

HOUSE BILL 52

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1999 Regular Session  
9r0277

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By: **Delegate Owings**

Introduced and read first time: January 18, 1999

Assigned to: Ways and Means

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A BILL ENTITLED

1 AN ACT concerning

2 **Education - Public Schools - Domicile**

3 FOR the purpose of permitting a child to attend a public school in the county where  
4 the child is domiciled with an individual acting as the parent in the absence of  
5 the parent or guardian; and generally relating to residency requirements for  
6 attending public schools in the State.

7 BY repealing and reenacting, with amendments,  
8 Article - Education  
9 Section 7-101 and 7-301  
10 Annotated Code of Maryland  
11 (1997 Replacement Volume and 1998 Supplement)

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

14 **Article - Education**

15 7-101.

16 (a) All individuals who are 5 years old or older and under 21 shall be admitted  
17 free of charge to the public schools of this State.

18 (b) (1) Except as provided in § 7-301 of this title and in paragraph (2) of this  
19 subsection, each child shall attend a public school in the county where the child is  
20 domiciled with the child's parent or guardian OR AN INDIVIDUAL ACTING AS THE  
21 PARENT IN THE ABSENCE OF THE PARENT OR GUARDIAN.

22 (2) Upon request and in accordance with a county board's policies  
23 concerning residency, a county superintendent may allow a child to attend school in  
24 the county even if the child is not domiciled in that county with the child's parent or  
25 guardian OR AN INDIVIDUAL ACTING AS THE PARENT IN THE ABSENCE OF THE  
26 PARENT OR GUARDIAN.

27 (3) If a child fraudulently attends a public school in a county where the  
28 child is not domiciled with the child's parent or guardian OR AN INDIVIDUAL ACTING

1 AS THE PARENT IN THE ABSENCE OF THE PARENT OR GUARDIAN, the child's parent  
2 or guardian OR THE INDIVIDUAL ACTING AS THE PARENT IN THE ABSENCE OF THE  
3 PARENT OR GUARDIAN shall be subject to a penalty payable to the county for the pro  
4 rata share of tuition for the time the child fraudulently attends a public school in the  
5 county.

6 (4) Nothing in this section alters the requirements for out-of-county  
7 placements contained in § 4-122 and Title 8, Subtitles 3 and 4 of this article or in any  
8 other State or federal law.

9 (c) There shall be full kindergarten programs in each county of this State.

10 7-301.

11 (a) (1) Except as otherwise provided in this section, each child who resides  
12 in this State and is 5 years old or older and under 16 shall attend a public school  
13 regularly during the entire school year unless the child is otherwise receiving regular,  
14 thorough instruction during the school year in the studies usually taught in the public  
15 schools to children of the same age.

16 (2) In accordance with regulations of the State Board of Education, a  
17 child who resides in this State and is 5 years old may be exempted from mandatory  
18 school attendance for 1 year if the child's parent or guardian OR AN INDIVIDUAL  
19 ACTING AS THE PARENT IN THE ABSENCE OF THE PARENT OR GUARDIAN files a  
20 written request with the local school system asking that the child's attendance be  
21 delayed due to the child's level of maturity.

22 (3) Except as provided in subsection (f) of this section or in regulations of  
23 the State Board of Education, each child who resides in this State shall attend a  
24 kindergarten program regularly during the school year prior to entering the first  
25 grade unless the child is otherwise receiving regular, thorough instruction in the  
26 skills and studies usually taught in a kindergarten program of a public school.

27 (b) A county superintendent, school principal, or an individual authorized by  
28 the county superintendent or principal may excuse a student for a lawful absence.

29 (c) [Each person who has legal custody or care and control] THE PARENT,  
30 GUARDIAN, OR INDIVIDUAL ACTING AS THE PARENT IN THE ABSENCE OF THE  
31 PARENT OR GUARDIAN of a child who is 5 years old or older and under 16 shall see  
32 that the child attends school or receives instruction as required by this section.

33 (d) (1) This section applies to any child who has a mental, emotional, or  
34 physical handicap.

35 (2) This section does not apply to a child:

36 (i) Whose mental, emotional, or physical condition makes [his]  
37 instruction detrimental to [his] THE CHILD'S progress; or

1 (ii) Whose presence in school presents a danger of serious physical  
2 harm to others.

3 (3) With the advice of the school principal, supervisor, pupil personnel  
4 supervisor, or visiting teacher and with the written recommendation of a licensed  
5 physician or a State Department of Education certified or licensed psychologist, the  
6 county superintendent may:

7 (i) Make other appropriate provisions for the free education of any  
8 [student] CHILD excepted from attendance under paragraph (2) of this subsection; or

9 (ii) Permit the [parents, or guardians] PARENT, GUARDIAN, OR  
10 INDIVIDUAL ACTING AS THE PARENT IN THE ABSENCE OF THE PARENT OR  
11 GUARDIAN of [that student] THE CHILD to withdraw [him] THE CHILD from public  
12 school, for as long as the attendance of the child in a public school would be  
13 detrimental to [his] THE CHILD'S progress or [his] THE CHILD'S presence in school  
14 would present a danger of serious physical harm to others.

15 (4) If a child is withdrawn from a public school under this subsection, the  
16 county board shall make other appropriate provisions for the education of the child.

17 (5) If an appropriate educational placement is not available immediately,  
18 the county board shall make interim provisions for the education of the child until an  
19 appropriate placement becomes available.

20 (e) (1) Any person who induces or attempts to induce a child to absent  
21 himself unlawfully from school or employs or harbors any child who is absent  
22 unlawfully from school while school is in session is guilty of a misdemeanor and on  
23 conviction is subject to a fine not to exceed \$500 or imprisonment not to exceed 30  
24 days, or both.

25 (2) Any person who has legal custody or care and control of a child who is  
26 5 years old or older and under 16 who fails to see that the child attends school or  
27 receives instruction under this section is guilty of a misdemeanor and:

28 (i) For a first conviction is subject to a fine not to exceed \$50 per  
29 day of unlawful absence or imprisonment not to exceed 10 days, or both; and

30 (ii) For a second or subsequent conviction is subject to a fine not to  
31 exceed \$100 per day of unlawful absence or imprisonment not to exceed 30 days, or  
32 both.

33 (3) As to any sentence imposed under this section, the court may  
34 suspend the fine or the prison sentence and establish terms and conditions which  
35 would promote the child's attendance. The suspension authority provided for in this  
36 subsection is in addition to and not in limitation of the suspension authority under  
37 Article 27, § 641A of the Code.

38 (f) A child may be exempted from attending kindergarten if [a] THE parent  
39 [or], guardian, OR INDIVIDUAL ACTING AS THE PARENT IN THE ABSENCE OF THE

1 PARENT OR GUARDIAN of the child files a written request with the local school system  
2 and verifies that the child is enrolled:

- 3 (1) Full time in a licensed child care center;
- 4 (2) Full time in a registered family day care home; or
- 5 (3) Part time in a Head Start 5 year old program.

6 (g) Kindergarten programs are not subject to the requirements of § 7-103(a) of  
7 this title relating to minimum days or hours of operation.

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
9 October 1, 1999.