

# HOUSE BILL 1122

F1, Q3

8lr0537

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By: **Delegates Levi, Beitzel, Benson, Bohanan, Branch, Burns, G. Clagett, DeBoy, Mathias, Montgomery, Proctor, Stukes, Vallario, and Vaughn**  
Introduced and read first time: February 7, 2008  
Assigned to: Ways and Means

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## A BILL ENTITLED

1 AN ACT concerning

2 **Income Tax – Subtraction Modification and Tax Credit for Dependent Care**  
3 **Expenses – Ineligibility**

4 FOR the purpose of denying eligibility for a certain subtraction modification under the  
5 Maryland income tax for certain household and dependent care expenses to  
6 certain parents or guardians under certain circumstances; denying eligibility for  
7 a certain credit allowed against the State income tax for certain child care and  
8 dependent care expenses to certain parents or guardians under certain  
9 circumstances; requiring a certain State Board to adopt certain regulations that  
10 provide a process for determining ineligibility; requiring a certain notice of  
11 ineligibility to be sent in writing to the Comptroller; requiring certain revenue  
12 attributable to a certain denial to certain parents or guardians of a certain  
13 subtraction modification and a certain tax credit for certain dependent care  
14 expenses to be distributed to a certain special fund; providing for the application  
15 of this Act; and generally relating to a certain subtraction modification and tax  
16 credit for certain dependent care expenses under the Maryland income tax.

17 BY repealing and reenacting, with amendments,  
18 Article – Education  
19 Section 6–203(a)  
20 Annotated Code of Maryland  
21 (2006 Replacement Volume and 2007 Supplement)

22 BY repealing and reenacting, without amendments,  
23 Article – Education  
24 Section 6–203(e) and 7–305(a) through (c)  
25 Annotated Code of Maryland  
26 (2006 Replacement Volume and 2007 Supplement)

27 BY adding to

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – Education  
2 Section 7–311  
3 Annotated Code of Maryland  
4 (2006 Replacement Volume and 2007 Supplement)

5 BY repealing and reenacting, without amendments,  
6 Article – Tax – General  
7 Section 10–208(a)  
8 Annotated Code of Maryland  
9 (2004 Replacement Volume and 2007 Supplement)

10 BY repealing and reenacting, with amendments,  
11 Article – Tax – General  
12 Section 2–609, 10–208(e), and 10–716  
13 Annotated Code of Maryland  
14 (2004 Replacement Volume and 2007 Supplement)

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

17 **Article – Education**

18 6–203.

19 (a) For all proceedings before a county board under §§ 4–205(c), 6–202, [and]  
20 7–305, **AND 7–311** of this article, the county board may have the proceedings heard  
21 first by a hearing examiner.

22 (e) (1) After it reviews the record and the recommendation of the hearing  
23 examiner, the county board shall make a decision.

24 (2) The decision may be appealed to the State Board as provided in  
25 this article.

26 7–305.

27 (a) (1) In accordance with the rules and regulations of the county board,  
28 each principal of a public school may suspend for cause, for not more than 10 school  
29 days, any student in the school who is under the direction of the principal.

30 (2) The student or the student’s parent or guardian promptly shall be  
31 given a conference with the principal and any other appropriate personnel during the  
32 suspension period.

33 (3) The student or the student’s parent or guardian promptly shall be  
34 given a community resources list provided by the county board in accordance with §  
35 7–310 of this subtitle.

1 (b) At the request of a principal, a county superintendent may suspend a  
2 student for more than 10 school days or expel the student.

3 (c) (1) If a principal finds that a suspension of more than 10 school days  
4 or expulsion is warranted, the principal immediately shall report the matter in writing  
5 to the county superintendent.

6 (2) The county superintendent or the county superintendent's  
7 designated representative promptly shall make a thorough investigation of the matter.

8 (3) If after the investigation the county superintendent finds that a  
9 longer suspension or expulsion is warranted, the county superintendent or the county  
10 superintendent's designated representative promptly shall arrange a conference with  
11 the student and his parent or guardian.

12 (4) The student or the student's parent or guardian promptly shall be  
13 given a community resources list provided by the county board in accordance with §  
14 7-310 of this subtitle.

15 (5) If after the conference the county superintendent or the county  
16 superintendent's designated representative finds that a suspension of more than 10  
17 school days or expulsion is warranted, the student or the student's parent or guardian  
18 may:

19 (i) Appeal to the county board within 10 days after the  
20 determination;

21 (ii) Be heard before the county board, its designated committee,  
22 or a hearing examiner, in accordance with the procedures established under § 6-203 of  
23 this article; and

24 (iii) Bring counsel and witnesses to the hearing.

25 (6) Unless a public hearing is requested by the parent or guardian of  
26 the student, a hearing shall be held out of the presence of all individuals except those  
27 whose presence is considered necessary or desirable by the board.

28 (7) The appeal to the county board does not stay the decision of the  
29 county superintendent.

30 (8) The decision of the county board is final.

31 **7-311.**

32 (A) A PARENT OR GUARDIAN WHO MAY CLAIM A STUDENT AS A  
33 DEPENDENT FOR INCOME TAX PURPOSES IS INELIGIBLE TO RECEIVE THE

1 SUBTRACTION MODIFICATION UNDER § 10-208(E) OF THE TAX - GENERAL  
2 ARTICLE OR THE TAX CREDIT UNDER § 10-716 OF THE TAX - GENERAL  
3 ARTICLE AS PROVIDED IN SUBSECTION (B) OF THIS SECTION IF DURING THE  
4 TAXABLE YEAR A COUNTY BOARD OR THE STATE BOARD ON APPEAL  
5 DETERMINED THAT THE STUDENT:

6 (1) DID NOT COMPLETE THE MINIMUM AMOUNT OF HOMEWORK  
7 REQUIRED, IF THE LOCAL SCHOOL SYSTEM HAS ADOPTED A SYSTEM-WIDE  
8 POLICY REQUIRING STUDENTS TO COMPLETE A MINIMUM AMOUNT OF  
9 HOMEWORK DURING EACH ACADEMIC YEAR;

10 (2) WAS:

11 (I) AGE 5 THROUGH 20 DURING THE SCHOOL YEAR;

12 (II) IN MEMBERSHIP IN A SCHOOL FOR 91 OR MORE DAYS;  
13 AND

14 (III) UNLAWFULLY ABSENT FOR 20% OR MORE OF THE DAYS  
15 IN MEMBERSHIP; OR

16 (3) SHOULD BE SUSPENDED OR EXPELLED IN ACCORDANCE WITH  
17 § 7-305 OF THIS SUBTITLE MORE THAN ONCE IN THE ACADEMIC YEAR, FOR ONE  
18 OF THE FOLLOWING REASONS:

19 (I) DISRESPECT;

20 (II) INSUBORDINATION; OR

21 (III) CLASSROOM DISRUPTION.

22 (B) IF A COUNTY BOARD OR THE STATE BOARD ON APPEAL MADE A  
23 DETERMINATION UNDER SUBSECTION (A) OF THIS SECTION REGARDING A  
24 STUDENT, FOR THE TAXABLE YEAR DURING WHICH THE DETERMINATION WAS  
25 MADE, A PARENT OR GUARDIAN WHO IS ELIGIBLE TO CLAIM THE STUDENT AS A  
26 DEPENDENT FOR INCOME TAX PURPOSES:

27 (1) MAY NOT CLAIM THE CREDIT ALLOWED AGAINST THE  
28 MARYLAND INCOME TAX FOR CHILD CARE AND DEPENDENT CARE EXPENSES  
29 FOR THE STUDENT UNDER § 10-716 OF THE TAX - GENERAL ARTICLE; AND

30 (2) IF THE INDIVIDUAL'S FEDERAL ADJUSTED GROSS INCOME  
31 FOR THE TAXABLE YEAR EXCEEDS \$50,000, OR \$25,000 IN THE CASE OF A  
32 MARRIED INDIVIDUAL FILING A SEPARATE RETURN MAY NOT CLAIM THE

1 SUBTRACTION MODIFICATION UNDER THE MARYLAND INCOME TAX FOR  
2 HOUSEHOLD AND DEPENDENT CARE EXPENSES FOR THE STUDENT AS PROVIDED  
3 UNDER § 10-208(E) OF THE TAX - GENERAL ARTICLE.

4 (C) IF A PARENT OR GUARDIAN IS DETERMINED UNDER THIS SECTION  
5 TO BE INELIGIBLE TO RECEIVE THE SUBTRACTION MODIFICATION OR THE TAX  
6 CREDIT DESCRIBED IN SUBSECTION (B) OF THIS SECTION, THE BOARD THAT  
7 MADE THE DETERMINATION OF INELIGIBILITY SHALL NOTIFY THE  
8 COMPTROLLER IN WRITING ON OR BEFORE DECEMBER 31 OF THE YEAR IN  
9 WHICH THE DETERMINATION WAS MADE.

10 (D) (1) THE COMPTROLLER SHALL DENY A PARENT OR GUARDIAN  
11 ELIGIBILITY FOR THE TAX CREDIT UNDER § 10-716 OF THE TAX - GENERAL  
12 ARTICLE FOR ANY TAXABLE YEAR FOR WHICH THE COMPTROLLER RECEIVES  
13 NOTICE THAT THE PARENT OR GUARDIAN IS INELIGIBLE.

14 (2) IF AN INDIVIDUAL'S FEDERAL ADJUSTED GROSS INCOME FOR  
15 THE TAXABLE YEAR EXCEEDS \$50,000, OR \$25,000 IN THE CASE OF A MARRIED  
16 INDIVIDUAL FILING A SEPARATE RETURN, THE COMPTROLLER SHALL DENY THE  
17 PARENT OR GUARDIAN ELIGIBILITY FOR THE SUBTRACTION MODIFICATION  
18 UNDER THE STATE INCOME TAX FOR HOUSEHOLD AND DEPENDENT CARE  
19 EXPENSES FOR THE STUDENT UNDER § 10-208(E) OF THE TAX - GENERAL  
20 ARTICLE FOR ANY TAXABLE YEAR FOR WHICH THE COMPTROLLER RECEIVES  
21 NOTICE THAT THE PARENT OR GUARDIAN IS INELIGIBLE.

22 (E) (1) THE STATE BOARD SHALL ADOPT REGULATIONS TO  
23 IMPLEMENT THE REQUIREMENTS OF THIS SECTION.

24 (2) THE REGULATIONS SHALL:

25 (I) ESTABLISH A PROCESS FOR DETERMINING  
26 INELIGIBILITY THAT IS SIMILAR TO THE PROCESS FOR SUSPENSION OF A  
27 STUDENT UNDER § 7-305 OF THIS SUBTITLE; AND

28 (II) ALLOW A DECISION OF THE COUNTY BOARD TO BE  
29 APPEALED TO THE STATE BOARD.

30 **Article - Tax - General**

31 2-609.

32 (A) [After] EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION,  
33 AFTER making the distributions required under §§ 2-604 through 2-608.1 of this

1 subtitle, the Comptroller shall distribute the remaining income tax revenue from  
2 individuals to the General Fund of the State.

3 **(B) BEFORE MAKING THE DISTRIBUTION REQUIRED UNDER**  
4 **SUBSECTION (A) OF THIS SECTION, THE COMPTROLLER SHALL DISTRIBUTE TO A**  
5 **SPECIAL FUND TO BE USED FOR THE PURPOSES OF THE GOVERNOR'S OFFICE**  
6 **OF CRIME CONTROL AND PREVENTION THE REVENUE, AS DETERMINED BY THE**  
7 **COMPTROLLER, ATTRIBUTABLE TO THE DENIAL OF THE FOLLOWING IN**  
8 **ACCORDANCE WITH § 7-311 OF THE EDUCATION ARTICLE:**

9 **(1) THE SUBTRACTION MODIFICATION UNDER THE STATE**  
10 **INCOME TAX FOR HOUSEHOLD AND DEPENDENT CARE EXPENSES FOR THE**  
11 **STUDENT UNDER § 10-208(E) OF THIS ARTICLE; AND**

12 **(2) THE CREDIT ALLOWED AGAINST THE STATE INCOME TAX FOR**  
13 **CHILD CARE AND DEPENDENT CARE EXPENSES FOR THE STUDENT UNDER §**  
14 **10-716 OF THIS ARTICLE.**

15 10-208.

16 (a) In addition to the modification under § 10-207 of this subtitle, the  
17 amounts under this section are subtracted from the federal adjusted gross income of a  
18 resident to determine Maryland adjusted gross income.

19 (e) [The] **EXCEPT AS PROVIDED IN § 7-311 OF THE EDUCATION**  
20 **ARTICLE, THE** subtraction under subsection (a) of this section includes expenses for  
21 household and dependent care services not exceeding the dollar limit allowed under §  
22 21(c) of the Internal Revenue Code and determined without reference to the  
23 percentage limitation in § 21(a)(2) of the Internal Revenue Code.

24 10-716.

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

26 (2) "Federal child and dependent care credit" means the child and  
27 dependent care credit properly claimed by an individual for the taxable year under §  
28 21 of the Internal Revenue Code.

29 (3) "Qualifying individual" means a qualifying individual within the  
30 meaning of § 21(b) of the Internal Revenue Code.

31 (b) [An] **EXCEPT AS PROVIDED IN § 7-311 OF THE EDUCATION**  
32 **ARTICLE, AN** individual whose federal adjusted gross income for the taxable year  
33 does not exceed \$50,000, or \$25,000 in the case of a married individual filing a  
34 separate return, may claim a credit against the State income tax as provided in this

1 section for expenses paid by the individual during the taxable year for the care of a  
2 qualifying individual.

3 (c) Subject to subsection (d) of this section, the credit allowed under this  
4 section equals the lesser of:

5 (1) 32.5% of the federal child and dependent care credit; or

6 (2) the State income tax for the taxable year.

7 (d) (1) If an individual's federal adjusted gross income for the taxable year  
8 exceeds \$41,000, the credit otherwise allowed under this section shall be reduced by  
9 10% for each \$1,000 or fraction of \$1,000 by which the individual's federal adjusted  
10 gross income exceeds \$41,000.

11 (2) In the case of a married individual filing a separate return, if the  
12 individual's federal adjusted gross income for the taxable year exceeds \$20,500, the  
13 credit otherwise allowed under this section shall be reduced by 10% for each \$500 or  
14 fraction of \$500 by which the individual's federal adjusted gross income exceeds  
15 \$20,500.

16 (e) The credit allowed under this section does not affect the treatment under  
17 this title of any deduction or exclusion allowed under this title or allowed for federal  
18 income tax purposes for expenses paid by the individual for the care of a qualifying  
19 individual.

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
21 July 1, 2008, and shall be applicable to all taxable years beginning after December 31,  
22 2008.