

SENATE BILL 291
EMERGENCY BILL

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1999 Regular Session
9lr0532
CF 9lr2045

By: **Senators Hoffman, Hogan, Neall, DeGrange, Lawlah, Kasemeyer, and
~~Van Hollen~~ Van Hollen, McFadden, and Ruben**

Introduced and read first time: February 4, 1999

Assigned to: Economic and Environmental Affairs

Reassigned: Budget and Taxation, February 5, 1999

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 16, 1999

CHAPTER _____

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~~ Subcabinet Fund for Children,
10 Youth, and Families; defining certain terms; transferring certain positions and
11 funds from the Office for Children, Youth, and Families to the Maryland State
12 Department of Education; making this Act an emergency measure; and
13 generally relating to services for private residential or nonresidential child care
14 programs and 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

1 (1997 Replacement Volume and 1998 Supplement)

2 Preamble

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

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

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

10 WHEREAS, The Department of Human Resources, as a member of the
11 Subcabinet, is the single State agency for child welfare services under 45 C.F.R.
12 205.100; and

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

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

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

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

23 4.3.

24 In accordance with § 4 of this article, the Subcabinet shall phase in a statewide
25 system of interagency budgeting and funding to be fully implemented by Fiscal Year
26 1998. As part of this system, the Subcabinet shall:

27 (1) Establish a Subcabinet Fund which:

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

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

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

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

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

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

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

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

13 **Article - Education**

14 8-417.

15 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
16 INDICATED.

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

23 (3) "NONRESIDENTIAL CHILD CARE PROGRAM" MEANS A PROGRAM
24 THAT:

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

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

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

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

1 (II) IS LICENSED BY THE DEPARTMENT OF HEALTH AND MENTAL
 2 HYGIENE, THE DEPARTMENT OF HUMAN RESOURCES, OR THE DEPARTMENT OF
 3 JUVENILE JUSTICE.

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

9 (2) THE DEPARTMENT OF HUMAN RESOURCES ~~AND THE~~
 10 ~~DEVELOPMENTAL DISABILITIES ADMINISTRATION OF, THE DEPARTMENT OF~~
 11 JUVENILE JUSTICE, THE DEPARTMENT OF BUDGET AND MANAGEMENT, THE OFFICE
 12 FOR CHILDREN, YOUTH, AND FAMILIES, AND THE DEPARTMENT OF HEALTH AND
 13 MENTAL HYGIENE SHALL PARTICIPATE WITH THE DEPARTMENT OF EDUCATION IN
 14 THE DEVELOPMENT AND IMPLEMENTATION OF RATES IN PROGRAMS LICENSED OR
 15 APPROVED BY THOSE AGENCIES TO THE EXTENT REQUIRED BY FEDERAL AND STATE
 16 LAW.

17 (C) (1) A DECISION AS TO THE AMOUNT OR IMPLEMENTATION OF RATES
 18 ESTABLISHED UNDER THIS SECTION MAY BE APPEALED BY SENDING A WRITTEN
 19 REQUEST FOR APPEAL TO ~~THE STATE SUPERINTENDENT OF SCHOOLS~~ THE
 20 SUBCABINET.

21 (2) THE REQUEST SHALL SET FORTH THE SPECIFIC OBJECTIONS TO THE
 22 DECISION AS TO THE AMOUNT OR IMPLEMENTATION OF RATES ESTABLISHED
 23 UNDER THIS SECTION.

24 (3) ~~THE SUPERINTENDENT OR THE SUPERINTENDENT'S DESIGNEE~~
 25 SUBCABINET OR THE SUBCABINET'S DESIGNEES SHALL ISSUE A FINAL, BINDING
 26 OPINION UPHOLDING, REVERSING, OR MODIFYING THE RATES SET BY THE
 27 DEPARTMENT INTERAGENCY RATES COMMITTEE WITHIN 30 DAYS AFTER RECEIPT
 28 OF THE REQUEST FOR APPEAL.

29 SECTION 2. AND BE IT FURTHER ENACTED, That on or before October 1,
 30 1999, the Department of Education, in consultation with the Department of Budget
 31 and Management, the Department of Health and Mental Hygiene, the Department of
 32 Human Resources, the Department of Juvenile Justice, and the Office of Children,
 33 Youth, and Families, shall implement the Plan for Implementing the Redesigned Rate
 34 Setting Structure developed by the Interagency Rates Committee for the
 35 Implementation of Chapter 609 of the Acts of 1998. The redesigned rate setting
 36 structure shall be used by those agencies on a pilot basis in preparing the State
 37 budget for fiscal year 2001, and shall be implemented fully in fiscal year 2002.

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

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