

**HB1198/305367/1**

BY: Committee on Ways and Means

AMENDMENTS TO HOUSE BILL 1198  
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 2, strike “Due Process Hearings for”; in lines 2 and 3, strike “Burden of Proof” and substitute “Due Process Hearings”; strike beginning with “requiring” in line 4 down through “hearings” in line 10 and substitute “stating the intent of the General Assembly that a certain parent of a child with a disability and certain public agencies mediate certain issues before filing a certain due process complaint with the Office of Administrative Hearings; requiring certain public agencies to provide a parent of a child with a disability with certain information relating to requesting certain documents under certain circumstances; altering the duties of the Commission on Special Education Access and Equity; requiring the Commission to report certain findings and recommendations to the Governor and the General Assembly on or before a certain date; extending the termination date of the Commission; requiring the State Department of Education to make a certain report to the General Assembly on or before a certain date; and generally relating to due process hearings for children with disabilities”;

and after line 15, insert:

“BY repealing and reenacting, with amendments,

Chapter 671 of the Acts of the General Assembly of 2013

Section 1(f) and (g) and 2

BY adding to

Chapter 671 of the Acts of the General Assembly of 2013

Section 1(g)”.

AMENDMENT NO. 2

On page 2, after line 27, insert:

(Over)

“(2) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT A PARENT OR A PUBLIC AGENCY REQUEST MEDIATION BEFORE FILING A DUE PROCESS COMPLAINT IN ACCORDANCE WITH SUBSECTION (D) OF THIS SECTION.”.

On page 2 in lines 28 and 32 and on page 3 in lines 1, 3, and 5, strike “(2)”, “(3)”, “(4)”, “(5)”, and “(6)”, respectively, and substitute “(3)”, “(4)”, “(5)”, “(6)”, and “(7)”, respectively.

AMENDMENT NO. 3

On page 4, strike beginning with “(I)” in line 9 down through “EDUCATION” in line 15 and substitute “WITHIN 2 DAYS AFTER FILING A DUE PROCESS COMPLAINT OR RECEIVING NOTICE THAT A PARENT HAS FILED A DUE PROCESS COMPLAINT, A PUBLIC AGENCY SHALL PROVIDE TO THE PARENT A WRITTEN DOCUMENT THAT:

(I) INFORMS THE PARENT OF THE PARENT’S RIGHT TO REQUEST ALL DOCUMENTS RELATING TO THE SUBJECT MATTER OF THE COMPLAINT IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE OFFICE OF ADMINISTRATIVE HEARINGS; AND

(II) DESCRIBES HOW THE PARENT CAN REQUEST THE DOCUMENTS SPECIFIED UNDER ITEM (I) OF THIS PARAGRAPH”.

AMENDMENT NO. 4

On page 6, after line 27, insert:

“Chapter 671 of the Acts of 2013

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(f) The Commission shall study:

(1) the extent to which parents and guardians of students with disabilities are made aware of their rights under the Individuals with Disabilities Education Act (20 U.S.C. § 1400 et seq.) and State law and regulations relating to children with disabilities and potential ways to improve the awareness of these rights;

(2) disparities and potential methods for eliminating any disparities based on race, national origin, and limited English proficiency in the following areas:

(i) knowledge of and access to special education services;

(ii) rights under the Individuals with Disabilities Education Act;

(iii) access to and participation in Individualized Education Program mediation and appeals; and

(iv) access to participation in free and reduced price meals;

(3) effects of workload, caseload, and paperwork requirements related to the special education process on the ability of educators to provide a free and appropriate public education as guaranteed under federal law, and potential methods for mitigating these factors;

(4) concerns about equity between the parties in special education due process hearings, and potential methods for improving the process, INCLUDING ARGUMENTS FOR AND AGAINST SHIFTING THE BURDEN OF PROOF IN A DUE PROCESS HEARING BROUGHT UNDER § 8-413 OF THE EDUCATION ARTICLE FROM A PARTY SEEKING RELIEF TO A PUBLIC AGENCY;

(Over)

**(5) THE IMPLICATIONS OF SHIFTING THE BURDEN OF PROOF IN A DUE PROCESS HEARING FROM A PARTY SEEKING RELIEF TO A PUBLIC AGENCY ON A PUBLIC AGENCY'S WORKLOAD, RESOURCES, STAFF, AND ABILITY TO DELIVER APPROPRIATE SERVICES TO ALL STUDENTS;**

**(6) THE BEST PRACTICES OF NEW YORK, NEW JERSEY, AND CONNECTICUT REGARDING METHODS OF SHIFTING THE BURDEN OF PROOF IN A DUE PROCESS HEARING RELATING TO SPECIAL EDUCATION SERVICES FOR CHILDREN WITH DISABILITIES FROM A PARTY SEEKING RELIEF TO A PUBLIC AGENCY;**

**[(5)] (7) the State and local costs of all proposals considered or recommended by the Commission; and**

**[(6)] (8) any other issues related to access and equity in the provision of special education services under federal and State law identified by the Commission.**

**(G) THE COMMISSION SHALL HOLD AT LEAST:**

**(1) TWO COMMISSION MEETINGS DEVOTED TO DISCUSSING THE STUDY ITEMS SPECIFIED IN SUBSECTION (F)(4) THROUGH (6) OF THIS SECTION; AND**

**(2) ONE PUBLIC HEARING ON ISSUES RELATING TO THE BURDEN OF PROOF IN A DUE PROCESS HEARING BROUGHT UNDER § 8-413 OF THE EDUCATION ARTICLE.**

[(g)] (H) (1) On or before June 30, 2014, the Commission shall report its findings and recommendations on these issues relating to [access and equity in the provision of special education services under federal and State law] SUBSECTION (F)(1), (2), (3), (7), AND (8) to the Governor and, in accordance with § 2-1246 of the State Government Article, the Senate Education, Health, and Environmental Affairs Committee and the House Ways and Means Committee.

(2) ON OR BEFORE OCTOBER 31, 2014, THE COMMISSION SHALL REPORT ITS FINDINGS AND RECOMMENDATIONS ON SUBSECTION (F)(4) THROUGH (6) AND (8) OF THIS SECTION TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE SENATE EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS COMMITTEE AND THE HOUSE WAYS AND MEANS COMMITTEE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2013. It shall remain effective for a period of 1 year and [1 month] 6 MONTHS and, at the end of [June] NOVEMBER 30, 2014, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before December 1, 2016, the State Department of Education shall report to the Senate Education, Health, and Environmental Affairs Committee and the House Ways and Means Committee, in accordance with § 2-1246 of the State Government Article, on:

(1) The per pupil cost of educating a special education student as opposed to a general education student for each county in the State;

(2) The adequacy of State funding for special education to meet the differential per pupil cost needs of special education students as opposed to general education students; and

(3) The average workload, caseload, and paperwork requirements related to the special education process of educators in providing a free and appropriate public education as guaranteed under federal law; and

(4) The best practices of other jurisdictions in assisting special education teachers to meet the needs of their caseload while having adequate time for planning, teaching, and grading.”;

in line 28, strike “2.” and substitute “3.”; and in line 29, strike “July” and substitute “June”.