
By: **Delegates Zirkin, Amedori, and O'Donnell**
Introduced and read first time: February 14, 2003
Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Department of Juvenile Justice - Children in Out-of-County Living**
3 **Arrangements**

4 FOR the purpose of requiring certain children placed in an out-of-county living
5 arrangement to receive an appropriate education from the service providing
6 local education agency; requiring the financially responsible county to pay
7 certain expenses; requiring the State Board of Education in collaboration with
8 the Department of Juvenile Justice to adopt regulations; and generally relating
9 to the Department of Juvenile Justice and children in out-of-county living
10 arrangements.

11 BY repealing and reenacting, with amendments,
12 Article - Education
13 Section 4-122
14 Annotated Code of Maryland
15 (2001 Replacement Volume and 2002 Supplement)

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

18 **Article - Education**

19 4-122.

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

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

25 (3) "Child in an out-of-county living arrangement" means a child who is
26 placed by a State agency, a licensed child placement agency as provided by § 5-507 of
27 the Family Law Article, or a court in a county other than where the child's parent or
28 legal guardian resides. Child in an out-of-county living arrangement does not include

1 a child living with a relative, stepparent or a person exercising temporary care,
2 custody or control over a child at the request of a parent or guardian of the child.

3 (4) "Service providing local education agency" means the local education
4 agency for the county where a child in an out-of-county living arrangement is placed.

5 (5) "Financially responsible county" means the county where the parent
6 or legal guardian of a child in an out-of-county living arrangement resides. If the
7 parents of the child live apart, the financially responsible county is:

8 (i) The county where the parent who has been awarded custody of
9 the child resides;

10 (ii) If custody has not been awarded, the county where the parent
11 with whom the child lives when not in a foster care home or residential facility
12 resides;

13 (iii) If custody has been awarded to both parents and the parents
14 reside in different counties, both counties shall be considered financially responsible
15 and shall pay one-half the amount as computed in accordance with subsection (c) of
16 this section, except that if the child receives a public education in a county where a
17 parent resides, this subparagraph shall not apply; or

18 (iv) If custody has been awarded to both parents and one parent
19 resides in a county and the other resides out-of-state, the county shall be considered
20 the financially responsible county.

21 (b) (1) A child in an out-of-county living arrangement shall receive an
22 appropriate education from the service providing local education agency.

23 (2) The service providing local education agency shall include a child
24 enrolled as the result of an out-of-county living arrangement in their full-time
25 equivalent enrollment as provided by § 5-202(a)(7) of this article.

26 (c) (1) Except as provided in paragraph (4) of this subsection AND
27 SUBSECTION (F) OF THIS SECTION, for each child in an out-of-county living
28 arrangement enrolled in a public school program on December 31, the financially
29 responsible county shall pay the service providing local education agency an amount
30 equal to the lesser of:

31 (i) The local current expense per student in the financially
32 responsible county; or

33 (ii) The local current expense per student in the service providing
34 local education agency.

35 (2) If the service providing local education agency determines that a
36 child in an out-of-county living arrangement is handicapped and needs public school
37 Intensity IV or V Special Education Services, the financially responsible county shall

1 pay the service providing local education agency for each such child an amount equal
2 to the lesser of:

3 (i) Three times the local current expense per student in the
4 financially responsible county; or

5 (ii) Three times the local current expense per student in the service
6 providing local education agency.

7 (3) (i) If the local current expense per student in the financially
8 responsible county is less than the local current expense per student in the service
9 providing local education agency, the State shall pay to the service providing local
10 education agency the difference for each student in an out-of-county living
11 arrangement who attends a public school in the service providing local education
12 agency.

13 (ii) The necessary funds shall be provided in the appropriation to
14 the State Board.

15 (4) If the service providing local education agency determines that a
16 child in an out-of-county living arrangement is handicapped and needs a nonpublic
17 educational program as provided by § 8-406 of this article, the financially responsible
18 county shall pay for each such child the amount provided by § 8-415(d)(3) of this
19 article.

20 (d) (1) Each service providing local education agency shall notify the State
21 Superintendent of the name of each child in an out-of-county living arrangement as
22 of December 31 of each year and make a preliminary determination of the financially
23 responsible county for each child. The service providing local education agency shall
24 send a copy of this notice to the financially responsible county by January 31, and at
25 the same time shall send the notice to the State Superintendent.

26 (2) The county which was initially determined to be financially
27 responsible may appeal that determination to the State Superintendent within 30
28 days of the date on which the notice was mailed.

29 (3) The State Superintendent shall decide all appeals which are made
30 under paragraph (2) of this subsection, and make a final determination regarding the
31 financially responsible county for each child in an out-of-county living arrangement.

32 (4) By January 15 of each year each county board shall provide the State
33 Superintendent the data necessary to compute the local current expense per student
34 under this section.

35 (5) If by May 15 a financially responsible county fails to make the
36 required payment to a service providing local education agency, the State
37 Superintendent shall deduct from the next payment of State aid to the financially
38 responsible county an amount equal to the amount owed under this paragraph and
39 shall pay those funds to the service providing local education agency.

1 (e) Out-of-state agencies that place a child in a foster care home or
2 residential facility in Maryland shall be liable for the costs of such child's education,
3 including transportation.

4 (f) (1) A CHILD WHO IS TEMPORARILY OR PERMANENTLY PLACED IN AN
5 OUT-OF-COUNTY LIVING ARRANGEMENT BY THE DEPARTMENT OF JUVENILE
6 JUSTICE AND ENROLLED IN A PUBLIC SCHOOL PROGRAM AT ANY TIME DURING THE
7 SCHOOL YEAR SHALL RECEIVE AN APPROPRIATE EDUCATION FROM THE SERVICE
8 PROVIDING LOCAL EDUCATION AGENCY.

9 (2) THE FINANCIALLY RESPONSIBLE COUNTY SHALL PAY TO THE
10 SERVICE PROVIDING LOCAL EDUCATION AGENCY AN AMOUNT EQUAL TO THE
11 LESSER OF:

12 (I) THE LOCAL CURRENT EXPENSE PER STUDENT IN THE
13 FINANCIALLY RESPONSIBLE COUNTY; OR

14 (II) THE LOCAL CURRENT EXPENSE PER STUDENT IN THE SERVICE
15 PROVIDING LOCAL EDUCATION AGENCY.

16 (3) IF THE SERVICE PROVIDING LOCAL EDUCATION AGENCY
17 DETERMINES THAT A CHILD IN AN OUT-OF-COUNTY LIVING ARRANGEMENT IS
18 HANDICAPPED AND NEEDS PUBLIC SCHOOL INTENSITY IV OR V SPECIAL EDUCATION
19 SERVICES, THE FINANCIALLY RESPONSIBLE COUNTY SHALL PAY THE SERVICE
20 PROVIDING LOCAL EDUCATION AGENCY FOR EACH SUCH CHILD AN AMOUNT EQUAL
21 TO THE LESSER OF:

22 (I) THREE TIMES THE LOCAL CURRENT EXPENSE PER STUDENT IN
23 THE FINANCIALLY RESPONSIBLE COUNTY; OR

24 (II) THREE TIMES THE LOCAL CURRENT EXPENSE PER STUDENT IN
25 THE SERVICE PROVIDING LOCAL EDUCATION AGENCY.

26 (4) THE STATE BOARD, IN CONSULTATION WITH THE DEPARTMENT OF
27 JUVENILE JUSTICE, SHALL ADOPT REGULATIONS TO IMPLEMENT THIS SUBSECTION.

28 (G) [The] EXCEPT AS PROVIDED UNDER SUBSECTION (F) OF THIS SECTION,
29 THE State Board may adopt regulations which implement this section.

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
31 October 1, 2003.