

BY: Education, Health, and Environmental Affairs Committee

AMENDMENTS TO SENATE BILL NO. 32

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 2, strike “Out-of-County Living Arrangements -”; in line 3, after “Care” insert “Relationships”; in line 4, after the first “of” insert “providing for the funding of the education of a child in an informal kinship care relationship due to a serious family hardship under certain circumstances; requiring a child in an informal kinship care relationship to receive an appropriate education; providing that a certain child shall be included in a certain enrollment count; requiring a certain agency to notify the State Superintendent of Schools of the name of each child in an informal kinship care relationship in that county; requiring a certain agency to notify the State Superintendent of a certain preliminary determination regarding the financially responsible local education agency for a certain child; establishing certain notice requirements; authorizing a certain agency to appeal a certain determination; requiring the State Superintendent to decide certain appeals and to make a certain determination; requiring each county board of education to provide certain data to the State Superintendent; requiring the State Superintendent to deduct a certain payment to a certain agency under certain circumstances; requiring the State Board of Education to adopt certain regulations;”; in line 7, after “county” insert “in an informal kinship care relationship”; strike beginning with “altering” in line 7 down through “definition;” in line 8; in line 10, after “circumstances;” insert “requiring certain supporting documentation to be consistent with certain privacy and confidentiality policies and statutes;”; in line 13, after “custody;” insert “requiring each county board of education to report certain information to the Maryland State Department of Education on or before certain dates; requiring the Department to compile and submit certain information to certain legislative committees;”; strike beginning with “in” in line 13 down through “arrangements” in line 14; in line 14, after “care” insert “due to a serious family hardship”; in line 18, strike “7-101(d)” and substitute “7-101(e)”; in line 23, strike “4-122(a) and”; in line 28, after “Section” insert “4-122.1 and”; and in the same line, after “(c)” insert “and (d)”.

On page 2, in line 5, strike “7-101(d)” and substitute “7-101(e)”.

(Over)

AMENDMENT NO. 2

On pages 2 and 3, strike in their entirety the lines beginning with line 9 on page 2 through line 6 on page 3, inclusive.

On page 3, in lines 21 and 23, in each instance, strike the bracket.

AMENDMENT NO. 3

On page 3, after line 6, insert:

“4-122.1.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “INFORMAL KINSHIP CARE” MEANS A LIVING ARRANGEMENT IN WHICH A RELATIVE OF A CHILD, WHO IS NOT IN THE CARE, CUSTODY, OR GUARDIANSHIP OF THE LOCAL DEPARTMENT OF SOCIAL SERVICES, PROVIDES FOR THE CARE AND CUSTODY OF THE CHILD DUE TO A SERIOUS FAMILY HARDSHIP.

(3) “LOCAL CURRENT EXPENSE PER STUDENT” MEANS ALL EXPENDITURES MADE BY A COUNTY FROM COUNTY APPROPRIATIONS, EXCEPT STATE, FEDERAL, AND OTHER AID, FOR PUBLIC ELEMENTARY AND SECONDARY EDUCATION IN THE PRIOR FISCAL YEAR, DIVIDED BY THE FULL-TIME EQUIVALENT ENROLLMENT, AS DEFINED IN § 5-202(A) OF THIS ARTICLE.

(4) “RECEIVING AGENCY” MEANS THE LOCAL EDUCATION AGENCY FOR THE COUNTY WHERE THE RELATIVE OF A CHILD IN AN INFORMAL KINSHIP CARE RELATIONSHIP RESIDES.

(5) “RELATIVE” MEANS AN ADULT RELATED TO THE CHILD BY BLOOD OR MARRIAGE WITHIN THE FIFTH DEGREE OF CONSANGUINITY.

(6) “SENDING AGENCY” MEANS THE LOCAL EDUCATION AGENCY FOR A COUNTY WHERE THE PARENT OR LEGAL GUARDIAN OF A CHILD IN AN INFORMAL KINSHIP CARE RELATIONSHIP RESIDES, SUBJECT TO THE FOLLOWING CONDITIONS:

(1) IF THE PARENTS OR LEGAL GUARDIANS OF THE CHILD LIVE APART, THE SENDING AGENCY IS THE LOCAL EDUCATION AGENCY IN THE COUNTY

WHERE THE PARENT OR LEGAL GUARDIAN WHO HAS BEEN AWARDED CUSTODY OF THE CHILD RESIDES;

(II) IF CUSTODY HAS NOT BEEN AWARDED TO A PARENT OR LEGAL GUARDIAN, THE SENDING AGENCY IS THE LOCAL EDUCATION AGENCY OF THE COUNTY WHERE THE PARENT OR LEGAL GUARDIAN WITH WHOM THE CHILD LIVES WHEN NOT IN AN INFORMAL KINSHIP CARE RELATIONSHIP RESIDES;

(III) IF CUSTODY HAS BEEN AWARDED TO BOTH PARENTS OR LEGAL GUARDIANS, AND THE PARENTS OR LEGAL GUARDIANS RESIDE IN DIFFERENT COUNTIES, THE LOCAL EDUCATION AGENCIES OF BOTH COUNTIES SHALL BE CONSIDERED A SENDING AGENCY AND SHALL PAY ONE-HALF THE AMOUNT AS COMPUTED IN ACCORDANCE WITH SUBSECTION (D) OF THIS SECTION, EXCEPT THAT IF A CHILD RECEIVES A PUBLIC EDUCATION IN A COUNTY WHERE A PARENT RESIDES, THIS SUBPARAGRAPH SHALL NOT APPLY; AND

(IV) IF CUSTODY HAS BEEN AWARDED TO BOTH PARENTS OR LEGAL GUARDIANS, AND ONE PARENT RESIDES IN A COUNTY AND THE OTHER RESIDES OUT-OF-STATE, THE LOCAL EDUCATION AGENCY OF THE COUNTY SHALL BE CONSIDERED THE SENDING AGENCY.

(7) "SERIOUS FAMILY HARDSHIP" MEANS:

(I) DEATH OF A PARENT OR LEGAL GUARDIAN OF THE CHILD;

(II) SERIOUS ILLNESS OF A PARENT OR LEGAL GUARDIAN OF THE CHILD;

(III) DRUG ADDICTION OF A PARENT OR LEGAL GUARDIAN OF THE CHILD;

(IV) INCARCERATION OF A PARENT OR LEGAL GUARDIAN OF THE CHILD;

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(V) ABANDONMENT BY A PARENT OR LEGAL GUARDIAN OF A CHILD; OR

(VI) ASSIGNMENT OF A PARENT OR LEGAL GUARDIAN OF A CHILD TO ACTIVE MILITARY DUTY.

(B) SUBSECTION (D) OF THIS SECTION SHALL APPLY TO THE EDUCATION FUNDING OF A CHILD IN AN INFORMAL KINSHIP CARE RELATIONSHIP IF THE FISCAL IMPACT OF THE REQUIREMENTS OF § 7-101(C) OF THIS ARTICLE TO A COUNTY EXCEEDS 0.1% OF A COUNTY BOARD'S TOTAL OPERATING BUDGET FOR A FISCAL YEAR.

(C) (1) A CHILD IN AN INFORMAL KINSHIP CARE RELATIONSHIP SHALL RECEIVE AN APPROPRIATE EDUCATION FROM THE RECEIVING AGENCY.

(2) THE RECEIVING AGENCY SHALL INCLUDE A CHILD ENROLLED AS THE RESULT OF AN INFORMAL KINSHIP CARE RELATIONSHIP IN ITS FULL-TIME EQUIVALENT ENROLLMENT AS PROVIDED BY § 5-202(A) OF THIS ARTICLE.

(D) (1) SUBJECT TO SUBSECTION (B) OF THIS SECTION, AND EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, FOR EACH CHILD IN AN INFORMAL KINSHIP CARE RELATIONSHIP ENROLLED IN A PUBLIC SCHOOL PROGRAM, THE SENDING AGENCY SHALL PAY THE RECEIVING AGENCY AN AMOUNT EQUAL TO THE LESSER OF:

(I) THE LOCAL CURRENT EXPENSE PER STUDENT UNDER THE JURISDICTION OF THE SENDING AGENCY; OR

(II) THE LOCAL CURRENT EXPENSE PER STUDENT UNDER THE JURISDICTION OF THE RECEIVING AGENCY.

(2) IF THE RECEIVING AGENCY DETERMINES THAT A CHILD IN AN INFORMAL KINSHIP CARE RELATIONSHIP IS DISABLED AND NEEDS PUBLIC SCHOOL INTENSITY IV OR V SPECIAL EDUCATION SERVICES, THE SENDING AGENCY SHALL

PAY THE RECEIVING AGENCY FOR EACH SUCH CHILD AN AMOUNT EQUAL TO THE LESSER OF:

(I) THREE TIMES THE LOCAL CURRENT EXPENSE PER STUDENT UNDER THE JURISDICTION OF THE SENDING AGENCY; OR

(II) THREE TIMES THE LOCAL CURRENT EXPENSE PER STUDENT UNDER THE JURISDICTION OF THE RECEIVING AGENCY.

(3) IF THE RECEIVING AGENCY DETERMINES THAT A CHILD IN AN INFORMAL KINSHIP CARE RELATIONSHIP IS DISABLED AND NEEDS A NONPUBLIC EDUCATIONAL PROGRAM AS PROVIDED BY § 8-406 OF THIS ARTICLE, THE SENDING AGENCY SHALL PAY FOR EACH SUCH CHILD THE AMOUNT PROVIDED BY § 8-415(D)(3) OF THIS ARTICLE.

(E) (1) EACH RECEIVING AGENCY SHALL:

(I) NOTIFY THE STATE SUPERINTENDENT OF THE NAME OF EACH CHILD IN AN INFORMAL KINSHIP CARE RELATIONSHIP AS OF DECEMBER 31 OF EACH YEAR; AND

(II) SUBJECT TO SUBSECTION (B) OF THIS SECTION, MAKE A PRELIMINARY DETERMINATION OF THE SENDING AGENCY THAT IS FINANCIALLY RESPONSIBLE FOR EACH CHILD UNDER SUBSECTION (D) OF THIS SECTION.

(2) THE RECEIVING AGENCY SHALL SEND A COPY OF THE NOTICE REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION TO THE SENDING AGENCY BY JANUARY 31, AND, AT THE SAME TIME, SHALL SEND NOTICE TO THE STATE SUPERINTENDENT.

(3) THE SENDING AGENCY THAT WAS DETERMINED TO BE FINANCIALLY RESPONSIBLE UNDER THIS SUBSECTION MAY APPEAL THAT DETERMINATION TO THE STATE SUPERINTENDENT WITHIN 30 DAYS OF THE DATE

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ON WHICH THE NOTICE WAS MAILED.

(4) THE STATE SUPERINTENDENT SHALL DECIDE ALL APPEALS THAT ARE MADE UNDER PARAGRAPH (3) OF THIS SUBSECTION AND MAKE A FINAL DETERMINATION REGARDING THE SENDING AGENCY’S FINANCIAL RESPONSIBILITY FOR EACH CHILD IN AN INFORMAL KINSHIP CARE RELATIONSHIP UNDER THE JURISDICTION OF THE RECEIVING AGENCY.

(5) BY JANUARY 15 OF EACH YEAR, EACH COUNTY BOARD SHALL PROVIDE THE STATE SUPERINTENDENT THE DATA NECESSARY TO COMPUTE THE LOCAL CURRENT EXPENSE PER STUDENT UNDER THIS SECTION.

(6) IF BY MAY 15 A SENDING AGENCY HAS FAILED TO MAKE THE REQUIRED PAYMENT TO A RECEIVING AGENCY, THE STATE SUPERINTENDENT SHALL DEDUCT FROM THE NEXT PAYMENT OF STATE AID TO THE SENDING AGENCY AN AMOUNT EQUAL TO THE AMOUNT OWED UNDER THIS SECTION AND SHALL PAY THOSE FUNDS TO THE RECEIVING AGENCY.

(F) THE STATE BOARD SHALL ADOPT REGULATIONS TO IMPLEMENT THIS SECTION.”.

AMENDMENT NO. 4

On page 4, in line 13, after “(II)” insert “1.”; in line 15, after “WHO” insert “IS LEGALLY AUTHORIZED TO REVEAL INFORMATION WHICH”; and after line 16, insert:

“2. THE SUPPORTING DOCUMENTATION REQUIRED UNDER SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH SHALL BE CONSISTENT WITH LOCAL, STATE, AND FEDERAL PRIVACY AND CONFIDENTIALITY POLICIES AND STATUTES.”.

AMENDMENT NO. 5

On page 6, in line 23, after “SHALL” insert “:

1.”;

and in line 24, strike “SUBSECTION (C)(4) OF THIS SECTION” and substitute “PARAGRAPH (4) OF THIS SUBSECTION; AND”

2. INCLUDE LANGUAGE ENCOURAGING THE RELATIVE PROVIDING INFORMAL KINSHIP CARE TO SUBMIT THE AFFIDAVIT AND SUPPORTING DOCUMENTATION PRIOR TO SEPTEMBER 30 OF EACH YEAR”.

AMENDMENT NO. 6

On page 7, in line 10, strike “OUT-OF-COUNTY LIVING ARRANGEMENT” and substitute “INFORMAL KINSHIP CARE RELATIONSHIP”; and after line 11, insert:

“(D) SECTION 4-122.1 OF THIS ARTICLE SHALL APPLY TO THE EDUCATION FUNDING OF A CHILD IN AN INFORMAL KINSHIP CARE RELATIONSHIP IF THE FISCAL IMPACT OF THE REQUIREMENTS OF SUBSECTION (C) OF THIS SECTION EXCEED 0.1% OF A COUNTY BOARD’S TOTAL OPERATING BUDGET FOR A FISCAL YEAR.”.

AMENDMENT NO. 7

On page 7, in line 12, after “That” insert “each county board of education, including the Baltimore City Board of School Commissioners, shall report to the Maryland State Department of Education on or before September 1, 2003, regarding:”

(1) the number of family hardship waivers that were granted during the 2001-2002 and 2002-2003 school years;

(2) the number of family hardship waivers that were granted under subsection (1) of this section that were for out-of-state/out-of-country students;

(3) the number of family hardship waivers that were granted under subsection (1) of this section that were for out-of-county/in-state students;

(4) the number of family hardship waivers that were denied and why they were denied;

(5) the fiscal impact on the local education agency of granting these family hardship waivers including both a dollar amount and an assessment of future implications of this dollar

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amount on the local education agency; and

(6) the amount of money that a local education agency received from other sources (i.e. other counties, other states) for a child placed in that county as the result of an informal kinship care relationship.

The Maryland State Department of Education shall compile the reports from the county boards of education and the Baltimore City Board of School Commissioners and, subject to § 2-1246 of the State Government Article, shall submit a report that presents all of the data collected from the county boards in a comprehensive manner to the Senate Education, Health, and Environmental Affairs Committee and the House Ways and Means Committee on or before December 31, 2003.

SECTION 4. AND BE IT FURTHER ENACTED, That each county board of education, including the Baltimore City Board of School Commissioners, shall report to the Maryland State Department of Education on or before October 1 of each year regarding:

(1) the number of family hardship waivers that have been granted as a result of this Act;

(2) the fiscal impact on the local education agency of this Act including both a dollar amount and an assessment of future implications of this dollar amount on the local education agency; and

(3) the amount of money that a local education agency received from other sources (i.e. other states, other counties) for a child placed in that county as the result of an informal kinship care relationship.

The Maryland State Department of Education shall compile the reports from the county boards of education and the Baltimore City Board of School Commissioners and, subject to § 2-1246 of the State Government Article, shall submit a report that presents all of the data collected from the county boards in a comprehensive manner to the Senate Education, Health, and Environmental Affairs Committee and the House Ways and Means Committee on or before December 31 of each year.

SECTION 5. AND BE IT FURTHER ENACTED, That”.