# SENATE BILL 416

Unofficial Copy F1 1996 Regular Session 6lr2118

**By: Senator Amoss** Introduced and read first time: January 31, 1996 Assigned to: Economic and Environmental Affairs

# A BILL ENTITLED

# 1 AN ACT concerning

#### 2 Students With Disabilities - Suspension and Expulsion

3 FOR the purpose of applying certain provisions of law concerning the suspension and

- 4 expulsion of students to students with disabilities under specified circumstances;
- 5 making certain stylistic changes; and generally relating to the suspension and
- 6 expulsion of students with disabilities.

7 BY repealing and reenacting, without amendments,

- 8 Article Education
- 9 Section 7-304(a), (b), and (c)
- 10 Annotated Code of Maryland
- 11 (1992 Replacement Volume and 1995 Supplement)

12 BY repealing and reenacting, with amendments,

- 13 Article Education
- 14 Section 7-304(f)
- 15 Annotated Code of Maryland
- 16 (1992 Replacement Volume and 1995 Supplement)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

18 MARYLAND, That the Laws of Maryland read as follows:

19 Article - Education

20 7-304.

(a) (1) In accordance with the rules and regulations of the county board, each
principal of a public school may suspend for cause, for not more than 5school days, any
student in the school who is under the direction of the principal.

24 (2) The student or his parent or guardian promptly shall be given a25 conference with the principal and any other appropriate personnel during the suspension26 period.

(b) At the request of a principal, a county superintendent may suspend a studentfor more than 5 school days or expel him.

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1 (c) (1) If a principal finds that a suspension of more than 5 schooldays or 2 expulsion is warranted, he immediately shall report the matter in writing to the county 3 superintendent.

4 (2) The county superintendent or his designated representative promptly 5 shall make a thorough investigation of the matter.

6 (3) If after the investigation the county superintendent finds that a longer 7 suspension or expulsion is warranted, he or his designated representative promptly shall 8 arrange a conference with the student and his parent or guardian.

9 (4) If after the conference the county superintendent or his designated 10 representative finds that a suspension of more than 10 school days or expulsion is 11 warranted, the student or his parent or guardian may:

12 (i) Appeal to the county board within 10 days after the determination;

13 (ii) Be heard before the county board or its designated committee; and

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(iii) Bring counsel and witnesses to the hearing.

15 (5) Unless a public hearing is requested by the parent or guardian of the 16 student, a hearing shall be held out of the presence of all individuals except those whose 17 presence is considered necessary or desirable by the board.

(6) The appeal to the county board does not stay the decision of the county19 superintendent.

20 (7) The decision of the county board is final.

(f) (1) [A] EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (4) OF THIS
 SUBSECTION, A [handicapped] DISABLED student may not be removed from the
 student's current educational placement for more than 10 school days each school year
 unless:

(i) The admission, review, and dismissal committee has determined
that the conduct which prompted the disciplinary action was not a manifestation of the
student's [handicapping condition] DISABILITY and the student's parentshave not
appealed the determination;

(ii) The admission, review, and dismissal committee has determined in
accordance with regulations adopted by the State Board of Education that the cumulative
effect of 2 or more suspensions totaling more than 10 school days each school year does
not create a pattern of exclusion that significantly impacts upon the student's educational
program and the student's parents have not appealed the determination;

34 (iii) The student's parents have agreed to an alternative or interim35 educational placement; or

(iv) 1. The maintenance of the student's current educationalplacement is substantially likely to result in injury to the student orto others;

2. The student's parents have not agreed to an alternative or39 interim educational placement; and

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1 3. A court of competent jurisdiction has temporarily enjoined 2 the student from remaining in the student's current educational placement.

3 (2) In injunctive proceedings under paragraph (1)(iv)3 of this subsection,
4 there is a presumption in favor of maintaining the student's current educational
5 placement. The county superintendent or the superintendent's designatedrepresentative
6 may overcome this presumption by showing that maintaining the student'scurrent
7 educational placement is substantially likely to result in injury either to the student or to
8 others.

9 (3) Whenever a student has been enjoined from attending the student's 10 current educational placement under paragraph (1)(iv)3 of this subsection, the county 11 superintendent shall ensure that the student continues to receive appropriate educational 12 and related services to the extent practicable.

(4) IF, WITHIN 1 SCHOOL YEAR, THERE IS MORE THAN ONE INCIDENT IN
WHICH THE BEHAVIOR OF A STUDENT IS SUBSTANTIALLY LIKELY TO RESULT IN
INJURY TO ANOTHER STUDENT OR TO A TEACHER, THE STUDENT SHALL BE
SUBJECT TO THE PROVISIONS OF SUBSECTIONS (A), (B), AND (C) OF THIS SECTION.

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

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