

**SENATE BILL 426**  
**EMERGENCY BILL**

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1998 Regular Session  
8r1573  
CF 8r2640

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By: **Senator Kasemeyer**

Introduced and read first time: February 6, 1998

Assigned to: Economic and Environmental Affairs

Re-referred to: Budget and Taxation, February 12, 1998

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: April 1, 1998

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2                                   **Residential and Nonresidential Child Care Centers and Nonpublic General**  
3                                   **Education Schools - ~~Per-Child~~ Rate Settings**

4 ~~FOR the purpose of requiring certain private residential and nonresidential child care~~  
5 ~~programs and certain nonpublic general education schools licensed or approved~~  
6 ~~by certain State agencies to establish per child rates per service, subject to the~~  
7 ~~State's allowable cost policy; requiring certain residential and nonresidential~~  
8 ~~child care programs and certain nonpublic general education schools to submit~~  
9 ~~per child rates per service to the Special Secretary for Children, Youth, and~~  
10 ~~Families by a certain date; requiring the Special Secretary to provide~~  
11 ~~appropriate forms and instructions for the submission of rates and changes in~~  
12 ~~rates; requiring the Special Secretary to publish the per child rates per service~~  
13 ~~by a certain date; requiring certain residential and nonresidential child care~~  
14 ~~programs and certain nonpublic general education schools to submit proposed~~  
15 ~~rate changes within a certain time frame before the rate changes take effect;~~  
16 ~~authorizing the Special Secretary to audit certain residential or nonresidential~~  
17 ~~child care programs~~ State agencies to redesign the rate setting structure for  
18 private residential or nonresidential child care programs and certain nonpublic  
19 general education schools; requiring certain State agencies to develop a certain  
20 plan; making the Department of Education the lead agency in redesigning a  
21 certain rate setting structure; making this Act an emergency measure; defining  
22 certain terms; and generally relating to the per child rates per service set by for  
23 certain residential or nonresidential child care programs.

24 ~~BY adding to~~

25 ~~Article 49D—Office for Children, Youth, and Families~~

26 ~~Section 39 to be under the new subtitle "Child Care Programs"~~

1 Annotated Code of Maryland  
2 (1994 Replacement Volume and 1997 Supplement)

3 Preamble

4 WHEREAS, The current practice of rate setting by the Governor's Office for  
5 Children, Youth, and Families for rates paid to providers of private residential child  
6 care programs has not produced a system to encourage efficiency and the  
7 development of additional resources through payments to those providers; and

8 WHEREAS, A process for setting rates for certain nonresidential programs and  
9 services for children has not been established; and

10 WHEREAS, Certain historic providers in the system are subject to rates below  
11 cost, while certain new providers are funded at full cost; and

12 ~~WHEREAS, Rates paid for services purchased pursuant to this subtitle should~~  
13 ~~be determined by competition in the private marketplace; and~~

14 ~~WHEREAS, A system which permits competition in the marketplace will help to~~  
15 ~~ensure high quality, cost effective programs and services and will permit providers of~~  
16 ~~residential and nonresidential child care programs and nonpublic general education~~  
17 ~~schools to have the flexibility to respond quickly to the changing needs of purchasers;~~  
18 ~~and~~

19 WHEREAS, The Special Secretary Subcabinet Fund for Children, Youth, and  
20 Families should establish a process sufficiently flexible to ensure that providers can  
21 meet the needs of children and families referred to the providers; now, therefore,

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

24 **~~Article 49D—Office for Children, Youth, and Families~~**

25 **~~CHILD CARE PROGRAMS~~**

26 ~~39.~~

27 (A) (1) ~~IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS~~  
28 ~~INDICATED:~~

29 (2) ~~"AGENCIES" MEANS THE DEPARTMENTS OF EDUCATION, HEALTH~~  
30 ~~AND MENTAL HYGIENE, HUMAN RESOURCES, AND JUVENILE JUSTICE.~~

31 (3) ~~"NONPUBLIC GENERAL EDUCATION SCHOOL" MEANS A NONPUBLIC~~  
32 ~~SCHOOL APPROVED UNDER COMAR 13A-09.10.07 PURSUANT TO § 2-206 OF THE~~  
33 ~~EDUCATION ARTICLE AND OPERATED IN CONJUNCTION WITH RESIDENTIAL OR~~  
34 ~~NONRESIDENTIAL PROGRAMS LICENSED OR APPROVED BY THE DEPARTMENT OF~~  
35 ~~EDUCATION, THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE, THE~~  
36 ~~DEPARTMENT OF HUMAN RESOURCES, OR THE DEPARTMENT OF JUVENILE JUSTICE.~~

1           (4)     "NONRESIDENTIAL CHILD CARE PROGRAM" MEANS A PROGRAM  
2 THAT:

3                   (I)     PROVIDES SERVICES FOR CHILDREN IN A NONRESIDENTIAL  
4 SETTING, DESIGNED TO ACHIEVE OBJECTIVES RELATED TO THE NEEDS OF THE  
5 CHILDREN SERVED; AND

6                   (II)    IS LICENSED OR APPROVED BY THE DEPARTMENT OF HEALTH  
7 AND MENTAL HYGIENE, THE DEPARTMENT OF HUMAN RESOURCES, OR THE  
8 DEPARTMENT OF JUVENILE JUSTICE.

9           (5)     "RESIDENTIAL CHILD CARE PROGRAM" MEANS A PROGRAM THAT:

10                   (I)    PROVIDES CARE FOR CHILDREN 24 HOURS A DAY WITHIN A  
11 STRUCTURED SET OF SERVICES AND ACTIVITIES DESIGNED TO ACHIEVE  
12 OBJECTIVES RELATED TO THE NEEDS OF THE CHILDREN SERVED; AND

13                   (II)   IS LICENSED BY THE DEPARTMENT OF HEALTH AND MENTAL  
14 HYGIENE, THE DEPARTMENT OF HUMAN RESOURCES, OR THE DEPARTMENT OF  
15 JUVENILE JUSTICE.

16           (6)     "SERVICES" MEANS FOOD, CLOTHING, SHELTER, EDUCATION, SOCIAL  
17 SERVICES, HEALTH CARE, MENTAL HEALTH CARE, AND RECREATION.

18    (B)     PRIVATE RESIDENTIAL OR NONRESIDENTIAL CHILD CARE PROGRAMS AND  
19 NONPUBLIC GENERAL EDUCATION SCHOOLS LICENSED OR APPROVED BY STATE  
20 AGENCIES SHALL ESTABLISH A PER-CHILD RATE PER SERVICE, SUBJECT TO THE  
21 STATE'S ALLOWABLE COST POLICY, AND CHARGE ALL PURCHASERS THE SAME RATE.

22    (C)     (1)     RESIDENTIAL AND NONRESIDENTIAL CHILD CARE PROGRAMS AND  
23 NONPUBLIC GENERAL EDUCATION SCHOOLS SHALL SUBMIT PER-CHILD RATES PER  
24 SERVICE TO THE SPECIAL SECRETARY FOR CHILDREN, YOUTH, AND FAMILIES NO  
25 LATER THAN APRIL 1, 1999.

26           (2)     THE SPECIAL SECRETARY SHALL PROVIDE APPROPRIATE FORMS  
27 AND INSTRUCTIONS FOR THE SUBMISSION OF RATES UNDER THIS SUBSECTION.

28           (3)     THE SPECIAL SECRETARY SHALL PUBLISH THE PER-CHILD RATES  
29 PER SERVICE NO LATER THAN JUNE 15 EACH YEAR.

30    (D)     (1)     AFTER APRIL 1 OF EACH YEAR, RESIDENTIAL AND NONRESIDENTIAL  
31 CHILD CARE PROGRAMS AND NONPUBLIC GENERAL EDUCATION SCHOOLS SHALL  
32 SUBMIT TO THE SPECIAL SECRETARY ANY CHANGES IN PER-CHILD RATES PER  
33 SERVICE.

34           (2)     THE SPECIAL SECRETARY SHALL PROVIDE APPROPRIATE FORMS  
35 AND INSTRUCTIONS FOR CHANGES IN RATES.

36           (3)     RESIDENTIAL AND NONRESIDENTIAL CHILD CARE PROGRAMS AND  
37 NONPUBLIC GENERAL EDUCATION SCHOOLS SHALL SUBMIT PROPOSED RATE

1 ~~CHANGES NO LATER THAN 3 MONTHS BEFORE THE CHANGE IS SCHEDULED TO TAKE~~  
2 ~~EFFECT.~~

3 ~~(E) THE SPECIAL SECRETARY MAY REQUIRE AN AUDIT OF ANY RESIDENTIAL~~  
4 ~~OR NONRESIDENTIAL CHILD CARE PROGRAM OR NONPUBLIC GENERAL EDUCATION~~  
5 ~~SCHOOL.~~

6 (a) (1) In this section the following words have the meanings indicated.

7 (2) "Agencies" means the Department of Budget and Management,  
8 Department of Education, Health and Mental Hygiene, Department of Human  
9 Resources, and Department of Juvenile Justice.

10 (3) "Nonpublic general education school" means a nonpublic school  
11 approved in COMAR 13A 09.10.07 pursuant to § 2-206 of the Education Article and  
12 operated in conjunction with residential or nonresidential programs licensed or  
13 approved by the Department of Education, the Department of Health and Mental  
14 Hygiene, the Department of Human Resources, or the Department of Juvenile  
15 Justice.

16 (4) "Nonresidential child care program" means a program that:

17 (i) Provides services for children in a nonresidential setting,  
18 designed to achieve objectives related to the needs of children at risk of out-of-home  
19 placement; and

20 (ii) Is licensed or approved by the Department of Health and  
21 Mental Hygiene, the Department of Human Resources, or the Department of Juvenile  
22 Justice.

23 (5) "Residential child care program" means a program that:

24 (i) Provides care for children 24 hours a day within a structured  
25 set of services and activities designed to achieve objectives related to the needs of the  
26 children served; and

27 (ii) Is licensed by the Department of Health and Mental Hygiene,  
28 the Department of Human Resources, or the Department of Juvenile Justice.

29 (b) (1) On or before September 1, 1998, the agencies, in consultation with  
30 the Office of Children, Youth, and Families, shall redesign the rate setting structure  
31 for private residential or nonresidential child care programs and nonpublic general  
32 education schools licensed or approved by the agencies, subject to the State's  
33 allowable cost policy, to achieve equitable treatment for all providers, whether new or  
34 existing.

35 (2) On or before October 1, 1998, the agencies, in consultation with the  
36 Office of Children, Youth, and Families, shall submit to the budget committees for  
37 review and comment a plan for implementing the redesigned rate setting structure.

1           (3)     The Department of Education, as the fiscal agent of the Subcabinet  
2 Fund for Children, Youth, and Families, shall be the lead agency in redesigning the  
3 rate setting structure and developing an implementation plan.

4           (4)     The redesigned rate setting structure shall be used by the agencies in  
5 preparing the State budget for Fiscal Year 2000.

6     ~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect~~  
7 ~~October 1, 1998.~~

8     SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency  
9 measure, is necessary for the immediate preservation of the public health and safety,  
10 has been passed by a yea and nay vote supported by three-fifths of all the members  
11 elected to each of the two Houses of the General Assembly, and shall take effect from  
12 the date it is enacted.