

# SENATE BILL 77

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(8lr0867)

## ENROLLED BILL

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

Introduced by **Senators Kelley, Colburn, Conway, Della, Exum, Madaleno, McFadden, Pinsky, Pugh, Raskin, Rosapepe, and Stone**

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.

\_\_\_\_\_  
President.

### 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

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#### 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 (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:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.