and Judiciary.

Information Source(s): Maryland State Department of Education; Maryland Department of Health; Department of Juvenile Services; Baltimore County Public Schools; Montgomery County Public Schools; Department of Legislative Services - Office of Legislative Audits

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