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By: **Delegate Shriver**  
Introduced and read first time: February 8, 2002  
Assigned to: Ways and Means

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A BILL ENTITLED

1 AN ACT concerning

2                                   **Education - Disabled Children - Nonpublic Educational Programs and**  
3                                   **Related Services**

4 FOR the purpose of providing that a child with a disability who needs special  
5 education and related services is eligible for an appropriate nonpublic  
6 educational placement if a State or local agency provides documentation that  
7 the child cannot attend a local public school because of the child's home  
8 circumstances; defining a certain term; requiring that the cost of providing  
9 certain services shall be paid by the State and the county according to a certain  
10 formula; prohibiting payment or reimbursement for certain services under a  
11 certain formula if alternative funding is available; requiring a local  
12 management board to pay for certain student transportation costs under certain  
13 circumstances; and generally relating to children with disabilities and nonpublic  
14 educational programs and related services.

15 BY repealing and reenacting, with amendments,  
16 Article - Education  
17 Section 8-406 and 8-410(b)  
18 Annotated Code of Maryland  
19 (2001 Replacement Volume)

20 BY repealing and reenacting, without amendments,  
21 Article - Education  
22 Section 8-415(d)  
23 Annotated Code of Maryland  
24 (2001 Replacement Volume)

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

1

**Article - Education**

2 8-406.

3 (A) IN THIS SECTION, "WRAPAROUND SERVICES":

4 (1) MEANS INDIVIDUALIZED SERVICES THAT ARE PROVIDED TO A CHILD  
5 WITH A DISABILITY AND THE CHILD'S FAMILY;6 (2) DOES NOT INCLUDE REGULAR SCHOOL PROGRAMS OR SERVICES;  
7 AND

8 (3) INCLUDES THE FOLLOWING SERVICES:

9 (I) BEHAVIORAL AIDE IN HOME;

10 (II) EDUCATION TUTORING;

11 (III) FAMILY THERAPY;

12 (IV) MEDICATION MANAGEMENT;

13 (V) RESPITE CARE; AND

14 (VI) VOCATIONAL MENTORING.

15 [(a)] (B) (1) A child with a disability who needs special education and  
16 related services that cannot be provided in a public county, regional, or State program  
17 shall be placed in an appropriate nonpublic educational program that offers these  
18 services.19 (2) A CHILD WITH A DISABILITY WHO NEEDS SPECIAL EDUCATION AND  
20 RELATED SERVICES IS ELIGIBLE FOR AN APPROPRIATE NONPUBLIC EDUCATIONAL  
21 PLACEMENT UNDER THIS SECTION IF A STATE OR LOCAL AGENCY PROVIDES  
22 DOCUMENTATION THAT THE CHILD CANNOT ATTEND A PUBLIC SCHOOL IN THE  
23 LOCAL SCHOOL SYSTEM BECAUSE OF THE CHILD'S HOME CIRCUMSTANCES.24 [(b)] (C) (1) The cost of the nonpublic educational program shall be paid by  
25 the State and the county in which the child is domiciled in accordance with § 8-415(d)  
26 of this subtitle, as appropriate.27 (2) FOR A CHILD WHO IS PLACED IN A NONPUBLIC EDUCATIONAL  
28 PROGRAM UNDER SUBSECTION (B)(2) OF THIS SECTION AND WHO REQUIRES  
29 WRAPAROUND SERVICES IN ORDER TO RECEIVE SPECIAL EDUCATION AND RELATED  
30 SERVICES IN THE LEAST RESTRICTIVE ENVIRONMENT, THE COST OF PROVIDING THE  
31 SERVICES SHALL BE PAID BY THE STATE AND THE COUNTY IN WHICH THE CHILD IS  
32 DOMICILED IN ACCORDANCE WITH § 8-415(D) OF THIS SUBTITLE, IF A STATE OR  
33 LOCAL AGENCY DOCUMENTS THAT THE CHILD'S PARENT OR LOCAL GUARDIAN IS  
34 UNABLE TO PROVIDE THE WRAPAROUND SERVICES.

1       [(c)]   (D)   (1)   Payment or reimbursement for a nonpublic program may not be  
2 provided if the payment or reimbursement would require an additional contribution  
3 from the State under § 8-415(d)(2) of this subtitle unless the Department approves:

- 4                   (i)    The nonpublic program;
- 5                   (ii)   The placement of the child in the program;
- 6                   (iii)   The cost of the program; and
- 7                   (iv)   The amount of payment or reimbursement.

8                   (2)   FOR WRAPAROUND SERVICES, PAYMENT OR REIMBURSEMENT MAY  
9 NOT BE PROVIDED IN ACCORDANCE WITH § 8-415(D) OF THIS SUBTITLE IF NOT  
10 ELIGIBLE FOR RETURN/DIVERSION, OR ALTERNATIVE FEDERAL, STATE, OR LOCAL  
11 FUNDING IS AVAILABLE.

12               [(2)]   (3)   Department approval is not required for a nonpublic program if:

- 13                   (i)    The local school system approves the placement of the child in  
14 the program; and
- 15                   (ii)   The local school system makes the payment or reimbursement  
16 from local funds.

17               [(3)]   (4)   The State Board shall adopt regulations that establish  
18 standards and guidelines for approvals required by paragraph [(2)] (3) of this  
19 subsection.

20       [(d)]   (E)    A nonpublic placement recommended by a local school system for  
21 approval under subsection [(c)(1)] (D)(1) of this section shall be approved or  
22 disapproved pursuant to the regulations of the State Board. However, the  
23 Department may not disapprove a nonpublic placement recommended by a local  
24 school system for a child unless the Department provides an appropriate alternative  
25 placement in conformity with the regulations of the State Board and applicable  
26 federal laws and regulations. The Department may not terminate funding for the last  
27 approved nonpublic placement of a child during the pendency of an administrative or  
28 judicial review of a recommended placement change.

29       [(e)]   (F)    In addition to meeting the requirements of this subtitle, a local school  
30 system seeking nonpublic tuition payment must also meet the requirements of Article  
31 49D of the Code, as applicable, and obtain funding approval from the local  
32 coordinating council and the State Coordinating Council.

33 8-410.

34       (b)   (1)    [The] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS  
35 SUBSECTION, THE local school system of the county in which the child with a  
36 disability resides shall certify and pay the cost of his daily or other reasonable

1 transportation to school under the rules and regulations adopted by the State Board  
2 if:

3                   [(1)]   (I)       The school is outside this State or the county in which the child  
4 resides; and

5                   [(2)]   (II)      State aid has provided for the education of the child under this  
6 subtitle.

7                   (2)       IF A LOCAL MANAGEMENT BOARD ESTABLISHED UNDER ARTICLE  
8 49D, § 11 OF THE CODE FUNDS THE PLACEMENT OF A CHILD IN A SCHOOL THAT IS  
9 OUTSIDE THE STATE OR THE COUNTY IN WHICH THE CHILD RESIDES WITHOUT  
10 CONSULTING THE LOCAL SCHOOL SYSTEM, THE LOCAL MANAGEMENT BOARD SHALL  
11 CERTIFY AND PAY THE COST OF THE STUDENT'S DAILY OR OTHER REASONABLE  
12 TRANSPORTATION TO SCHOOL.

13 8-415.

14       (d)       (1)       In this subsection, "basic cost" as to each county, means the average  
15 amount spent by the county from county, State, and federal sources for the public  
16 education of a nonhandicapped child. "Basic cost" does not include amounts  
17 specifically allocated and spent for identifiable compensatory programs for  
18 disadvantaged children.

19                   (2)       As provided in paragraphs (3) and (4) of this subsection, the State  
20 and the counties shall share collectively in the cost of educating children with  
21 disabilities in nonpublic programs under § 8-406 of this subtitle.

22                   (3)       (i)       Subject to the limitation under subparagraph (ii) of this  
23 paragraph, for each of these children domiciled in the county, the county shall  
24 contribute for each placement the sum of:

25                                   1.       The local share of the basic cost;

26                                   2.       An additional amount equal to 200 percent of the basic  
27 cost; and

28                                   3.       An additional amount equal to 20 percent of the approved  
29 cost or reimbursement in excess of the sum of items 1 and 2 of this subparagraph.

30                                   (ii)      The amount that a county is required to contribute under  
31 subparagraph (i) of this paragraph may not exceed the total cost or reimbursement  
32 amount approved by the Department.

33                   (4)       For each of these children, the State shall contribute an amount  
34 equal to the amount of the approved cost or reimbursement in excess of the amount  
35 the county is required to contribute under paragraph (3) of this subsection.

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

