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FISCAL AND POLICY NOTE
Revised

Senate Bill 605

(Senator Kelley)

Education, Health, and Environmental Affairs

Ways and Means

Education - Domicile Requirements for Attendance - Exception

This bill allows a child who is in the custody of, committed to, or otherwise placed by a local department of social services or the Department of Juvenile Services (DJS) and is subject to the educational stability provisions of the federal Fostering Connections to Success and Increasing Adoptions Act of 2008 (Fostering Connections Act) to remain at the school the child is attending, regardless of where the child is domiciled, if the local department of social services or DJS determines, in consultation with the local school system, that it is in the best interests of the child to continue at the school. The local department of social services or DJS must pay for the cost of transporting the child to and from school.

The bill takes effect July 1, 2012.

Fiscal Summary

State Effect: The bill codifies current practice and aligns with federal requirements. Revenues and expenditures of State agencies responsible for placing children under State-supervised care are not affected.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The bill does not apply to a child who is subject to the educational stability provisions of the federal McKinney-Vento Homeless Assistance Act as a child awaiting foster care placement as defined by Maryland State Department of Education (MSDE) regulations or a child who is in any of the following placements:

- a detention facility;
- a forestry camp;
- a training school;
- any State owned and operated facility accommodating more than 25 children; or
- any other facility operated primarily for the purpose of detaining children who are determined to be delinquent.

For purposes of the bill, the Department of Human Resources (DHR) and DJS must each adopt regulations establishing factors that will be considered in determining the best interests of a child. MSDE must adopt regulations to implement the educational stability provisions of the Fostering Connections Act.

Current Law: Each local board of education must determine the geographical attendance area for each of its public schools. Generally, a student must attend the school designated to serve the student's attendance area. However, local boards of education have various policies allowing for enrollment of or the transfer of a student outside of his or her attendance area, under certain circumstances. Unique hardship circumstances, childcare needs, programming purposes, and relief of school overcrowding are among the local exceptions to required pupil attendance within designated attendance areas.

A school that will be receiving a child who is in State-supervised care must be notified by the agency placing the child. The school that will be receiving the child must request, in writing, the child's educational records from the child's most recent school, and provide a copy of the request to the child or the adult responsible for the child. The school the child is transferring from must immediately inform the receiving school of the child's grade level and educational status, and must send the child's educational record within three days.

Background: Title IV-E of the Social Security Act provides federal assistance to states to provide foster care and transitional independent living programs for needy children and adoption assistance for children with special needs. This bill is intended to put Maryland into compliance with educational stability provisions of the federal Fostering Connections Act, which amended Title IV-E. Title IV-E agencies are required to include a plan for ensuring the educational stability of a child in foster care in the child's case

plan. This educational stability plan must include an assurance that the child's foster care placement takes into account the appropriateness of the current educational setting and the proximity to the school the child was enrolled in at the time of placement. The plan must also assure that:

- the Title IV-E agency has coordinated with the local education agency or agencies to ensure that the child can remain in that school; or
- if remaining in that school is not in the best interests of the child, an assurance to enroll the child immediately in a new school with all of the child's educational records.

The Fostering Connections Act gives states flexibility in determining which factors will be considered when assessing the best interests of the child. Also, the Act indicates that foster care maintenance payments include the cost of reasonable travel for the child to remain in the school the child attended prior to foster care placement.

As of January 31, 2011, 81% of the nearly 9,400 children in out-of-home placements were placed by DHR, which works through local departments of social services to provide foster care and adoption assistance, among other services. Though some placements involve multiple agencies, the remaining 19% are placed by DJS (about 10%), the Department of Health and Mental Hygiene (DHMH) (about 8%), and MSDE (about 1%). The bill specifically excludes some children in out-of-home placements (*e.g.*, those in detention facilities.)

The federal McKinney-Vento program is designed to address the problems that homeless children and youth have faced in enrolling, attending, and succeeding in school. Under the program, State educational agencies must ensure that each homeless child and youth has equal access to the same free, appropriate public education, including a public preschool education, as other children and youth. The program was originally authorized by the McKinney-Vento Homeless Assistance Act (McKinney-Vento Act) in 1987 and, most recently, reauthorized by the No Child Left Behind (NCLB) Act of 2001.

In determining a child's or youth's best interest, a local educational agency (LEA) must, to the extent feasible, keep a homeless child or youth in the "school of origin" (the school that the child or youth attended when permanently housed or the school in which the child or youth was last enrolled) unless doing so is contrary to the wishes of the child or youth's parent or guardian. State and local educational agencies must adopt policies and practices to ensure that transportation is provided to or from the school of origin in accordance with the following requirements:

- if the homeless child or youth continues to live in the area served by the LEA in which the school of origin is located, that LEA must provide or arrange for transportation to or from the school of origin; and
- if the homeless child or youth continues his or her education in the school of origin but begins living in an area served by another LEA, the LEA of origin and the LEA in which the homeless child or youth is living must agree upon a method to share responsibility and costs for providing transportation to and from the school of origin. If the LEAs cannot agree upon a method, the responsibility and costs for transportation must be shared equally.

The Maryland Code of Regulations (COMAR 13A.05.09) includes requirements established to be consistent with provisions of the McKinney-Vento Act as amended by NCLB, including requirements for the provision of student transportation.

State Fiscal Effect: DHR, DJS, and MSDE advise that the bill codifies current practice and responsibilities under federal law. Therefore, State finances are not affected by the bill.

Local Fiscal Effect: The bill specifies that the cost of transporting a child affected by the bill is covered by local departments of social services or DJS; therefore, local expenditures are not affected.

Additional Information

Prior Introductions: None.

Cross File: HB 757 (Delegates Luedtke and Wilson) – Ways and Means.

Information Source(s): Garrett, Howard, and Montgomery counties; Department of Human Resources; Maryland State Department of Education; Department of Health and Mental Hygiene; Department of Juvenile Services; Department of Legislative Services

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