

Department of Legislative Services  
Maryland General Assembly  
2013 Session

FISCAL AND POLICY NOTE

Senate Bill 1033 (Senator Rosapepe)  
Education, Health, and Environmental Affairs

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Public Education - Alternative Schooling

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This bill requires each local board of education to establish an alternative schooling program for public school students who exhibit continually disruptive or insubordinate behavior and who have been suspended or expelled, as defined by the bill. The program must provide regular instruction, or instruction leading to a general education development (GED) diploma, outside of the school rooms a student normally would attend. The Maryland State Department of Education (MSDE) must certify the compliance of each local board and must adopt standards for a “suspension” or for an “expulsion” of a continually disruptive and insubordinate student.

The bill generally takes effect July 1, 2013, though some provisions have a later effective date or are contingent upon requirements being met by MSDE and local boards.

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Fiscal Summary

**State Effect:** General fund expenditures for State aid to local school systems with large numbers of expulsions may increase marginally beginning in FY 2015. MSDE can adopt specified standards and certify county programs using existing resources.

**Local Effect:** Beginning in FY 2015, State aid to local school systems may increase marginally. In counties with large numbers of suspensions and expulsions, local school system expenditures for personnel and for additional classroom space may increase. **This bill may impose a mandate on a unit of local government.**

**Small Business Effect:** None.

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## Analysis

**Bill Summary:** A student in alternative schooling as provided by the bill is exempt from compulsory attendance. A local superintendent of schools may recommend the filing of a complaint alleging delinquency for a student who is determined to be unable to correct the behavior for which the student was suspended or expelled.

**Current Law:** Each local board of education must establish special programs for public school students who exhibit disruptive classroom behavior, in order to promote positive behavior and reduce disruption. For cause, a public school principal may suspend a student for up to 10 days. A suspension for longer than 10 days or an expulsion must be made by the local superintendent of schools at the request of a principal, and a student may appeal the suspension or expulsion to the local board of education. With the exception of in-school suspensions, a student may not be suspended or expelled from school solely for attendance-related offences.

A child age 5 to 15 must attend public school regularly unless the child is otherwise receiving regular, thorough instruction at an alternative setting (*i.e.*, a private or home school). An individual who has legal custody of a child age 5 to 15 and fails to see that the child attends school is guilty of a misdemeanor. Chapter 494 of 2012 (SB 362) increases the age of compulsory attendance to 16 for any child who turns 16 on or after July 1, 2015, and to 17 for any child who turns 17 on or after July 1, 2017. Chapter 494 specifies several exemptions from compulsory age requirements, including an exemption for a student who attends an alternative educational program.

Beginning July 1, 2015, a child under the legal dropout age must return to attendance at a public school regularly during the school year if the child is no longer participating in GED courses and has not obtained a passing score on the GED test that resulted in the issuance of a Maryland high school diploma.

### *Juvenile Intake and Inquiry*

In general the juvenile court has jurisdiction over a child who is alleged to be a delinquent. A Department of Juvenile Services intake officer receives complaints from a police officer or other person or agency having knowledge of facts that may cause a child to be subject to the jurisdiction of the juvenile court. Within 25 days after the complaint is filed, the intake officer is required to make an inquiry as to whether the juvenile court has jurisdiction and whether judicial action is in the best interest of the public or the child.

The intake officer may make any of the following decisions: (1) deny authorization to file a petition or a peace order request or both in the juvenile court; (2) propose informal

supervision; or (3) authorize the filing of a petition or a peace order request or both in the juvenile court. A “petition” is the pleading filed with the juvenile court alleging that a child is a delinquent child. A “peace order request” is the initial pleading filed with the juvenile court that alleges the commission of any of certain acts against a victim by a child and that serves as the basis for a peace order proceeding. In specified circumstances set forth in statute, the intake officer must forward the complaint and the entire intake case file to the State’s Attorney for further review.

**Background:** Local school systems have implemented a wide variety of alternative education programs, including programs within a student’s assigned school and programs at alternative schools or other sites. These programs generally are intended to promote academic success and prevent students from dropping out of school. Alternative education programs that take place outside of a student’s assigned school generally seek to return the student to his/or her assigned school once certain goals or benchmarks are met. Many of these programs specifically focus their efforts on students who exhibit disruptive and/or violent behaviors.

Suspension and expulsion offenses are classified into eight major categories in the *Maryland Student Records System Manual, 2011*, including the category of “Disrespect/Insubordination/Disruption.” Offenses in this category include disrespect, insubordination, harassment, classroom disruption, and inciting/participating in disturbance. In the 2011-2012 school year, the last offense committed by 20,000 of the 61,850 kindergarten through grade 12 public school students who were suspended or expelled (nearly one-third of the students) was in this category. Over half of the 61,850 students suspended or expelled in the State came from one of four counties: Baltimore City and Anne Arundel, Baltimore, and Prince George’s counties.

**State Fiscal Effect:** Much of State education aid for a given fiscal year is distributed based upon September enrollment in the prior fiscal year. By allowing expelled students to remain in the local school system, student enrollment may increase. However, students in the alternative schooling program that are expelled are not subject to compulsory attendance, and therefore may drop out from school. Therefore, the effect of the program on State aid is difficult to estimate. The full extent of these effects will not be realized until after fiscal 2014.

To the extent that additional personnel are required for the program, State teachers’ retirement aid increases two years following statewide implementation of the program. However, given that alternative schooling programs currently exist, overall staff levels may be minimally affected.

The alternative schooling program depends upon available space for the schooling. The current existence of both in-school alternative schooling and separate schools for alternative schooling suggests that many of the students in the alternative program can be accommodated. Some additional space may be required in cases where schools are at full capacity. However, this may be achieved with portable classrooms and the bill does not alter overall planned spending by the State for public school construction.

About 2% of juvenile delinquency complaints each year are referrals from a local school system. The bill is not expected to significantly increase these complaints or to impact the finances of the Department of Juvenile Services.

**Local Fiscal Effect:** The bill requires each local board of education to establish the alternative schooling program and requires MSDE to adopt certain standards for the program. Once the alternative program is implemented, it is not known to what extent disruptive students facing suspension or expulsion will be diverted to this program, as opposed to programs in place under current law, or the degree to which current programs will coexist with, or be merged with alternative schooling provided under the bill. This bill does not specifically require all suspended or expelled students to participate in the alternative schooling program established under the bill.

The bill may have an upward affect on enrollment and effective daily attendance, which may result in increased personnel expenditures (including the local share of teachers' retirement expenditures) and may make expenditures for additional classroom space necessary, especially in local school systems with a high rate of suspensions and expulsions and where many school buildings are at full capacity.

Carroll County, citing existing alternative schooling programs expect no fiscal impact from the bill, and Queen Anne's County also anticipates no fiscal impact.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Carroll and Queen Anne's counties, Maryland State Department of Education, Judiciary (Administrative Office of the Courts), Department of Juvenile Services, Public School Construction Program, Department of Legislative Services

**Fiscal Note History:** First Reader - March 19, 2013  
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Analysis by: Scott P. Gates

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510