

HOUSE BILL 169

F1

(8lr1841)

ENROLLED BILL

—Ways and Means/Education, Health, and Environmental Affairs—

Introduced by **Delegates Jones, Branch, Burns, Dumais, Gaines, Haynes, Hecht, Morhaim, Nathan-Pulliam, and F. Turner**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Education – Children in Informal Kinship Care Relationships**

3 FOR the purpose of requiring a superintendent of schools of a county to allow a child
4 to attend a public school in a school attendance area other than the school in the
5 school attendance area where the child is domiciled with the child’s parent or
6 legal guardian if the child lives with a relative in the school attendance area in
7 an informal kinship care relationship due to a serious family hardship;
8 requiring certain affidavits to include certain notice; making a conforming
9 change concerning the form of a certain affidavit; and generally relating to
10 children who live with relatives who provide informal kinship care due to a
11 serious family hardship.

12 BY repealing and reenacting, with amendments,
13 Article – Education

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber / conference committee amendments.



1 Section 7–101
2 Annotated Code of Maryland
3 (2006 Replacement Volume and 2007 Supplement)

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

6 **Article – Education**

7 7–101.

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

10 (b) (1) Except as provided in § 7–301 of this title and in paragraph (2) of
11 this subsection, each child shall attend a public school in the county where the child is
12 domiciled with the child’s parent, guardian, or relative providing informal kinship
13 care, as defined in subsection (c) of this section.

14 (2) Upon request and in accordance with a county board’s policies
15 concerning residency, a county superintendent may allow a child to attend school in
16 the county even if the child is not domiciled in that county with the child’s parent or
17 guardian.

18 (3) If a child fraudulently attends a public school in a county where
19 the child is not domiciled with the child’s parent or guardian, the child’s parent or
20 guardian shall be subject to a penalty payable to the county for the pro rata share of
21 tuition for the time the child fraudulently attends a public school in the county.

22 (4) Nothing in this section alters the requirements for out-of-county
23 placements contained in § 4–122 and Title 8, Subtitles 3 and 4 of this article or in any
24 other State or federal law.

25 (c) (1) (i) In this subsection the following words have the meanings
26 indicated.

27 (ii) “Informal kinship care” means a living arrangement in
28 which a relative of a child, who is not in the care, custody, or guardianship of the local
29 department of social services, provides for the care and custody of the child due to a
30 serious family hardship.

31 (iii) “Relative” means an adult related to the child by blood or
32 marriage within the fifth degree of consanguinity.

33 (iv) “Serious family hardship” means:

34 1. Death of a parent or legal guardian of the child;

- 1 child;
2
3 child;
4
5 child;
6
7 child; or
8
9
10 active military duty.
2. Serious illness of a parent or legal guardian of the
 3. Drug addiction of a parent or legal guardian of the
 4. Incarceration of a parent or legal guardian of the
 5. Abandonment by a parent or legal guardian of the
 6. Assignment of a parent or legal guardian of a child to

11 (2) (i) A county superintendent shall allow a child who is a
12 resident of this State to attend a public school in:

13 1. [a] A county other than the county where the child is
14 domiciled with the child's parent or legal guardian if the child lives with a relative
15 providing informal kinship care in the county and the relative verifies the informal
16 kinship care relationship through a sworn affidavit; **OR**

17 2. **A SCHOOL ATTENDANCE AREA OTHER THAN THE**
18 **SCHOOL IN THE SCHOOL ATTENDANCE AREA WHERE THE CHILD IS DOMICILED**
19 **WITH THE CHILD'S PARENT OR LEGAL GUARDIAN IF THE CHILD LIVES WITH A**
20 **RELATIVE PROVIDING INFORMAL KINSHIP CARE IN THE SCHOOL ATTENDANCE**
21 **AREA AND THE RELATIVE VERIFIES THE INFORMAL KINSHIP CARE**
22 **RELATIONSHIP THROUGH A SWORN AFFIDAVIT.**

23 (ii) 1. The affidavit shall be accompanied by supporting
24 documentation of one or more serious family hardships and, where possible, the
25 telephone number and address of any authority who is legally authorized to reveal
26 information which can verify the assertions in the affidavit.

27 2. The supporting documentation required under
28 subparagraph 1 of this subparagraph shall be consistent with local, State, and
29 federal privacy and confidentiality policies and statutes.

30 (3) The affidavit shall include:

31 (i) The name and date of birth of the child;

32 (ii) The name and address of the child's parent or legal
33 guardian;

1 (iii) The name and address of the relative providing informal
2 kinship care;

3 (iv) The date the relative assumed informal kinship care;

4 (v) The nature of the serious family hardship and why it
5 resulted in informal kinship care;

6 (vi) The kinship relation to the child of the relative providing
7 informal kinship care;

8 (vii) The name and address of the school the child previously
9 attended;

10 (viii) Notice that the county superintendent may verify the facts
11 given by the relative providing informal kinship care in the affidavit and conduct an
12 audit of the case after the child has been enrolled in the county public school system;

13 (ix) Notice that if fraud or misrepresentation is discovered
14 during an audit, the county superintendent shall remove the child from the **PUBLIC**
15 **SCHOOL OR** county public school system roll; and

16 (x) Notice that any person who willfully makes a material
17 misrepresentation in the affidavit shall be subject to a penalty payable to the county
18 for three times the pro rata share of tuition for the time the child fraudulently attends
19 a public school in the county.

20 (4) The affidavit shall be in the following form:

21 (i) I, the undersigned, am over eighteen (18) years of age and
22 competent to testify to the facts and matters set forth herein.

23 (ii) _____ (name of child), whose date of birth is
24 _____, is living with me because of the following serious family hardship:
25 (check each that is applicable)

26 _____ death of father/mother/legal guardian

27 _____ serious illness of father/mother/legal guardian

28 _____ drug addiction of father/mother/legal guardian

29 _____ incarceration of father/mother/legal guardian

30 _____ abandonment by father/mother/legal guardian

31 _____ assignment of a parent or legal guardian of a child to active military duty

32 (iii) The name and last known address of the child's parent(s) or
33 legal guardian is:

1 _____
 2 _____
 3 _____

4 (iv) My kinship relation to the child is _____

5 (v) My address is:

6 _____
 7 Street Apt. No.

8 _____
 9 City State Zip Code

10 (vi) I assumed informal kinship care of this child for 24 hours a
 11 day and 7 days a week on _____(day/month/year).

12 (vii) The name and address of the last school that the child
 13 attended is:

14 _____
 15 _____

16 (viii) The county superintendent may verify the facts contained in
 17 the foregoing affidavit and conduct an audit on a case-by-case basis after the child
 18 has been enrolled in the county public school system. If the county superintendent
 19 discovers fraud or misrepresentation, the child shall be removed from the **PUBLIC**
 20 **SCHOOL OR** county public school system roll.

21 (ix) I solemnly affirm under the penalties of perjury that the
 22 contents of the foregoing are true to the best of my knowledge, information, and belief.

23 _____
 24 Signature of affiant

25 _____
 26 (Day/month/year)

27 (x) Any person who willfully makes a material
 28 misrepresentation in this affidavit shall be subject to a penalty payable to the county
 29 for three times the pro rata share of tuition for the time the child fraudulently attends
 30 a public school in the county.

31 (5) (i) Instructions that explain the necessity for both an affidavit
 32 and supporting documentation of the serious family hardship resulting in informal
 33 kinship care shall:

34 1. Be attached to affidavit forms that comply with
 35 paragraph (4) of this subsection; and

1 2. Include language encouraging the relative providing
2 informal kinship care to submit the affidavit and supporting documentation prior to
3 September 30 of each year.

4 (ii) The affidavit forms, with attached instructions, shall be
5 made available free of charge at the offices of each county board of education, each
6 local department of social services, and each local area agency on aging.

7 (6) If a change occurs in the care or in the serious family hardship of
8 the child, the relative providing informal kinship care for the child shall notify the
9 local school system in writing within 30 days after the change occurs.

10 (7) (i) An informal kinship care affidavit may be filed during a
11 school year.

12 (ii) The relative providing informal kinship care shall file an
13 affidavit annually at least 2 weeks prior to the beginning of the school year for each
14 year the child continues to live with the relative because of a serious family hardship.

15 (8) Unless the court appoints a guardian for the child or awards
16 custody of the child to someone other than the relative providing informal kinship
17 care, the relative providing informal kinship care shall make the full range of
18 educational decisions for the child.

19 (9) The relative providing informal kinship care shall make reasonable
20 efforts to inform the parent or legal guardian of the child of the informal kinship care
21 relationship.

22 (10) The parent or legal guardian of a child in an informal kinship care
23 relationship shall have final decision making authority regarding the educational
24 needs of the child.

25 (d) Section 4–122.1 of this article shall apply to the education funding of a
26 child in an informal kinship care relationship if the fiscal impact of the requirements
27 of subsections (b) and (c) of this section exceed 0.1% of a county board's total operating
28 budget for a fiscal year.

29 (e) (1) By the 2007–2008 school year, each county board shall provide
30 full–day kindergarten programs for all kindergarten students in that county.

31 (2) In the comprehensive master plan that is submitted under § 5–401
32 of this article, a county board shall identify the strategies that will be used in that
33 county to ensure that full–day kindergarten programs are provided to all kindergarten
34 students in that county by the 2007–2008 school year.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2008.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.