
By: Senator Colburn

Introduced and read first time: February 2, 1996

Assigned to: Budget and Taxation and Economic and Environmental Affairs

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
31 the child's parent or legal guardian resides. Child in an out-of-county living arrangement

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1 [does not include] INCLUDES a child living with a relative, stepparent or a person
2 exercising temporary care, custody or control over a child at the request of a parent or
3 guardian of the child.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 [(4)] (3) If the service providing local education agency determines that a
11 child in an out-of-county living arrangement is handicapped and needs an
12 educational program as provided by § 8-409 of this article, the financially responsible
13 county shall pay for each such child the amount provided by § 8-417.3(d)(1) of this
14 article.

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

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

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

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

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

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

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

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