

Department of Legislative Services
Maryland General Assembly
2002 Session

FISCAL NOTE

Senate Bill 83 (Chairman, Education, Health, and Environmental Affairs)
(Departmental - Education)

Education, Health, and Environmental Affairs

Ways and Means

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

This departmental bill allows a child with disabilities who has not been adjudged incompetent and is at least 18 years old to obtain specified parental rights under the federal Individuals with Disabilities Education Act (IDEA) if the child's parent or guardian is unknown or unavailable or is unwilling or unable to make educational decisions for the child. The IDEA rights that would transfer to the child are the right to participate in educational decisions and the right to obtain or make changes to educational services. An eligible child whose parents do not consent to a transfer of these rights may file for an administrative hearing to determine if the rights should be transferred. If an eligible child who has been represented by a parent surrogate requests a transfer of rights, any parental notice required under these IDEA rights must be provided to both the child and the parent surrogate, and all other rights accorded to the surrogate will transfer exclusively to the child.

The bill is effective July 1, 2002.

Fiscal Summary

State Effect: Any increase in administrative hearings are assumed to be minimal and could be handled with existing resources.

Local Effect: Any adjustments to local school system policies and practices could be made with existing resources. Any increase in administrative hearings that require the attendance of local officials are assumed to be minimal and could be handled with existing resources.

Small Business Effect: The Maryland State Department of Education has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment.

Analysis

Current Law: The local superintendent of schools must appoint a parent surrogate to represent a child under 21 in the educational decision making process if the child is disabled and if the child's parent or guardian is unknown or unavailable. However, no provisions address the transfer of IDEA rights to a child with disabilities who is 18 or older and whose parents are unwilling or unable to participate in educational decision-making. In addition, no provisions allow for the transfer of IDEA rights from a parent surrogate to a child with disabilities who is 18 or older.

Background: According to the Maryland State Department of Education, students with disabilities are often involved in making decisions about the types of educational services they receive. School administrators and teachers make efforts to ensure that parents are likewise involved in the decision-making process, and they recognize when parents are unwilling or unable to be involved in the process.

Additional Information

Prior Introductions: HB 1392 of 2001 would have allowed a special education student 18 to 20 years of age to represent himself/herself in the educational process if the parent or guardian of the student has neglected to be involved in the process, has refused to be involved in the process, or is unable to be involved in the process. The bill received an unfavorable report from the House Ways and Means Committee.

Cross File: None.

Information Source(s): Department of Human Resources, Maryland State Department of Education, Department of Health and Mental Hygiene (Developmental Disabilities Administration, Mental Hygiene Administration), Department of Legislative Services

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lsc/hlb

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