

## **Chapter 659**

**(House Bill 284)**

AN ACT concerning

### **Education – Children in Out-of-County Living Arrangements – Payments for Children with Disabilities**

FOR the purpose of altering a certain provision relating to funding the education of certain disabled children placed in out-of-county living arrangements; defining certain terms; and generally relating to education funding for disabled children in out-of-county living arrangements.

BY repealing and reenacting, with amendments,  
Article – Education  
Section 4–122(a) and (c)  
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**

4–122.

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

(2) “Child in an out-of-county living arrangement” means a child who is placed by a State agency, a licensed child placement agency as provided by § 5–507 of the Family Law Article, or a court in a county other than where the child’s parent or legal guardian resides. “Child in an out-of-county living arrangement” does not include a child living with a relative, stepparent or a person exercising temporary care, custody or control over a child at the request of a parent or guardian of the child.

(3) “Financially responsible county” means the county where the parent or legal guardian of a child in an out-of-county living arrangement resides. If the parents of the child live apart, the financially responsible county is:

(i) The county where the parent who has been awarded custody of the child resides;

(ii) If custody has not been awarded, the county where the parent with whom the child lives when not in a foster care home or residential facility resides;

(iii) If custody has been awarded to both parents and the parents reside in different counties, both counties shall be considered financially responsible and shall pay one-half the amount as computed in accordance with subsection (c) of this section, except that if the child receives a public education in a county where a parent resides, this subparagraph shall not apply; or

(iv) If custody has been awarded to both parents and one parent resides in a county and the other resides out-of-state, the county shall be considered the financially responsible county.

**(4) “LEAST RESTRICTIVE ENVIRONMENT C (LRE-C)” MEANS A SETTING IN WHICH A CHILD IS ENROLLED IN A COMPREHENSIVE SCHOOL ~~WHO~~ AND RECEIVES SPECIAL EDUCATION AND RELATED SERVICES IN REGULAR EDUCATION SETTINGS LESS THAN 40% OF THE SCHOOL DAY.**

**(5) “LEAST RESTRICTIVE ENVIRONMENT F (LRE-F)” MEANS A SETTING IN WHICH A CHILD ~~WHO~~ RECEIVES SPECIAL EDUCATION AND RELATED SERVICES FOR GREATER THAN 50% OF THE SCHOOL DAY IN A PUBLIC SEPARATE DAY FACILITY THAT DOES NOT INCLUDE PROGRAMS FOR STUDENTS WITHOUT DISABILITIES.**

**[(4)] (6)** “Local current expense per student” means all expenditures made by a county from county appropriations, except State, federal, and other aid, for public elementary and secondary education in the prior fiscal year, divided by the full-time equivalent enrollment, as defined in § 5-202(a) of this article.

**[(5)] (7)** “Service providing local education agency” means the local education agency for the county where a child in an out-of-county living arrangement is placed.

(c) (1) Except as provided in paragraph (4) of this subsection, for each child in an out-of-county living arrangement enrolled in a public school program on December 31, the financially responsible county shall pay the service providing local education agency an amount equal to the lesser of:

(i) The local current expense per student in the financially responsible county; or

(ii) The local current expense per student in the service providing local education agency.

(2) If the service providing local education agency determines that a child in an out-of-county living arrangement is [handicapped and needs public school Intensity IV or V Special Education Services,] **A STUDENT WITH A DISABILITY WHO NEEDS AN LRE-C OR LRE-F PLACEMENT**, the financially responsible county shall pay the service providing local education agency for each such child an amount equal to the lesser of:

(i) Three times the local current expense per student in the financially responsible county; or

(ii) Three times the local current expense per student in the service providing local education agency.

(3) (i) If the local current expense per student in the financially responsible county is less than the local current expense per student in the service providing local education agency, the State shall pay to the service providing local education agency the difference for each student in an out-of-county living arrangement who attends a public school in the service providing local education agency.

(ii) The necessary funds shall be provided in the appropriation to the State Board.

(4) If the service providing local education agency determines that a child in an out-of-county living arrangement is [handicapped]**DISABLED** and needs a nonpublic educational program as provided by § 8-406 of this article, the financially responsible county shall pay for each such child the amount provided by § 8-415(d)(3) of this article.

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

**Approved by the Governor, May 22, 2012.**