

SENATE BILL 289

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1999 Regular Session
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By: **Senators Hoffman, Neall, Kasemeyer, Van Hollen, Lawlah, DeGrange,
and Hogan**

Introduced and read first time: February 4, 1999
Assigned to: Economic and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Residential Educational Facilities - Licensing**

3 FOR the purpose of requiring a person to be licensed by the Social Services
4 Administration of the Department of Human Resources before the person may
5 operate a residential educational facility on or after a certain date; authorizing
6 the Department of Human Resources to adopt regulations relating to the
7 licensing of residential educational facilities; providing that a residential
8 educational facility may not be required to obtain a license from more than one
9 State agency; authorizing any State agency authorized to license residential
10 educational facilities to make certain cooperative arrangements with any other
11 State agency; providing for the construction and application of this Act; defining
12 a certain term; altering a certain term; and generally relating to licensing of
13 residential educational facilities.

14 BY repealing and reenacting, with amendments,
15 Article - Family Law
16 Section 5-501 and 5-506
17 Annotated Code of Maryland
18 (1999 Replacement Volume)

19 BY adding to
20 Article - Family Law
21 Section 5-509.1
22 Annotated Code of Maryland
23 (1999 Replacement Volume)

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

1 **Article - Family Law**

2 5-501.

3 (a) In this subtitle the following words have the meanings indicated.

4 (b) "Administration" means the Social Services Administration of the
5 Department.

6 (c) "Child placement agency" has the meaning stated in § 5-301 of this title.

7 (d) "Day care provider" means the adult who has primary responsibility for
8 the operation of a family day care home.9 (e) "Family day care" means the care given to a child under the age of 13 years
10 or to any developmentally disabled person under the age of 21 years of age, in place of
11 parental care for less than 24 hours a day, in a residence other than the child's
12 residence, for which the day care provider is paid.13 (f) "Family day care home" means a residence in which family day care is
14 provided.15 (g) "Foster care" means continuous 24-hour care and supportive services
16 provided for a minor child placed by a child placement agency in an approved family
17 home.18 (h) "Group care" means continuous 24-hour care and supportive services
19 provided for a minor child placed in a licensed group facility.20 (i) "Kinship care" means continuous 24-hour care and supportive services
21 provided for a minor child placed by a child placement agency in the home of a
22 relative related by blood or marriage within the 5th degree of consanguinity or
23 affinity under the civil law rule.24 (j) (1) "License" means a license issued by the Administration under this
25 subtitle.

26 (2) "License" includes:

27 (i) a child placement agency license;

28 (ii) a child care home license; [and]

29 (iii) a child care institution license; AND

30 (IV) A RESIDENTIAL EDUCATIONAL FACILITY LICENSE.

31 (k) "Local board" means a local citizen board of review of foster care for
32 children.

1 (l) "Local department" means a local department of social services for a
2 county.

3 (m) "Out-of-home placement" means placement of a child into foster care,
4 kinship care, group care, or residential treatment care.

5 (N) (1) "RESIDENTIAL EDUCATIONAL FACILITY" MEANS A FACILITY THAT:

6 (I) PROVIDES SPECIAL EDUCATION AND RELATED SERVICES FOR
7 STUDENTS WITH DISABILITIES;

8 (II) HOLDS A CERTIFICATE OF APPROVAL ISSUED BY THE STATE
9 BOARD OF EDUCATION; AND

10 (III) PROVIDES CONTINUOUS 24-HOUR CARE AND SUPPORTIVE
11 SERVICES TO CHILDREN IN A RESIDENTIAL SETTING.

12 (2) "RESIDENTIAL EDUCATIONAL FACILITY" INCLUDES:

13 (I) THE BENEDICTINE SCHOOL;

14 (II) THE LINWOOD SCHOOL;

15 (III) THE MARYLAND SCHOOL FOR THE BLIND; AND

16 (IV) THE MARYLAND SCHOOL FOR THE DEAF.

17 [(n)] (O) "Residential treatment care" means continuous 24-hour care and
18 supportive services for a minor child placed in a facility that provides formal
19 programs of basic care, social work, and health care services.

20 [(o)] (P) "State Board" means the State Citizen Board of Review of Foster
21 Care for Children.

22 [(p)] (Q) "Unregistered family day care home" means a residence in which
23 family day care is provided and in which the day care provider:

24 (1) has not obtained a certificate of registration from the Department;

25 (2) is not related by blood or marriage to each child in the provider's care;

26 (3) is not a friend of each child's parents or legal guardian and is
27 providing care on a regular basis; and

28 (4) has not received the care of the child from a child placement agency
29 licensed by the Administration or by a local department.

30 5-506.

31 (a) The General Assembly intends that:

1 (1) all children whose care is the responsibility of this State shall have
2 similar protection in terms of health, safety, and quality of care; and

3 (2) the rules and regulations of agencies that are charged with child care
4 shall be comparable.

5 (b) In addition to other rules and regulations adopted under this title, the
6 Department may adopt rules and regulations to carry out §§ 5-507, 5-508, [and
7 5-509] 5-509, AND 5-509.1 of this subtitle, which relate to the licensing of child
8 placement agencies, child care homes, [and] child care institutions, AND
9 RESIDENTIAL EDUCATIONAL FACILITIES.

10 (c) (1) By rule or regulation, the Department may delegate authority to local
11 departments and licensed child placement agencies to issue licenses or approve
12 applicants for licenses under this subtitle.

13 (2) Any rule or regulation adopted by the Department under this
14 subsection shall provide for an appeal to an administrative appellate authority from a
15 decision of a local department or licensed child placement agency.

16 (d) (1) A child placement agency, child care home, [or] child care institution,
17 OR RESIDENTIAL EDUCATIONAL FACILITY may not be required to obtain a license
18 from more than 1 State agency.

19 (2) Any State agency authorized to license child placement agencies,
20 child care homes, [or] child care institutions, OR RESIDENTIAL EDUCATIONAL
21 FACILITIES may make cooperative arrangements with any other State agency to give
22 effect to paragraph (1) of this subsection.

23 5-509.1.

24 (A) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (B) OF THIS SECTION
25 AND SUBJECT TO SUBSECTION (C) OF THIS SECTION, ON OR AFTER JANUARY 1, 2000,
26 A PERSON SHALL BE LICENSED BY THE ADMINISTRATION BEFORE THE PERSON MAY
27 OPERATE A RESIDENTIAL EDUCATIONAL FACILITY.

28 (B) THIS SECTION DOES NOT APPLY:

29 (1) TO A CHILD CARE HOME THAT HAS A LICENSE UNDER THIS
30 SUBTITLE OR UNDER ARTICLE 83C, § 2-123 OF THE CODE;

31 (2) TO A CHILD CARE INSTITUTION THAT HAS A LICENSE UNDER THIS
32 SUBTITLE OR UNDER ARTICLE 83C, § 2-124 OF THE CODE; OR

33 (3) TO AN INSTITUTION THAT ACCEPTS ONLY CHILDREN PLACED BY
34 THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE OR THE DEPARTMENT OF
35 JUVENILE JUSTICE.

1 (C) THIS SECTION DOES NOT AFFECT ANY REQUIREMENT THAT A
2 RESIDENTIAL EDUCATIONAL FACILITY OBTAIN A CERTIFICATE OF APPROVAL FROM
3 THE STATE BOARD OF EDUCATION FOR ITS EDUCATIONAL PROGRAM.

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 July 1, 1999.