
By: **Senators Giannetti, Britt, Lawlah, and Teitelbaum**
Introduced and read first time: February 4, 2005
Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Department of Juvenile Services - Money Follows the Child Education Act of**
3 **2005**

4 FOR the purpose of requiring a county to pay certain local education costs for a child
5 in a facility of the Department of Juvenile Services if the parent or legal
6 guardian of the child resides in the county under certain circumstances;
7 requiring that certain costs be paid to the State Department of Education or
8 Department of Juvenile Services under certain circumstances; providing for the
9 calculation of the local education costs; requiring the Department of Juvenile
10 Services to provide certain notice to the State Superintendent of Schools and
11 certain counties; authorizing a county to make a certain appeal; requiring the
12 State Superintendent to decide certain appeals and deduct certain funds from
13 certain State aid payments under certain circumstances; defining a certain
14 term; and generally relating to the payment of local education expenses for a
15 child in a State juvenile services education program.

16 BY repealing and reenacting, with amendments,
17 Article - Education
18 Section 4-122
19 Annotated Code of Maryland
20 (2004 Replacement Volume and 2004 Supplement)

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

23 **Article - Education**

24 4-122.

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

26 (2) "CHILD IN A JUVENILE SERVICES EDUCATION PROGRAM" MEANS A
27 CHILD WHO RESIDES IN A FACILITY OF THE DEPARTMENT OF JUVENILE SERVICES
28 ESTABLISHED UNDER ARTICLE 83C, § 2-117 OF THE CODE, AND IS RECEIVING
29 EDUCATION SERVICES FROM:

1 (I) THE DEPARTMENT, AS PROVIDED IN TITLE 22, SUBTITLE 3 OF
2 THIS ARTICLE; OR

3 (II) THE DEPARTMENT OF JUVENILE SERVICES.

4 [(2)] (3) "Child in an out-of-county living arrangement" means a child
5 who is placed by a State agency, a licensed child placement agency as provided by §
6 5-507 of the Family Law Article, or a court in a county other than where the child's
7 parent or legal guardian resides. "Child in an out-of-county living arrangement" does
8 not include a child living with a relative, stepparent or a person exercising temporary
9 care, custody or control over a child at the request of a parent or guardian of the child.

10 [(3)] (4) "Financially responsible county" means the county where the
11 parent or legal guardian of a child in an out-of-county living arrangement OR CHILD
12 IN A JUVENILE SERVICES EDUCATION PROGRAM resides. If the parents of the child
13 live apart, the financially responsible county is:

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

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

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

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

27 [(4)] (5) "Local current expense per student" means all expenditures
28 made by a county from county appropriations, except State, federal, and other aid, for
29 public elementary and secondary education in the prior fiscal year, divided by the
30 full-time equivalent enrollment, as defined in § 5-202(a) of this article.

31 [(5)] (6) "Service providing local education agency" means the local
32 education agency for the county where a child in an out-of-county living arrangement
33 is placed.

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

36 (2) The service providing local education agency shall include a child
37 enrolled as the result of an out-of-county living arrangement in their full-time
38 equivalent enrollment as provided by § 5-202(a)(6) of this article.

1 (c) (1) Except as provided in paragraph (4) of this subsection, for each child
2 in an out-of-county living arrangement enrolled in a public school program on
3 December 31, the financially responsible county shall pay the service providing local
4 education agency an amount equal to the lesser of:

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

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

9 (2) If the service providing local education agency determines that a
10 child in an out-of-county living arrangement is handicapped and needs public school
11 Intensity IV or V Special Education Services, the financially responsible county shall
12 pay the service providing local education agency for each such child an amount equal
13 to the lesser of:

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

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

18 (3) (i) If the local current expense per student in the financially
19 responsible county is less than the local current expense per student in the service
20 providing local education agency, the State shall pay to the service providing local
21 education agency the difference for each student in an out-of-county living
22 arrangement who attends a public school in the service providing local education
23 agency.

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

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

31 (D) (1) FOR EACH CHILD IN A JUVENILE SERVICES EDUCATION PROGRAM
32 ON DECEMBER 31, THE FINANCIALLY RESPONSIBLE COUNTY SHALL PAY THE
33 DEPARTMENT OR DEPARTMENT OF JUVENILE SERVICES, AS APPROPRIATE, AN
34 AMOUNT EQUAL TO THE LOCAL CURRENT EXPENSE PER STUDENT IN THE
35 FINANCIALLY RESPONSIBLE COUNTY.

36 (2) IF THE DEPARTMENT OR DEPARTMENT OF JUVENILE SERVICES
37 DETERMINES THAT A CHILD IN A JUVENILE SERVICES EDUCATION PROGRAM IS
38 HANDICAPPED AND NEEDS PUBLIC SCHOOL INTENSITY IV OR V SPECIAL EDUCATION
39 SERVICES, THE FINANCIALLY RESPONSIBLE COUNTY SHALL PAY THE DEPARTMENT
40 OR DEPARTMENT OF JUVENILE SERVICES, AS APPROPRIATE, FOR EACH SUCH CHILD

1 AN AMOUNT EQUAL TO THREE TIMES THE LOCAL CURRENT EXPENSE PER STUDENT
2 IN THE FINANCIALLY RESPONSIBLE COUNTY.

3 [(d)] (E) (1) Each service providing local education agency shall notify the
4 State Superintendent of the name of each child in an out-of-county living
5 arrangement as of December 31 of each year and make a preliminary determination
6 of the financially responsible county for each child. The service providing local
7 education agency shall send a copy of this notice to the financially responsible county
8 by January 31, and at the same time shall send the notice to the State
9 Superintendent.

10 (2) THE DEPARTMENT OF JUVENILE SERVICES SHALL NOTIFY THE
11 STATE SUPERINTENDENT OF THE NAME OF EACH CHILD IN A JUVENILE SERVICES
12 EDUCATION PROGRAM AS OF DECEMBER 31 OF EACH YEAR AND MAKE A
13 PRELIMINARY DETERMINATION OF THE FINANCIALLY RESPONSIBLE COUNTY FOR
14 EACH CHILD. THE DEPARTMENT OF JUVENILE SERVICES SHALL SEND A COPY OF
15 THIS NOTICE TO THE FINANCIALLY RESPONSIBLE COUNTY BY JANUARY 31, AND AT
16 THE SAME TIME SHALL SEND THE NOTICE TO THE STATE SUPERINTENDENT.

17 [(2)] (3) The county which was initially determined to be financially
18 responsible may appeal that determination to the State Superintendent within 30
19 days of the date on which the notice was mailed.

20 [(3)] (4) The State Superintendent shall decide all appeals which are
21 made under paragraph [(2)] (3) of this subsection, and make a final determination
22 regarding the financially responsible county for each child in an out-of-county living
23 arrangement AND CHILD IN A JUVENILE SERVICES EDUCATION PROGRAM.

24 [(4)] (5) By January 15 of each year each county board shall provide the
25 State Superintendent the data necessary to compute the local current expense per
26 student under this section.

27 [(5)] (6) If by May 15 a financially responsible county fails to make the
28 required payment to a service providing local education agency OR THE DEPARTMENT
29 OR DEPARTMENT OF JUVENILE SERVICES, AS APPROPRIATE, the State
30 Superintendent shall deduct from the next payment of State aid to the financially
31 responsible county an amount equal to the amount owed under this paragraph and
32 shall pay those funds to the [service providing local education] agency PROVIDING
33 THE EDUCATION SERVICES.

34 [(e)] (F) (1) Except as provided in paragraph (2) of this subsection,
35 out-of-state agencies that place a child in a foster care home or residential facility in
36 Maryland shall be liable for the costs of the child's education, including
37 transportation.

38 (2) The provisions of paragraph (1) of this subsection do not apply to
39 out-of-state agencies that place a child for adoption as defined in § 5-301(j) of the
40 Family Law Article.

1 [(f)] (G) The State Board may adopt regulations which implement this
2 section.

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 July 1, 2005.