

SENATE BILL 77

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By: **Senators Kelley, Colburn, Conway, Della, Exum, Madaleno, McFadden, Pinsky, Pugh, Raskin, Rosapepe, and Stone**
Introduced and read first time: January 14, 2008
Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

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; and
8 generally relating to children who live with relatives who provide informal
9 kinship care due to a serious family hardship.

10 BY repealing and reenacting, with amendments,
11 Article – Education
12 Section 7–101
13 Annotated Code of Maryland
14 (2006 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 7–101.

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

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2) Upon request and in accordance with a county board's policies
2 concerning residency, a county superintendent may allow a child to attend school in
3 the county even if the child is not domiciled in that county with the child's parent or
4 guardian.

5 (3) If a child fraudulently attends a public school in a county where
6 the child is not domiciled with the child's parent or guardian, the child's parent or
7 guardian shall be subject to a penalty payable to the county for the pro rata share of
8 tuition for the time the child fraudulently attends a public school in the county.

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

12 (c) (1) (i) In this subsection the following words have the meanings
13 indicated.

14 (ii) "Informal kinship care" means a living arrangement in
15 which a relative of a child, who is not in the care, custody, or guardianship of the local
16 department of social services, provides for the care and custody of the child due to a
17 serious family hardship.

18 (iii) "Relative" means an adult related to the child by blood or
19 marriage within the fifth degree of consanguinity.

20 (iv) "Serious family hardship" means:

- 21 1. Death of a parent or legal guardian of the child;
- 22 2. Serious illness of a parent or legal guardian of the
23 child;
- 24 3. Drug addiction of a parent or legal guardian of the
25 child;
- 26 4. Incarceration of a parent or legal guardian of the
27 child;
- 28 5. Abandonment by a parent or legal guardian of the
29 child; or
- 30 6. Assignment of a parent or legal guardian of a child to
31 active military duty.

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

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

5 **2. A SCHOOL ATTENDANCE AREA OTHER THAN THE**
6 **SCHOOL IN THE SCHOOL ATTENDANCE AREA WHERE THE CHILD IS DOMICILED**
7 **WITH THE CHILD'S PARENT OR LEGAL GUARDIAN IF THE CHILD LIVES WITH A**
8 **RELATIVE PROVIDING INFORMAL KINSHIP CARE IN THE SCHOOL ATTENDANCE**
9 **AREA AND THE RELATIVE VERIFIES THE INFORMAL KINSHIP CARE**
10 **RELATIONSHIP THROUGH A SWORN AFFIDAVIT.**

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

15 2. The supporting documentation required under
16 subsubparagraph 1 of this subparagraph shall be consistent with local, State, and
17 federal privacy and confidentiality policies and statutes.

18 (3) The affidavit shall include:

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

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

22 (iii) The name and address of the relative providing informal
23 kinship care;

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

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

27 (vi) The kinship relation to the child of the relative providing
28 informal kinship care;

29 (vii) The name and address of the school the child previously
30 attended;

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

1 (ix) Notice that if fraud or misrepresentation is discovered
2 during an audit, the county superintendent shall remove the child from the county
3 public school system roll; and

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

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

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

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

- 14 _____ death of father/mother/legal guardian
- 15 _____ serious illness of father/mother/legal guardian
- 16 _____ drug addiction of father/mother/legal guardian
- 17 _____ incarceration of father/mother/legal guardian
- 18 _____ abandonment by father/mother/legal guardian
- 19 _____ assignment of a parent or legal guardian of a child to active military duty

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

22 _____
 23 _____
 24 _____

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

26 (v) My address is:

27 _____
 28 Street Apt. No.
 29 _____
 30 City State Zip Code

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

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

35 _____

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

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

Signature of affiant

(Day/month/year)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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