
By: Delegates Eckardt, W. Baker, Bozman, Conway, Guns, D. Hughes, McClenahan, Rudolph, Schisler, and Walkup

Introduced and read first time: February 1, 1996

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 Educational Funding - Children Living in Out-of-County Living Arrangements

3 FOR the purpose of including certain children within the category of children in an
4 out-of-county living arrangement for purposes of determining a county's financial
5 responsibility under a certain educational funding formula; altering a certain formula
6 concerning monetary amounts due a local education agency under certain
7 circumstances; repealing a requirement that the State make a certain differential
8 payment to a local education agency under certain circumstances; altering certain
9 dates on which a certain financial responsibility of a county is determined and on
10 which a certain notice of the names of certain children is sent; altering a certain
11 definition; and generally relating to funding for the education of certain children in
12 out-of-county living arrangements.

13 BY repealing and reenacting, with amendments,
14 Article - Education
15 Section 4-120.1
16 Annotated Code of Maryland
17 (1992 Replacement Volume and 1995 Supplement)

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

20 **Article - Education**

21 4-120.1.

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

23 (2) "Local current expense per student" means all expenditures made by a
24 county from county appropriations, except State, federal, and other aid, for public
25 elementary and secondary education in the prior fiscal year, divided by the full-time
26 equivalent enrollment, as defined in § 5-202(a) of this article.

27 (3) "Child in an out-of-county living arrangement" means a child who is
28 placed by a State agency, a licensed child placement agency as provided by § 5-507 of the
29 Family Law Article, [or] a court, A PARENT OR LEGAL GUARDIAN, OR ANY PERSON
30 OR ENTITY INVOLVED IN THE PLACEMENT OF CHILDREN in a county other than where

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1 the child's parent or legal guardian resides. Child in an out-of-countyliving arrangement
2 [does not include] INCLUDES a child living with a relative, stepparent or a person
3 exercising temporary care, custody or control over a child at the request of a parent or
4 guardian of the child.

5 (4) "Service providing local education agency" means the local education
6 agency for the county where a child in an out-of-county living arrangement is placed.

7 (5) "Financially responsible county" means the county where theparent or
8 legal guardian of a child in an out-of-county living arrangement resides. If the parents of
9 the child live apart, the financially responsible county is:

10 (i) The county where the parent who has been awarded custody of the
11 child resides;

12 (ii) If custody has not been awarded, the county where theparent with
13 whom the child lives when not in a foster care home or residential facility resides;

14 (iii) If custody has been awarded to both parents and the parents reside
15 in different counties, both counties shall be considered financially responsible and shall
16 pay one-half the amount as computed in accordance with subsection (c) of this section,
17 except that if the child receives a public education in a county where a parent resides, this
18 subparagraph shall not apply; or

19 (iv) If custody has been awarded to both parents and one parent
20 resides in a county and the other resides out-of-state, the county shall be considered the
21 financially responsible county.

22 (b) (1) A child in an out-of-county living arrangement shall receivean
23 appropriate education from the service providing local education agency.

24 (2) The service providing local education agency shall include a child
25 enrolled as the result of an out-of-county living arrangement in their full-time equivalent
26 enrollment as provided by § 5-202(a)(7) of this article.

27 (c) (1) Except as provided in paragraph (4) of this subsection, for each child in
28 an out-of-county living arrangement enrolled in a public school programon [September
29 30,] DECEMBER 31, the financially responsible county shall pay the service providing
30 local education agency an amount equal to the [lesser] GREATER of:

31 (i) The local current expense per student in the financially responsible
32 county; or

33 (ii) The local current expense per student in the service providing local
34 education agency.

35 (2) If the service providing local education agency determines that a child in
36 an out-of-county living arrangement is handicapped and needs [a] publicschool
37 [Level] INTENSITY IV or V Special Education [Program,] SERVICES, the financially
38 responsible county shall pay the service providing local education agency for each such
39 child an amount equal to the [lesser] GREATER of:

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1 (i) Three times the local current expense per student in the financially
2 responsible county; or

3 (ii) Three times the local current expense per student in the service
4 providing local education agency.

5 [(3) (i) If the local current expense per student in the financially
6 responsible county is less than the local current expense per student in the service
7 providing local education agency, the State shall pay to the service providing local
8 education agency the difference for each student in an out-of-county living arrangement
9 who attends a public school in the service providing local education agency.

10 (ii) The necessary funds shall be provided in the appropriation to the
11 State Board.]

12 [(4)] (3) If the service providing local education agency determines that a
13 child in an out-of-county living arrangement is handicapped and needs a nonpublic
14 educational program as provided by § 8-409 of this article, the financially responsible
15 county shall pay for each such child the amount provided by § 8-417.3(d)(1) of this
16 article.

17 (d) (1) Each service providing local education agency shall notify the State
18 Superintendent of the name of each child in an out-of-county living arrangement as of
19 [September 30] DECEMBER 31 of each year and make a preliminary determination of
20 the financially responsible county for each child. The service providing local education
21 agency shall send a copy of this notice to the financially responsible county by [October
22 30,] JANUARY 31, and at the same time shall send the notice to the State Superintendent.

23 (2) The county which was initially determined to be financially responsible
24 may appeal that determination to the State Superintendent within 30 days of the date on
25 which the notice was mailed.

26 (3) The State Superintendent shall decide all appeals which are made under
27 paragraph (2) of this subsection, and make a final determination regarding the financially
28 responsible county for each child in an out-of-county living arrangement.

29 (4) By January 15 of each year each county board shall provide the State
30 Superintendent the data necessary to compute the local current expense per student
31 under this section.

32 (5) If by May 15 a financially responsible county fails to make the required
33 payment to a service providing local education agency, the State Superintendent shall
34 deduct from the next payment of State aid to the financially responsible county an
35 amount equal to the amount owed under this paragraph and shall pay those funds to the
36 service providing local education agency.

37 (e) Out-of-state agencies that place a child in a foster care home or residential
38 facility in Maryland shall be liable for the costs of such child's education, including
39 transportation.

40 (f) The State Board may adopt regulations which implement this section.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 1996.