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**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

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 12, 1996

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CHAPTER \_\_\_\_

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~~  
6 ~~formula 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.

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

5 (3) "Child in an out-of-county living arrangement" means a child who is  
6 placed by a State agency, a licensed child placement agency as provided by § 5-507 of the  
7 Family Law Article, ~~+~~or~~-~~ a court, ~~A PARENT OR LEGAL GUARDIAN, OR ANY PERSON~~  
8 ~~OR ENTITY INVOLVED IN THE PLACEMENT OF CHILDREN~~ in a county other than where  
9 the child's parent or legal guardian resides. Child in an out-of-county living arrangement  
10 ~~+~~does not include~~-~~ ~~INCLUDES~~ a child living with a relative, stepparent or a person  
11 exercising temporary care, custody or control over a child at the request of a parent or  
12 guardian of the child.

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

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

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

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

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

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

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

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

35 (c) (1) Except as provided in paragraph (4) of this subsection, for each child in  
36 an out-of-county living arrangement enrolled in a public school program on [September  
37 30,] DECEMBER 31, the financially responsible county shall pay the service providing  
38 local education agency an amount equal to the ~~+~~lesser~~-~~ ~~GREATER~~ of:

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

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

3 (2) If the service providing local education agency determines that a child in  
4 an out-of-county living arrangement is handicapped and needs [a] public school  
5 [Level] INTENSITY IV or V Special Education [ Program,] SERVICES, the financially  
6 responsible county shall pay the service providing local education agency for each such  
7 child an amount equal to the ~~+-lesser-~~ GREATER of:

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

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

12 ~~{(3)}~~ (i) If the local current expense per student in the financially  
13 responsible county is less than the local current expense per student in the service  
14 providing local education agency, the State shall pay to the service providing local  
15 education agency the difference for each student in an out-of-county living arrangement  
16 who attends a public school in the service providing local education agency.

17 (ii) The necessary funds shall be provided in the appropriation to the  
18 State Board.}

19 ~~{(4)}~~ ~~(3)~~ If the service providing local education agency determines that a  
20 child in an out-of-county living arrangement is handicapped and needs a nonpublic  
21 educational program as provided by § 8-409 of this article, the financially responsible  
22 county shall pay for each such child the amount provided by § 8-417.3(d)(1) of this  
23 article.

24 (d) (1) Each service providing local education agency shall notify the State  
25 Superintendent of the name of each child in an out-of-county living arrangement as of  
26 [September 30] DECEMBER 31 of each year and make a preliminary determination of  
27 the financially responsible county for each child. The service providing local education  
28 agency shall send a copy of this notice to the financially responsible county by [October  
29 30,] JANUARY 31, and at the same time shall send the notice to the State Superintendent.

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

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

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

39 (5) If by May 15 a financially responsible county fails to make the required  
40 payment to a service providing local education agency, the State Superintendent shall  
41 deduct from the next payment of State aid to the financially responsible county an

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1 amount equal to the amount owed under this paragraph and shall pay those funds to the  
2 service providing local education agency.

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

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

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