

SENATE BILL 83

Unofficial Copy  
F1

2002 Regular Session  
2lr0089

(PRE-FILED)

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By: **Chairman, Education, Health, and Environmental Affairs**  
**(Departmental - Education)**

Requested: November 14, 2001

Introduced and read first time: January 9, 2002

Assigned to: Education, Health, and Environmental Affairs

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A BILL ENTITLED

1 AN ACT concerning

2 **Education - Special Education - Transfer of Rights at Age of Majority**

3 FOR the purpose of requiring the transfer of certain parental rights to a child with  
4 disabilities at the age of majority under certain circumstances; authorizing  
5 certain children with disabilities to file a certain action; requiring a certain  
6 notice to be given to both a child with disabilities and parental surrogate under  
7 certain circumstances; requiring that certain rights of a parental surrogate be  
8 transferred to the child under certain circumstances; and generally relating to  
9 special education.

10 BY adding to

11 Article - Education

12 Section 8-412.1

13 Annotated Code of Maryland

14 (2001 Replacement Volume)

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

17 **Article - Education**

18 8-412.1.

19 (A) WHEN A CHILD WITH A DISABILITY REACHES THE AGE OF 18 YEARS, ALL  
20 RIGHTS ACCORDED TO PARENTS UNDER THE FEDERAL INDIVIDUALS WITH  
21 DISABILITIES EDUCATION ACT, 20 U.S.C. 1400 ET SEQ. 1997, SHALL TRANSFER TO THE  
22 CHILD IF THE CHILD HAS NOT BEEN ADJUDGED INCOMPETENT UNDER STATE LAW  
23 AND IF THERE IS DOCUMENTATION THAT:

24 (1) THE PARENTS ARE UNAVAILABLE OR UNKNOWN AS DEFINED IN §  
25 8-412 OF THIS SUBTITLE, THE CHILD WOULD BE ELIGIBLE FOR A PARENT  
26 SURROGATE, AND THE CHILD REQUESTS THAT THE PARENTAL RIGHTS BE  
27 TRANSFERRED TO THE CHILD;

1           (2)     THE PARENTS HAVE NOT PARTICIPATED IN THE SPECIAL  
2 EDUCATION DECISION MAKING PROCESS FOR THE CHILD AFTER REPEATED  
3 ATTEMPTS BY THE LOCAL SCHOOL SYSTEM TO INVOLVE THE PARENTS OVER THE  
4 PREVIOUS YEAR AS DESCRIBED IN COMAR 13A.05.01.07C(7);

5           (3)     THE PARENTS HAVE AFFIRMATIVELY REJECTED PARTICIPATION IN  
6 THE SPECIAL EDUCATION DECISION MAKING PROCESS;

7           (4)     THE PARENTS CANNOT PARTICIPATE IN THE SPECIAL EDUCATION  
8 DECISION MAKING PROCESS DUE TO PROLONGED HOSPITALIZATION,  
9 INSTITUTIONALIZATION, OR SERIOUS ILLNESS OR INFIRMITY OF ONE OR BOTH OF  
10 THE PARENTS AND THE PARENTS HAVE CONSENTED TO THE TRANSFER OF RIGHTS  
11 TO THE CHILD;

12          (5)     THE PARENTS CANNOT PARTICIPATE IN THE SPECIAL EDUCATION  
13 DECISION MAKING PROCESS DUE TO EXTRAORDINARY CIRCUMSTANCES BEYOND  
14 THE CONTROL OF THE PARENTS AND THE PARENTS HAVE CONSENTED TO THE  
15 TRANSFER OF RIGHTS TO THE CHILD; OR

16          (6)     THE CHILD IS LIVING OUTSIDE OF THE PARENTS' HOME AND IS NOT  
17 IN THE CARE OR CUSTODY OF ANOTHER PUBLIC AGENCY AS DEFINED IN § 8-412 OF  
18 THIS SUBTITLE.

19        (B)     A CHILD WITH DISABILITIES WHO REACHES THE AGE OF 18 YEARS AND IS  
20 LIVING AT HOME WITH THE CHILD'S PARENTS AND WHOSE PARENTS DO NOT  
21 CONSENT TO THE TRANSFER OF RIGHTS TO THE CHILD MAY FILE FOR DUE PROCESS  
22 IN ACCORDANCE WITH § 8-413 OF THIS SUBTITLE TO DETERMINE WHETHER THE  
23 RIGHTS SHOULD BE TRANSFERRED TO THE CHILD.

24        (C)     IF A CHILD WITH DISABILITIES WHO HAS REACHED THE AGE OF 18 YEARS  
25 HAS BEEN REPRESENTED BY A PARENT SURROGATE AS DEFINED IN § 8-412 OF THIS  
26 SUBTITLE, ANY NOTICE REQUIRED BY THE INDIVIDUALS WITH DISABILITIES  
27 EDUCATION ACT, 20 U.S.C. 1400 ET SEQ. 1997, SHALL BE PROVIDED TO BOTH THE  
28 CHILD AND TO THE PARENT SURROGATE AND ALL OTHER RIGHTS ACCORDED TO THE  
29 PARENT SURROGATE UNDER THAT ACT SHALL TRANSFER TO THE CHILD IF THE  
30 CHILD HAS NOT BEEN ADJUDGED INCOMPETENT UNDER STATE LAW AND THE CHILD  
31 REQUESTS THAT THE RIGHTS TRANSFER TO THE CHILD.

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