

SENATE BILL 186

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2002 Regular Session
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CF 2lr0798

By: **Senators Kelley, Blount, Conway, Della, Hooper, Jacobs, Lawlah,
Mitchell, Mooney, Neall, Sfikas, Stoltzfus, and Van Hollen**

Introduced and read first time: January 17, 2002

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 20, 2002

CHAPTER _____

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~~ a county other than where the child was
6 previously domiciled in Maryland with the child's parent or legal guardian if the
7 child lives with a relative in the county due to a serious family hardship;
8 altering a certain definition; defining certain terms; requiring certain relatives
9 of a child to file certain affidavits and certain supporting documentation under
10 certain circumstances; establishing ~~a~~ the contents and form for of certain
11 affidavits; requiring certain affidavits to be provided free of charge at certain
12 offices; authorizing certain relatives to make educational ~~and health care~~
13 decisions for children in their custody; ~~authorizing certain relatives to apply for~~
14 ~~entitlements for certain children~~; and generally relating to children in
15 out-of-county living arrangements who live with relatives who provide informal
16 kinship care.

17 BY repealing and reenacting, with amendments,
18 Article - Education
19 Section 4-122(a) and 7-101
20 Annotated Code of Maryland
21 (1999 Replacement Volume and 2001 Supplement)

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

1 **Article - Education**

2 4-122.

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

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

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

9 (I) [placed] PLACED by a State agency, a licensed child placement
10 agency as provided by § 5-507 of the Family Law Article, or a court in a county other
11 than where the child's parent or legal guardian [resides. Child in an out-of-county
12 living arrangement does not include a child] RESIDES; OR13 (II) [living] DOMICILED with a [relative, stepparent or a person
14 exercising temporary care, custody or control over a child at the request of a parent or
15 guardian of the child] RELATIVE WHO EXERCISES CARE, CUSTODY, AND CONTROL
16 OVER THE CHILD 24 HOURS A DAY AND 7 DAYS A WEEK AND WHO PROVIDES
17 INFORMAL KINSHIP CARE, AS DEFINED IN § 7-101 OF THIS ARTICLE, FOR THE CHILD.18 (4) "Service providing local education agency" means the local education
19 agency for the county where a child in an out-of-county living arrangement is placed.20 (5) "Financially responsible county" means the county where the parent
21 or legal guardian of a child in an out-of-county living arrangement resides. If the
22 parents of the child live apart, the financially responsible county is:23 (i) The county where the parent who has been awarded custody of
24 the child resides;25 (ii) If custody has not been awarded, the county where the parent
26 with whom the child lives when not in a foster care home, IN THE HOME OF AN
27 INFORMAL KINSHIP CARE HOME PROVIDER, or residential facility resides;28 (iii) If custody has been awarded to both parents and the parents
29 reside in different counties, both counties shall be considered financially responsible
30 and shall pay one-half the amount as computed in accordance with subsection (c) of
31 this section, except that if the child receives a public education in a county where a
32 parent resides, this subparagraph shall not apply; or33 (iv) If custody has been awarded to both parents and one parent
34 resides in a county and the other resides out-of-state, the county shall be considered
35 the financially responsible county.

1 7-101.

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

4 (b) (1) Except as provided in § 7-301 of this title and in paragraph (2) of this
5 subsection, each child shall attend a public school in the county where the child is
6 domiciled with the child's parent ~~or guardian~~, GUARDIAN, OR RELATIVE PROVIDING
7 INFORMAL KINSHIP CARE, AS DEFINED IN SUBSECTION (C) OF THIS SECTION.

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

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

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

19 (C) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE
20 MEANINGS INDICATED.

21 (II) "INFORMAL KINSHIP CARE" MEANS A LIVING ARRANGEMENT
22 WHERE A RELATIVE OF A CHILD, WHO IS NOT IN THE CARE, CUSTODY, OR
23 GUARDIANSHIP OF THE DEPARTMENT, PROVIDES FOR THE CARE AND CUSTODY OF
24 THE CHILD WHO IS NOT IN THE CARE, CUSTODY, OR GUARDIANSHIP OF THE LOCAL
25 DEPARTMENT DUE TO A SERIOUS FAMILY HARDSHIP.

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

28 (IV) "SERIOUS FAMILY HARDSHIP" MEANS:

- 29 1. DEATH OF A PARENT OR LEGAL GUARDIAN OF THE CHILD;
30 2. SERIOUS ILLNESS OF A PARENT OR LEGAL GUARDIAN OF
31 THE CHILD;
32 3. DRUG ADDICTION OF A PARENT OR LEGAL GUARDIAN OF
33 THE CHILD;
34 4. INCARCERATION OF A PARENT OR LEGAL GUARDIAN OF
35 THE CHILD; OR

1 TUITION FOR THE TIME THE CHILD FRAUDULENTLY ATTENDS A PUBLIC SCHOOL IN
2 THE COUNTY.

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

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

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

9 _____DEATH OF FATHER/MOTHER/LEGAL GUARDIAN

10 _____SERIOUS ILLNESS OF FATHER/MOTHER/LEGAL GUARDIAN

11 _____DRUG ADDICTION OF FATHER/MOTHER/LEGAL GUARDIAN

12 _____INCARCERATION OF FATHER/MOTHER/LEGAL GUARDIAN

13 _____ABANDONMENT BY FATHER/MOTHER/LEGAL GUARDIAN

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

16 _____
17 _____
18 _____

19 (IV) MY KINSHIP RELATION TO THE CHILD IS _____

20 (V) MY ADDRESS IS:

21 _____
22 STREET APT. NO.

23 _____
24 CITY STATE ZIP CODE

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

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

30 (VIII) THE COUNTY SUPERINTENDENT MAY VERIFY THE FACTS
31 CONTAINED IN THE FOREGOING AFFIDAVIT AND CONDUCT AN AUDIT ON A
32 CASE-BY-CASE BASIS AFTER THE CHILD HAS BEEN ENROLLED IN THE COUNTY
33 PUBLIC SCHOOL SYSTEM. IF THE COUNTY SUPERINTENDENT DISCOVERS FRAUD OR

1 MISREPRESENTATION, THE CHILD SHALL BE REMOVED FROM THE COUNTY PUBLIC
2 SCHOOL SYSTEM ROLL.

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

6 _____
7 SIGNATURE OF AFFIANT

8 _____
9 (DAY/MONTH/YEAR)

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

14 (5) (I) INSTRUCTIONS THAT EXPLAIN THE NECESSITY FOR BOTH AN
15 AFFIDAVIT AND SUPPORTING DOCUMENTATION OF THE SERIOUS FAMILY HARDSHIP
16 RESULTING IN INFORMAL KINSHIP CARE SHALL BE ATTACHED TO AFFIDAVIT FORMS
17 THAT COMPLY WITH SUBSECTION (C)(4) OF THIS SECTION.

18 (II) THE AFFIDAVIT FORMS, WITH ATTACHED INSTRUCTIONS,
19 SHALL BE MADE AVAILABLE FREE OF CHARGE AT THE OFFICES OF EACH COUNTY
20 BOARD OF EDUCATION, EACH LOCAL DEPARTMENT OF SOCIAL SERVICES, AND EACH
21 LOCAL AREA AGENCY ON AGING.

22 (6) IF A CHANGE OCCURS IN THE CARE OR IN THE SERIOUS FAMILY
23 HARDSHIP OF THE CHILD, THE RELATIVE ~~CARING FOR THE CHILD PROVIDING~~
24 ~~INFORMAL KINSHIP CARE~~ SHALL NOTIFY THE LOCAL SCHOOL SYSTEM IN WRITING
25 WITHIN 30 DAYS AFTER THE CHANGE OCCURS.

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

28 (II) THE RELATIVE ~~PROVIDING INFORMAL KINSHIP CARE~~ SHALL
29 FILE AN AFFIDAVIT ANNUALLY AT LEAST 2 WEEKS PRIOR TO THE BEGINNING OF THE
30 SCHOOL YEAR FOR EACH YEAR THE CHILD CONTINUES TO LIVE WITH THE RELATIVE
31 BECAUSE OF A SERIOUS FAMILY HARDSHIP.

32 (8) UNLESS THE COURT APPOINTS A GUARDIAN FOR THE CHILD OR
33 AWARDS CUSTODY OF THE CHILD TO SOMEONE OTHER THAN THE RELATIVE ~~WHO~~
34 ~~HAS CARE OF THE CHILD PROVIDING INFORMAL KINSHIP CARE,~~ THE RELATIVE ~~WHO~~
35 ~~HAS CARE OF THE CHILD PROVIDING INFORMAL KINSHIP CARE~~ SHALL MAKE THE
36 FULL RANGE OF EDUCATIONAL ~~AND HEALTH CARE~~ DECISIONS FOR THE CHILD.

37 (9) THE RELATIVE ~~PROVIDING INFORMAL KINSHIP CARE~~ SHALL MAKE
38 REASONABLE EFFORTS TO INFORM THE PARENT OR LEGAL GUARDIAN OF THE CHILD
39 OF THE INFORMAL KINSHIP CARE RELATIONSHIP. ~~THE RELATIVE WHO HAS CARE OF~~

~~1 THE CHILD HAS AUTHORITY TO MAKE EDUCATIONAL DECISIONS AND MAY APPLY ON
2 BEHALF OF THE CHILD FOR ALL HEALTH CARE AND PUBLIC ASSISTANCE
3 ENTITLEMENTS FOR WHICH THE CHILD MAY BE ELIGIBLE.~~

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

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

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