

# Chapter 551

(House Bill 757)

AN ACT concerning

## ~~Education – Children in State Supervised Care – Geographical Attendance Area Domicile Requirements for Attendance – Exception~~

FOR the purpose of ~~authorizing a child to remain in a school in a certain geographical attendance area regardless of whether the child resides within the area under certain circumstances; requiring that certain determinations regarding the best interests of certain children in State supervised care be made in accordance with certain factors; requiring a county superintendent to allow a child to remain at a certain school in the county regardless of where the child is currently domiciled under certain circumstances; requiring the Secretary of Human Resources and the Secretary of Juvenile Services each to adopt certain regulations establishing certain factors relating to the best interests of certain children; requiring the State Department of Education to adopt certain regulations to implement certain provisions of a certain federal law; and generally relating to authorizing a child in State supervised care to remain in a school regardless of whether the child resides in the geographical area of the school~~ the domicile requirements for attendance at that school.

BY repealing and reenacting, with amendments,

Article – Education

Section ~~4-109 and~~ 7-101(b)

Annotated Code of Maryland

(2008 Replacement Volume and 2011 Supplement)

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

### Article – Education

~~4-109.~~

(a) ~~Subject to approval by the State Superintendent and in accordance with the applicable bylaws, rules, and regulations of the State Board, a county board may establish a public school if, in its judgment, it is advisable.~~

(b) ~~On approval by the State Superintendent, any school established under this section becomes a part of the State program of public education.~~

~~(e) (1) With the advice of the county superintendent, the county board shall determine the geographical attendance area for each school established under this section.~~

~~(2) REGARDLESS OF WHETHER A CHILD RESIDES WITHIN A SCHOOL'S GEOGRAPHIC ATTENDANCE AREA, THE CHILD MAY REMAIN AT THE SCHOOL THE CHILD HAS BEEN ATTENDING IF:~~

~~(i) THE CHILD IS A CHILD IN STATE SUPERVISED CARE, AS DEFINED IN § 8-501 OF THIS ARTICLE; AND~~

~~(ii) THE LOCAL DEPARTMENT OF SOCIAL SERVICES, THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE, OR THE DEPARTMENT OF JUVENILE SERVICES DETERMINES THAT IT IS IN THE BEST INTERESTS OF THE CHILD TO CONTINUE AT THAT SCHOOL.~~

~~(3) THE DETERMINATION OF THE BEST INTERESTS OF A CHILD IN STATE SUPERVISED CARE UNDER PARAGRAPH (2) OF THIS SUBSECTION SHALL BE MADE IN ACCORDANCE WITH THE FACTORS UNDER THE REGULATIONS ADOPTED IN ACCORDANCE WITH § 7-101(B)(2)(III) OF THIS ARTICLE.~~

7-101.

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

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

~~(II) REGARDLESS OF WHERE THE CHILD IS CURRENTLY DOMICILED, A COUNTY SUPERINTENDENT SHALL ALLOW A CHILD TO REMAIN AT ANY SCHOOL IN THE COUNTY THAT THE CHILD HAS BEEN THE SCHOOL THAT THE CHILD IS ATTENDING, IF:~~

~~1. THE CHILD IS A CHILD IN STATE SUPERVISED CARE, AS DEFINED IN § 8-501 OF THIS ARTICLE; AND WHO IS:~~

~~A. IN THE CUSTODY OF, COMMITTED TO, OR OTHERWISE PLACED BY A LOCAL DEPARTMENT OF SOCIAL SERVICES OR THE DEPARTMENT OF JUVENILE SERVICES; AND~~

**B. SUBJECT TO THE EDUCATIONAL STABILITY PROVISIONS OF THE FEDERAL FOSTERING CONNECTIONS TO SUCCESS AND INCREASING ADOPTIONS ACT OF 2008;**

**2. THE CHILD IS NOT SUBJECT TO THE EDUCATIONAL STABILITY PROVISIONS OF THE FEDERAL MCKINNEY-VENTO HOMELESS ASSISTANCE ACT AS A CHILD AWAITING FOSTER CARE PLACEMENT AS DEFINED BY THE DEPARTMENT IN REGULATION;**

**3. THE CHILD IS NOT IN ANY OF THE FOLLOWING PLACEMENTS:**

**A. A DETENTION FACILITY;**

**B. A FORESTRY CAMP;**

**C. A TRAINING SCHOOL;**

**D. A STATE-OWNED AND STATE-OPERATED FACILITY THAT ACCOMMODATES MORE THAN 25 CHILDREN; OR**

**E. ANY OTHER FACILITY OPERATED PRIMARILY FOR THE DETENTION OF CHILDREN WHO ARE DETERMINED TO BE DELINQUENT;**

**2.4. THE LOCAL DEPARTMENT OF SOCIAL SERVICES, THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE, OR THE DEPARTMENT OF JUVENILE SERVICES DETERMINES, IN CONSULTATION WITH THE LOCAL SCHOOL SYSTEM, THAT IT IS IN THE BEST INTERESTS OF THE CHILD TO CONTINUE AT THAT SCHOOL; AND**

**5. THE LOCAL DEPARTMENT OF SOCIAL SERVICES OR THE DEPARTMENT OF JUVENILE SERVICES PAYS FOR THE COST OF TRANSPORTING THE CHILD TO AND FROM SCHOOL.**

**(III) 1. THE SECRETARY DEPARTMENT OF HUMAN RESOURCES AND THE DEPARTMENT OF JUVENILE SERVICES EACH SHALL ADOPT REGULATIONS ESTABLISHING FACTORS THAT SHALL BE CONSIDERED IN DETERMINING THE BEST INTERESTS OF A CHILD IN STATE SUPERVISED CARE IN ACCORDANCE WITH SUBPARAGRAPH (II) OF THIS PARAGRAPH UNDER THIS SECTION.**

**2. THE DEPARTMENT SHALL ADOPT REGULATIONS  
TO IMPLEMENT THE EDUCATIONAL STABILITY PROVISIONS OF THE FEDERAL  
FOSTERING CONNECTIONS TO SUCCESS AND INCREASING ADOPTIONS ACT OF  
2008.**

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

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

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 22, 2012.