

SENATE BILL 171

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2001 Regular Session  
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By: **Senators Kelley, Astle, Blount, Colburn, Collins, Conway, Della, Ferguson, Forehand, Hoffman, Hogan, Hollinger, Hughes, Lawlah, Madden, McFadden, Middleton, Mitchell, Mooney, Neall, Pinsky, Ruben, Sfikas, Stone, and Van Hollen**

Introduced and read first time: January 19, 2001  
Assigned to: Economic and Environmental Affairs

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A BILL ENTITLED

1 AN ACT concerning

2 **Education - Children in Out-of-County Living Arrangements - Kinship Care**

3 FOR the purpose of requiring a county superintendent of schools of a county to allow  
4 a child to attend a public school in the county other than where the child is  
5 domiciled with the child's parent or legal guardian if the child lives with a  
6 relative in the county due to a serious family hardship; altering a certain  
7 definition; defining certain terms; requiring certain relatives of a child to file  
8 affidavits under certain circumstances; establishing a form for certain  
9 affidavits; requiring certain affidavits to be provided free of charge at certain  
10 offices; authorizing certain relatives to make educational and health care  
11 decisions for children in their custody; authorizing certain relatives to apply for  
12 entitlements for certain children; and generally relating to children in  
13 out-of-county living arrangements.

14 BY repealing and reenacting, with amendments,  
15 Article - Education  
16 Section 4-122(a) and 7-101  
17 Annotated Code of Maryland  
18 (1999 Replacement Volume and 2000 Supplement)

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

21 **Article - Education**

22 4-122.

23 (a) (1) In this section the following words shall have the meanings indicated.

24 (2) "Local current expense per student" means all expenditures made by  
25 a county from county appropriations, except State, federal, and other aid, for public

1 elementary and secondary education in the prior fiscal year, divided by the full-time  
2 equivalent enrollment, as defined in § 5-202(a) of this article.

3 (3) "Child in an out-of-county living arrangement" means a child who is:

4 (I) [placed] PLACED by a State agency, a licensed child placement  
5 agency as provided by § 5-507 of the Family Law Article, or a court in a county other  
6 than where the child's parent or legal guardian resides[. Child in an out-of-county  
7 living arrangement does not include a child]; OR

8 (II) [living] LIVING with a relative[, stepparent or a person]  
9 exercising [temporary] care, custody [or], AND control over [a] THE child [at the  
10 request of a parent or guardian of the child] IN ACCORDANCE WITH § 7-101 OF THIS  
11 ARTICLE.

12 (4) "Service providing local education agency" means the local education  
13 agency for the county where a child in an out-of-county living arrangement is placed.

14 (5) "Financially responsible county" means the county where the parent  
15 or legal guardian of a child in an out-of-county living arrangement resides. If the  
16 parents of the child live apart, the financially responsible county is:

17 (i) The county where the parent who has been awarded custody of  
18 the child resides;

19 (ii) If custody has not been awarded, the county where the parent  
20 with whom the child lives when not in a foster care home or residential facility  
21 resides;

22 (iii) If custody has been awarded to both parents and the parents  
23 reside in different counties, both counties shall be considered financially responsible  
24 and shall pay one-half the amount as computed in accordance with subsection (c) of  
25 this section, except that if the child receives a public education in a county where a  
26 parent resides, this subparagraph shall not apply; or

27 (iv) If custody has been awarded to both parents and one parent  
28 resides in a county and the other resides out-of-state, the county shall be considered  
29 the financially responsible county.

30 7-101.

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

33 (b) (1) Except as provided in § 7-301 of this title and in paragraph (2) of this  
34 subsection, each child shall attend a public school in the county where the child is  
35 domiciled with the child's parent or guardian.

36 (2) Upon request and in accordance with a county board's policies  
37 concerning residency, a county superintendent may allow a child to attend school in

1 the county even if the child is not domiciled in that county with the child's parent or  
2 guardian.

3 (3) If a child fraudulently attends a public school in a county where the  
4 child is not domiciled with the child's parent or guardian, the child's parent or  
5 guardian shall be subject to a penalty payable to the county for the pro rata share of  
6 tuition for the time the child fraudulently attends a public school in the county.

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

10 (C) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE  
11 MEANINGS INDICATED.

12 (II) "RELATIVE" MEANS A GRANDPARENT, AUNT, UNCLE, SISTER,  
13 BROTHER, OR FIRST COUSIN WHO DOES NOT HAVE LEGAL CUSTODY OF THE CHILD.

14 (III) "SERIOUS FAMILY HARDSHIP" MEANS A SERIOUS ILLNESS OF,  
15 DRUG ADDICTION OF, INCARCERATION OF, OR ABANDONMENT BY THE PARENT OR  
16 PARENTS OF THE CHILD.

17 (2) A COUNTY SUPERINTENDENT SHALL ALLOW A CHILD TO ATTEND A  
18 PUBLIC SCHOOL IN A COUNTY OTHER THAN THE COUNTY WHERE THE CHILD IS  
19 DOMICILED WITH THE CHILD'S PARENT OR LEGAL GUARDIAN IF THE CHILD LIVES  
20 WITH A RELATIVE IN THE COUNTY DUE TO A SERIOUS FAMILY HARDSHIP THAT THE  
21 RELATIVE VERIFIES THROUGH A SWORN AFFIDAVIT.

22 (3) THE AFFIDAVIT SHALL INCLUDE:

23 (I) THE NAME AND DATE OF BIRTH OF THE CHILD;

24 (II) THE NAME AND ADDRESS OF THE CHILD'S PARENTS;

25 (III) THE NAME AND ADDRESS OF THE RELATIVE WHO HAS CARE OF  
26 THE CHILD;

27 (IV) THE DATE THE RELATIVE ASSUMED CARE OF THE CHILD; AND

28 (V) THE NATURE OF THE SERIOUS FAMILY HARDSHIP.

29 (4) THE AFFIDAVIT SHALL BE IN THE FOLLOWING FORM:

30 (I) I, THE UNDERSIGNED, AM OVER EIGHTEEN (18) YEARS OF AGE  
31 AND COMPETENT TO TESTIFY TO THE FACTS AND MATTERS SET FORTH HEREIN.

32 (II) \_\_\_\_\_ (NAME OF CHILD), WHOSE DATE OF BIRTH IS  
33 \_\_\_\_\_, IS LIVING WITH ME BECAUSE OF THE FOLLOWING SERIOUS FAMILY  
34 HARDSHIP: (CHECK EACH THAT IS APPLICABLE)

35 \_\_\_\_\_SERIOUS ILLNESS OF FATHER/MOTHER/LEGAL GUARDIAN

1 \_\_\_\_\_DRUG ADDICTION OF FATHER/MOTHER/LEGAL GUARDIAN

2 \_\_\_\_\_INCARCERATION OF FATHER/MOTHER/LEGAL GUARDIAN

3 \_\_\_\_\_ABANDONMENT BY FATHER/MOTHER/LEGAL GUARDIAN

4 (III) THE NAME AND LAST KNOWN ADDRESS OF THE CHILD'S  
5 PARENT(S) OR LEGAL GUARDIAN IS:

6 \_\_\_\_\_  
7 \_\_\_\_\_  
8 \_\_\_\_\_

9 (IV) MY ADDRESS IS:

10 \_\_\_\_\_  
11 STREET APT NO.

12 \_\_\_\_\_  
13 CITY STATE ZIP CODE

14 (V) I ASSUMED CARE OF THIS CHILD ON  
15 \_\_\_\_\_(DAY/MONTH/YEAR).

16 (VI) I SOLEMNLY AFFIRM UNDER THE PENALTIES OF PERJURY  
17 THAT THE CONTENTS OF THE FOREGOING ARE TRUE TO THE BEST OF MY  
18 KNOWLEDGE, INFORMATION, AND BELIEF.

19 \_\_\_\_\_  
20 SIGNATURE OF AFFIANT

21 \_\_\_\_\_  
22 (DAY/MONTH/YEAR)

23 (5) AFFIDAVIT FORMS THAT COMPLY WITH SUBSECTION (C)(3) OF THIS  
24 SECTION SHALL BE MADE AVAILABLE FREE OF CHARGE AT THE OFFICES OF EACH  
25 COUNTY BOARD OF EDUCATION AND EACH LOCAL DEPARTMENT OF SOCIAL  
26 SERVICES.

27 (6) IF A CHANGE OCCURS IN THE CARE OR IN THE SERIOUS FAMILY  
28 HARDSHIP OF THE CHILD, THE RELATIVE CARING FOR THE CHILD SHALL NOTIFY  
29 THE LOCAL SCHOOL SYSTEM IN WRITING WITHIN 30 DAYS AFTER THE CHANGE  
30 OCCURS.

31 (7) THE RELATIVE SHALL FILE AN AFFIDAVIT ANNUALLY AT LEAST 1  
32 WEEK PRIOR TO THE BEGINNING OF THE SCHOOL YEAR FOR EACH YEAR THE CHILD  
33 CONTINUES TO LIVE WITH THE RELATIVE BECAUSE OF A SERIOUS FAMILY  
34 HARDSHIP.

1           (8)       UNLESS THE COURT APPOINTS A GUARDIAN FOR THE CHILD OR  
2 AWARDS CUSTODY OF THE CHILD TO SOMEONE OTHER THAN THE RELATIVE WHO  
3 HAS CARE OF THE CHILD, THE RELATIVE WHO HAS CARE OF THE CHILD SHALL MAKE  
4 THE FULL RANGE OF EDUCATIONAL AND HEALTH CARE DECISIONS FOR THE CHILD.

5           (9)       THE RELATIVE WHO HAS CARE OF THE CHILD HAS AUTHORITY TO  
6 APPLY ON BEHALF OF THE CHILD FOR ALL EDUCATIONAL, HEALTH CARE, AND  
7 PUBLIC ASSISTANCE ENTITLEMENTS FOR WHICH THE CHILD MAY BE ELIGIBLE.

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

10       SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
11 July 1, 2001.