

Department of Legislative Services
Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 71 (Delegate Luedtke)
Judiciary and Ways and Means

Juvenile Services Education Board and Program – Establishment, Powers, and Duties

This bill repeals statutory provisions regarding the Juvenile Services Education (JSE) Program within the Maryland State Department of Education (MSDE) and instead establishes a JSE Board within the Department of Juvenile Services (DJS) to oversee and provide for educational services to all juveniles who are in a residential facility (specified facilities operated by DJS). Beginning July 1, 2022, (1) the board must oversee and approve all educational services to all juveniles who are in a residential facility and (2) DJS has the authority and responsibility for implementing JSE programs in the State. Beginning in fiscal 2023, the Governor must include sufficient funds in the State budget for DJS and the board to implement the bill’s requirements. The bill also alters the membership of the Correctional Officers’ Retirement System (CORS) to include an individual serving as a DJS direct education staff member on or after July 1, 2022. **The bill takes effect July 1, 2021.**

Fiscal Summary

State Effect: State revenues and expenditures for DJS increase beginning in FY 2023 to reflect the required transfer of JSE responsibility to DJS; State revenues and expenditures for MSDE correspondingly decrease. State expenditures may further increase related to potential staffing needs as early as FY 2022 and pension liabilities beginning in FY 2025.

Local Effect: Potential increase in revenues and expenditures if a local board of education or community college contracts with the new board to provide educational services to juveniles.

Small Business Effect: None.

Analysis

Bill Summary:

Juvenile Services Education Board

The board, housed within DJS, consists of 11 members; 6 members are appointed by the Governor with the advice and consent of the Senate and must have a high level of knowledge and expertise in at least one of several specified areas, including teaching, social work, or working with institutionalized youth. Appointed board members serve four-year terms. The board must elect a chair and a vice chair. Each member of the board is entitled to reimbursement for expenses under the standard State travel regulations. The board must meet publicly at least once per month, as specified. DJS serves as staff to the board.

The board must develop, recommend, and approve an educational program for each residential facility. Each educational program must meet the specified needs and circumstances of the juveniles in the residential facility and be accredited by an approved accrediting agency. The board must also (1) in consultation with the Juvenile Justice Monitoring Unit (JJMU) and DJS, develop minimum standards and a reporting structure to measure educational outcomes and assess implementation of the JSE program; (2) review a quality assurance report developed by DJS each quarter; and (3) conduct a performance review of the JSE Superintendent at least once every four years. Additionally, the board must approve postsecondary education programs, including vocational and online programs that meet the needs of the juveniles in a residential facility. DJS may adopt related regulations.

Juvenile Services Education System Superintendent

The board must appoint a system superintendent who has specified responsibilities, including (1) implementing and administering the educational programs approved by the board; (2) overseeing the education of every juvenile in a residential facility; (3) meeting with and advising the board about educational programs and outcomes for juveniles; (4) selecting, organizing, and directing the staff of the JSE program; (5) ensuring that the policies and decisions of the board are carried out; and (6) performing any other duties assigned by the board. The superintendent is entitled to the salary provided in the State budget and serves at the pleasure of the board. The superintendent may hire additional staff as provided in the State budget.

Funding for Juvenile Services Education

For fiscal 2023 and each fiscal year thereafter, the Governor must include in the annual budget bill an appropriation in an amount sufficient to meet the requirements of the JSE program.

A local board of education must reimburse DJS for the basic cost for each juvenile who was domiciled in the county before placement in a residential facility if the juvenile is in a facility or residential facility, in the custody of DJS for 15 consecutive days or more, does not meet the criteria for shared State and local payment of educational costs, as specified, and was included in the full-time equivalent enrollment of the county, as specified. “Basic cost” means the average amount spent by a local board from local and State funds for the public education of a nondisabled child.

Juvenile Services Education Requirements

DJS must provide and oversee educational services to all juveniles in a residential facility and implement for each residential facility an educational program as approved by the board that meets specified requirements. DJS must employ any staff necessary to carry out the JSE program as provided in the State budget. Educational staff in DJS must be subject to the career ladder and salary provisions of the Blueprint for Maryland’s Future. DJS must adopt regulations to carry out the bill’s provisions.

The bill may not be construed to prohibit DJS from contracting with a nonprofit private party or a county board of education to provide educational services for the juveniles in a residential facility.

A juvenile in the custody of DJS who is enrolled in a school at the time the juvenile is taken into custody may not be disenrolled from that school until after disposition of the juvenile’s case. The public school in which a juvenile is enrolled must provide the juvenile with the educational materials necessary to remain current with the juvenile’s educational program at the school. DJS, in consultation with the board and the local boards, must develop and implement a procedure to transfer a copy of a juvenile’s education records from the school in which the juvenile is enrolled to the facility in which the juvenile is placed. The records must include copies of specified materials, including an Individualized Education Program.

DJS, in consultation with the local boards, must develop and implement a procedure for the re-enrollment of a school-aged juvenile in a public or private school before the juvenile is released from the custody of DJS. DJS must develop an educational plan for each school-age juvenile in the custody of DJS for more than four weeks that (1) is designed to meet the juvenile’s needs and (2) ensures that, to the intent practicable, the juvenile is able to seamlessly reintegrate into the juvenile’s home school. DJS must offer a minimum of

2.5 hours of a postsecondary education per weekday to juveniles in its custody who have graduated from high school or obtained a high school diploma by examination. DJS may contract with a community college or other institution of postsecondary education in the State to provide such programs. Each local board must waive all high school graduation requirements, including required coursework, for a juvenile who is committed to the custody of DJS and is subsequently transferred to the local school system while in grades 11 or 12.

Reporting Requirements and Accountability

By December 1, 2021, MSDE and DJS must submit to the General Assembly a report detailing plans for the transition of JSE programs pursuant to the bill.

By December 1, 2022, and annually thereafter, DJS must submit a report to the Governor and the General Assembly on the aggregate educational outcomes of the educational program for each residential facility.

The board is subject to audit by the Office of Legislative Audits in the Department of Legislative Services (DLS), investigation by the Maryland Office of the Inspector General for Education, and oversight and monitoring by MSDE and the State Board of Education.

JJMU must monitor the implementation of educational programs at each residential facility and have a representative available to attend meetings of the JSE board.

Miscellaneous Provisions

The provisions of any collective bargaining agreement for staff in the JSE program must continue to apply until the bargaining unit for the staff and the State negotiate a new collective bargaining agreement.

Current Law: MSDE is responsible for educating juveniles within residential facilities operated by DJS. The Director of Juvenile Services Education and the Coordinating Council for Juvenile Services Education Programs have specified responsibilities in statute regarding the development, approval, and implementation of educational programs with DJS residential facilities.

State Expenditures: The Governor's proposed fiscal 2022 budget includes \$22.7 million in funding for the current juvenile education program as operated by MSDE. This includes \$16.3 million in general funds, \$3.5 million in federal funds, and \$2.9 million in reimbursable funds (representing cost reimbursements from local jurisdictions). No change in expenditures associated with this funding is anticipated in fiscal 2022, as MSDE is assumed to continue juvenile education operations until the newly established board

assumes control in fiscal 2023. It is also assumed that a similar level of funding that would have been provided to MSDE is instead provided to DJS beginning in fiscal 2023, limiting a significant impact on *net* State expenditures associated strictly with JSE *program* costs.

However, general fund expenditures associated with the newly established board *may* increase as early as fiscal 2022, to the extent that the board and DJS, in anticipation of the assumption of control over JSE programs in fiscal 2023, appoint or hire *additional* individuals (such as a new superintendent) related to JSE operations. It is assumed that many of the positions associated with the current JSE program will simply transfer from MSDE to DJS, however, it is unknown in advance how the JSE program will be fully implemented and the extent to which current JSE staff will assume new roles and positions under the structure envisioned by the bill and ultimately implemented by DJS and the board. In addition, because DJS may contract with nonprofit parties or a county board of education to provide juvenile educational services, it is possible that current staffing levels may be further altered.

The bill also adds “individuals serving as DJS direct education staff members” to the Correctional Officers’ Retirement System. Any impact associated with this provision cannot be estimated at this time, due to the uncertainty of how many DJS direct education staff members there will be upon implementation, as discussed above. However, DLS notes that CORS provides more generous benefits than the Employees’ Pension System (EPS), to which many State employees (including MSDE staff) belong. Generally EPS members must have at least 30 years of service to qualify for retirement; CORS members can retire after 20 years. Also, EPS members hired since 2011 receive a retirement benefit equal to 1.5% of their average final compensation for each year they worked; CORS members receive 1.82% for each year of service. Accordingly, to the extent that more DJS employees are CORS members, State retirement costs increase. CORS members added in fiscal 2023 would increase State retirement costs (60% general funds/20% special funds/20% federal funds) beginning in fiscal 2025.

Local Fiscal Effect: Because the bill does not alter the requirement for local boards of education to reimburse another entity for the costs associated with providing education for juveniles in specified circumstances, no additional impact is associated with local reimbursements. However, local expenditures and revenues may be impacted to the extent that the JSE board contracts with (1) a local board to assume operational control of any juvenile facility administered by the JSE board or (2) a community college to provide postsecondary education programs. Any such impact on local finances cannot be reliably estimated beforehand.

Baltimore City Public Schools advises it requires two staff to support the transfer of materials and school placements, monitor students’ progress, and collaborate with DJS,

and estimates associated expenditures of approximately \$175,000 annually. No other jurisdiction reported similar staffing needs.

Additional Information

Prior Introductions: None.

Designated Cross File: SB 497 (Senator Kelley, *et al.*) - Judicial Proceedings.

Information Source(s): Maryland State Department of Education; Maryland Higher Education Commission; Department of Budget and Management; Department of Juvenile Services; State Retirement Agency; Baltimore City Public Schools; Anne Arundel County Public Schools; Montgomery County Public Schools; Prince George's County Public Schools; Frederick County Public Schools; St. Mary's County Public Schools; Department of Legislative Services – Office of Legislative Audits; Department of Legislative Services

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