

HOUSE BILL 511  
EMERGENCY BILL

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O4

1999 Regular Session  
9lr2045  
CF 9lr0532

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By: **Delegate Kopp**

Introduced and read first time: February 10, 1999

Assigned to: Ways and Means

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A BILL ENTITLED

1 AN ACT concerning

2                                   **Residential and Nonresidential Child Care Programs and Nonpublic**  
3                                   **General Education Schools - Rate Setting**

4 FOR the purpose of altering the rate setting structure for certain private residential  
5 or nonresidential child care programs and certain nonpublic general education  
6 schools; placing the rate setting structure for certain private child care  
7 programs and certain nonpublic general education schools under the authority  
8 of the Maryland State Department of Education; establishing the Department of  
9 Education as the fiscal agent of the Office of Children, Youth, and Families;  
10 defining certain terms; transferring certain positions and funds from the Office  
11 for Children, Youth, and Families to the Maryland State Department of  
12 Education; making this Act an emergency measure; and generally relating to  
13 services for private residential or nonresidential child care programs and  
14 nonpublic general education schools.

15 BY repealing and reenacting, with amendments,  
16 Article 49D - Office for Children, Youth, and Families  
17 Section 4.3  
18 Annotated Code of Maryland  
19 (1998 Replacement Volume)

20 BY adding to  
21 Article - Education  
22 Section 8-417  
23 Annotated Code of Maryland  
24 (1997 Replacement Volume and 1998 Supplement)

25                                   Preamble

26 WHEREAS, The current practice of rate setting for rates paid to providers of  
27 private residential child care programs has not produced a system to encourage  
28 efficiency and flexibility; and

1 WHEREAS, A systematic process for setting rates for nonresidential child care  
2 programs and services for children has not been established; and

3 WHEREAS, Certain providers in the system are subject to rates below cost,  
4 while certain other providers are funded at full cost; and

5 WHEREAS, The Department of Education, having served as the fiscal agent for  
6 the Subcabinet Fund for Children, Youth, and Families and the lead agency for the  
7 purposes of rate setting, is uniquely able to develop and administer an efficient  
8 statewide rate setting process; and

9 WHEREAS, The Department of Education, in collaboration with other State  
10 agencies, should establish a process sufficiently flexible to ensure that providers can  
11 meet the needs of children and families referred to providers; now, therefore,

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

14 **Article 49D - Office for Children, Youth, and Families**

15 4.3.

16 In accordance with § 4 of this article, the Subcabinet shall phase in a statewide  
17 system of interagency budgeting and funding to be fully implemented by Fiscal Year  
18 1998. As part of this system, the Subcabinet shall:

19 (1) Establish a Subcabinet Fund which:

20 (i) Includes moneys for out-of-home care and services to prevent  
21 out-of-home placements;

22 (ii) Consists of any other moneys appropriated, transferred,  
23 credited, or paid from any source;

24 (iii) Is expended in accordance with policies and procedures adopted  
25 by the Subcabinet and the budget amendment procedure provided for in § 7-209 of  
26 the State Finance and Procurement Article;

27 (iv) Reverts to the General Fund of the State at the end of each  
28 fiscal year, as provided in § 7-302 of the State Finance and Procurement Article; and

29 (v) Has as its fiscal agent [a department or agency designated by  
30 the Subcabinet] THE DEPARTMENT OF EDUCATION;

31 (2) Develop a plan for a continuum of care and services that is family and  
32 child oriented and emphasizes prevention, early intervention, and community-based  
33 services;

1 (3) Implement an interagency effort to maximize available resources  
2 from all sources, including federal moneys and private third party reimbursement;  
3 and

4 (4) Use outcome measures and fiscal incentives to encourage more  
5 productive use of State funds for children and family services.

6 **Article - Education**

7 8-417.

8 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
9 INDICATED.

10 (2) "NONPUBLIC GENERAL EDUCATION SCHOOL" MEANS A NONPUBLIC  
11 SCHOOL APPROVED IN COMAR 13A.09.10.07 PURSUANT TO § 2-206 OF THE EDUCATION  
12 ARTICLE AND OPERATED IN CONJUNCTION WITH RESIDENTIAL OR NONRESIDENTIAL  
13 CHILD CARE PROGRAMS LICENSED OR APPROVED BY THE DEPARTMENT OF  
14 EDUCATION, THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE, THE  
15 DEPARTMENT OF HUMAN RESOURCES, OR THE DEPARTMENT OF JUVENILE JUSTICE.

16 (3) "NONRESIDENTIAL CHILD CARE PROGRAM" MEANS A PROGRAM  
17 THAT:

18 (I) PROVIDES SERVICES FOR CHILDREN IN A NONRESIDENTIAL  
19 SETTING, DESIGNED TO ACHIEVE OBJECTIVES RELATED TO THE NEEDS OF  
20 CHILDREN AT RISK OF OUT-OF-HOME PLACEMENT; AND

21 (II) IS LICENSED OR APPROVED BY THE DEPARTMENT OF HEALTH  
22 AND MENTAL HYGIENE, THE DEPARTMENT OF HUMAN RESOURCES, OR THE  
23 DEPARTMENT OF JUVENILE JUSTICE.

24 (4) "RESIDENTIAL CHILD CARE PROGRAM" MEANS A PROGRAM THAT:

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

28 (II) IS LICENSED BY THE DEPARTMENT OF HEALTH AND MENTAL  
29 HYGIENE, THE DEPARTMENT OF HUMAN RESOURCES, OR THE DEPARTMENT OF  
30 JUVENILE JUSTICE.

31 (B) (1) THE DEPARTMENT OF EDUCATION, AS THE FISCAL AGENT OF THE  
32 SUBCABINET FUND FOR CHILDREN, YOUTH, AND FAMILIES UNDER ARTICLE 49D OF  
33 THE CODE, SHALL ADMINISTER AND IMPLEMENT A REDESIGNED RATE SETTING  
34 PROCESS FOR NONPUBLIC GENERAL EDUCATION SCHOOLS, RESIDENTIAL CHILD  
35 CARE PROGRAMS, AND NONRESIDENTIAL CHILD CARE PROGRAMS.

36 (2) THE DEPARTMENT OF HUMAN RESOURCES AND THE  
37 DEVELOPMENTAL DISABILITIES ADMINISTRATION OF THE DEPARTMENT OF HEALTH

1 AND MENTAL HYGIENE SHALL PARTICIPATE WITH THE DEPARTMENT OF EDUCATION  
2 IN THE DEVELOPMENT AND IMPLEMENTATION OF RATES IN PROGRAMS LICENSED  
3 OR APPROVED BY THOSE AGENCIES TO THE EXTENT REQUIRED BY FEDERAL AND  
4 STATE LAW.

5 (C) (1) A DECISION AS TO THE AMOUNT OR IMPLEMENTATION OF RATES  
6 ESTABLISHED UNDER THIS SECTION MAY BE APPEALED BY SENDING A WRITTEN  
7 REQUEST FOR APPEAL TO THE STATE SUPERINTENDENT OF SCHOOLS.

8 (2) THE REQUEST SHALL SET FORTH THE SPECIFIC OBJECTIONS TO THE  
9 DECISION AS TO THE AMOUNT OR IMPLEMENTATION OF RATES ESTABLISHED  
10 UNDER THIS SECTION.

11 (3) THE SUPERINTENDENT OR THE SUPERINTENDENT'S DESIGNEE  
12 SHALL ISSUE A FINAL, BINDING OPINION UPHOLDING, REVERSING, OR MODIFYING  
13 THE RATES SET BY THE DEPARTMENT WITHIN 30 DAYS AFTER RECEIPT OF THE  
14 REQUEST FOR APPEAL.

15 SECTION 2. AND BE IT FURTHER ENACTED, That on or before October 1,  
16 1999, the Department of Education, in consultation with the Department of Budget  
17 and Management, the Department of Health and Mental Hygiene, the Department of  
18 Human Resources, the Department of Juvenile Justice, and the Office of Children,  
19 Youth, and Families, shall implement the Plan for Implementing the Redesigned Rate  
20 Setting Structure developed by the Interagency Rates Committee for the  
21 Implementation of Chapter 609 of the Acts of 1998. The redesigned rate setting  
22 structure shall be used by those agencies on a pilot basis in preparing the State  
23 budget for fiscal year 2001, and shall be implemented fully in fiscal year 2002.

24 SECTION 3. AND BE IT FURTHER ENACTED, That all positions and funds  
25 appropriated to the Rates Unit within the Office for Children, Youth, and Families  
26 (program 110) shall be transferred to the Maryland State Department of Education on  
27 the effective date of this Act.

28 SECTION 4. AND BE IT FURTHER ENACTED, That this Act is an emergency  
29 measure, is necessary for the immediate preservation of the public health and safety,  
30 has been passed by a ye and nay vote supported by three-fifths of all the members  
31 elected to each of the two Houses of the General Assembly, and shall take effect from  
32 the date it is enacted.