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Introduced and read first time: February 6, 2002
Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

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

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

15 BY repealing and reenacting, with amendments,
16 Article - Education
17 Section 4-122(a) and 7-101
18 Annotated Code of Maryland
19 (1999 Replacement Volume and 2001 Supplement)

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

22 **Article - Education**

23 4-122.

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

1 (2) "Local current expense per student" means all expenditures made by
2 a county from county appropriations, except State, federal, and other aid, for public
3 elementary and secondary education in the prior fiscal year, divided by the full-time
4 equivalent enrollment, as defined in § 5-202(a) of this article.

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

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

10 (II) [living] DOMICILED with a [relative, stepparent or a person
11 exercising temporary care, custody or control over a child at the request of a parent or
12 guardian of the child] RELATIVE WHO EXERCISES CARE, CUSTODY, AND CONTROL
13 OVER THE CHILD 24 HOURS A DAY AND 7 DAYS A WEEK.

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

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

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

21 (ii) If custody has not been awarded, the county where the parent
22 with whom the child lives when not in a foster care home, INFORMAL KINSHIP CARE
23 HOME, or residential facility resides;

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

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

32 7-101.

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

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

1 (2) Upon request and in accordance with a county board's policies
2 concerning residency, a county superintendent may allow a child to attend school in
3 the county even if the child is not domiciled in that county with the child's parent or
4 guardian.

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

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

12 (C) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE
13 MEANINGS INDICATED.

14 (II) "INFORMAL KINSHIP CARE" MEANS A LIVING ARRANGEMENT
15 WHERE A RELATIVE OF A CHILD PROVIDES FOR THE CARE AND CUSTODY OF THE
16 CHILD WHO IS NOT IN THE CARE, CUSTODY, OR GUARDIANSHIP OF THE LOCAL
17 DEPARTMENT.

18 (III) "RELATIVE" MEANS AN ADULT RELATED TO THE CHILD BY
19 BLOOD OR MARRIAGE WITHIN THE FIFTH DEGREE OF CONSANGUINITY.

20 (IV) "SERIOUS FAMILY HARDSHIP" MEANS:

- 21 1. DEATH OF A PARENT OF THE CHILD;
- 22 2. SERIOUS ILLNESS OF A PARENT OF THE CHILD;
- 23 3. DRUG ADDICTION OF A PARENT OF THE CHILD;
- 24 4. INCARCERATION OF A PARENT OF THE CHILD; OR
- 25 5. ABANDONMENT BY A PARENT OF THE CHILD.

26 (2) A COUNTY SUPERINTENDENT SHALL ALLOW A CHILD WHO IS A
27 RESIDENT OF THIS STATE TO ATTEND A PUBLIC SCHOOL IN A COUNTY OTHER THAN
28 THE COUNTY WHERE THE CHILD IS DOMICILED WITH THE CHILD'S PARENT OR
29 LEGAL GUARDIAN IF THE CHILD LIVES WITH A RELATIVE IN THE COUNTY DUE TO A
30 SERIOUS FAMILY HARDSHIP THAT THE RELATIVE VERIFIES THROUGH A SWORN
31 AFFIDAVIT.

32 (3) THE AFFIDAVIT SHALL INCLUDE:

- 33 (I) THE NAME AND DATE OF BIRTH OF THE CHILD;
- 34 (II) THE NAME AND ADDRESS OF THE CHILD'S PARENT;

1 (III) THE NAME AND ADDRESS OF THE RELATIVE WHO HAS CARE OF
2 THE CHILD;

3 (IV) THE DATE THE RELATIVE ASSUMED CARE OF THE CHILD;

4 (V) THE NATURE OF THE SERIOUS FAMILY HARDSHIP;

5 (VI) THE CARETAKER'S KINSHIP RELATION TO THE CHILD;

6 (VII) THE NAME AND ADDRESS OF THE SCHOOL THE CHILD
7 PREVIOUSLY ATTENDED;

8 (VIII) NOTICE THAT THE COUNTY SUPERINTENDENT MAY VERIFY
9 THE FACTS GIVEN BY THE RELATIVE IN THE AFFIDAVIT AND CONDUCT AN AUDIT OF
10 THE CASE AFTER THE CHILD HAS BEEN ENROLLED IN THE COUNTY PUBLIC SCHOOL
11 SYSTEM;

12 (IX) NOTICE THAT IF FRAUD OR MISREPRESENTATION IS
13 DISCOVERED DURING AN AUDIT, THE COUNTY SUPERINTENDENT SHALL REMOVE
14 THE CHILD FROM THE COUNTY PUBLIC SCHOOL SYSTEM ROLL; AND

15 (X) NOTICE THAT ANY PERSON WHO WILLFULLY MAKES A
16 MATERIAL MISREPRESENTATION IN THE AFFIDAVIT SHALL BE SUBJECT TO A
17 PENALTY PAYABLE TO THE COUNTY FOR THREE TIMES THE PRO RATA SHARE OF
18 TUITION FOR THE TIME THE CHILD FRAUDULENTLY ATTENDS A PUBLIC SCHOOL IN
19 THE COUNTY.

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

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

23 (II) _____ (NAME OF CHILD), WHOSE DATE OF BIRTH IS
24 _____, IS LIVING WITH ME BECAUSE OF THE FOLLOWING SERIOUS FAMILY
25 HARDSHIP: (CHECK EACH THAT IS APPLICABLE)

26 _____DEATH OF FATHER/MOTHER/LEGAL GUARDIAN

27 _____SERIOUS ILLNESS OF FATHER/MOTHER/LEGAL GUARDIAN

28 _____DRUG ADDICTION OF FATHER/MOTHER/LEGAL GUARDIAN

29 _____INCARCERATION OF FATHER/MOTHER/LEGAL GUARDIAN

30 _____ABANDONMENT BY FATHER/MOTHER/LEGAL GUARDIAN

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

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(IV) MY KINSHIP RELATION TO THE CHILD IS _____

(V) MY ADDRESS IS:

STREET APT. NO.

CITY STATE ZIP CODE

(VI) I ASSUMED CARE OF THIS CHILD FOR 24 HOURS A DAY AND 7
DAYS A WEEK ON _____(DAY/MONTH/YEAR).

(VII) THE NAME AND ADDRESS OF THE LAST SCHOOL THAT THE
CHILD ATTENDED IS: _____

(VIII) THE COUNTY SUPERINTENDENT MAY VERIFY THE FACTS
CONTAINED IN THE FOREGOING AFFIDAVIT AND CONDUCT AN AUDIT ON A
CASE-BY-CASE BASIS AFTER THE CHILD HAS BEEN ENROLLED IN THE COUNTY
PUBLIC SCHOOL SYSTEM. IF THE COUNTY SUPERINTENDENT DISCOVERS FRAUD OR
MISREPRESENTATION, THE CHILD SHALL BE REMOVED FROM THE COUNTY PUBLIC
SCHOOL SYSTEM ROLL.

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

SIGNATURE OF AFFIANT

(DAY/MONTH/YEAR)

(X) ANY PERSON WHO WILLFULLY MAKES A MATERIAL
MISREPRESENTATION IN THIS AFFIDAVIT SHALL BE SUBJECT TO A PENALTY
PAYABLE TO THE COUNTY FOR THREE TIMES THE PRO RATA SHARE OF TUITION FOR
THE TIME THE CHILD FRAUDULENTLY ATTENDS A PUBLIC SCHOOL IN THE COUNTY.

(5) AFFIDAVIT FORMS THAT COMPLY WITH SUBSECTION (C)(4) OF THIS
SECTION SHALL BE MADE AVAILABLE FREE OF CHARGE AT THE OFFICES OF EACH
COUNTY BOARD OF EDUCATION, EACH LOCAL DEPARTMENT OF SOCIAL SERVICES,
AND EACH LOCAL AREA AGENCY ON AGING.

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

5 (7) (I) AN INFORMAL KINSHIP CARE AFFIDAVIT MAY BE FILED
6 DURING A SCHOOL YEAR.

7 (II) THE RELATIVE SHALL FILE AN AFFIDAVIT ANNUALLY AT LEAST
8 2 WEEKS PRIOR TO THE BEGINNING OF THE SCHOOL YEAR FOR EACH YEAR THE
9 CHILD CONTINUES TO LIVE WITH THE RELATIVE BECAUSE OF A SERIOUS FAMILY
10 HARDSHIP.

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

15 (9) THE RELATIVE WHO HAS CARE OF THE CHILD HAS AUTHORITY TO
16 MAKE EDUCATIONAL DECISIONS AND MAY APPLY ON BEHALF OF THE CHILD FOR
17 ALL HEALTH CARE AND PUBLIC ASSISTANCE ENTITLEMENTS FOR WHICH THE CHILD
18 MAY BE ELIGIBLE.

19 (10) THE PARENT OR LEGAL GUARDIAN OF A CHILD IN AN
20 OUT-OF-COUNTY LIVING ARRANGEMENT SHALL HAVE FINAL DECISION MAKING
21 AUTHORITY REGARDING THE EDUCATIONAL NEEDS OF THE CHILD.

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

24 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
25 July 1, 2002.