

SENATE BILL 289

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1999 Regular Session
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CF 9lr1821

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

Committee Report: Favorable
Senate action: Adopted
Read second time: March 16, 1999

CHAPTER _____

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)

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

3 **Article - Family Law**

4 5-501.

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

6 (b) "Administration" means the Social Services Administration of the
7 Department.

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

9 (d) "Day care provider" means the adult who has primary responsibility for
10 the operation of a family day care home.

11 (e) "Family day care" means the care given to a child under the age of 13 years
12 or to any developmentally disabled person under the age of 21 years of age, in place of
13 parental care for less than 24 hours a day, in a residence other than the child's
14 residence, for which the day care provider is paid.

15 (f) "Family day care home" means a residence in which family day care is
16 provided.

17 (g) "Foster care" means continuous 24-hour care and supportive services
18 provided for a minor child placed by a child placement agency in an approved family
19 home.

20 (h) "Group care" means continuous 24-hour care and supportive services
21 provided for a minor child placed in a licensed group facility.

22 (i) "Kinship care" means continuous 24-hour care and supportive services
23 provided for a minor child placed by a child placement agency in the home of a
24 relative related by blood or marriage within the 5th degree of consanguinity or
25 affinity under the civil law rule.

26 (j) (1) "License" means a license issued by the Administration under this
27 subtitle.

28 (2) "License" includes:

29 (i) a child placement agency license;

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

31 (iii) a child care institution license; AND

32 (IV) A RESIDENTIAL EDUCATIONAL FACILITY LICENSE.

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

3 (l) "Local department" means a local department of social services for a
4 county.

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

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

8 (I) PROVIDES SPECIAL EDUCATION AND RELATED SERVICES FOR
9 STUDENTS WITH DISABILITIES;

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

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

14 (2) "RESIDENTIAL EDUCATIONAL FACILITY" INCLUDES:

15 (I) THE BENEDICTINE SCHOOL;

16 (II) THE LINWOOD SCHOOL;

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

18 (IV) THE MARYLAND SCHOOL FOR THE DEAF.

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

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

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

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

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

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

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

1 5-506.

2 (a) The General Assembly intends that:

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

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

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

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

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

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

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

25 5-509.1.

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

30 (B) THIS SECTION DOES NOT APPLY:

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

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

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

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

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