

HOUSE BILL 1604

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6lr3678
CF SB 646

By: **Delegate Kerr**

Introduced and read first time: February 17, 2026

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Public School System Contracts – Prohibited Provisions**

3 FOR the purpose of prohibiting certain provisions from being included in public school
4 system contracts; specifying that certain provisions are void if included in a public
5 school system contract; specifying the applicable law and interpretation of public
6 school system contracts; and generally relating to prohibited provisions in public
7 school system contracts.

8 BY adding to

9 Article – Education

10 Section 4–148

11 Annotated Code of Maryland

12 (2025 Replacement Volume and 2025 Supplement)

13 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
14 That the Laws of Maryland read as follows:

15 **Article – Education**

16 **4–148.**

17 **(A) IN THIS SECTION, “PUBLIC SCHOOL SYSTEM CONTRACT” MEANS ANY**
18 **AGREEMENT ENTERED INTO BY A PUBLIC SCHOOL SYSTEM.**

19 **(B) EXCEPT AS REQUIRED BY STATE OR FEDERAL LAW, A PUBLIC SCHOOL**
20 **SYSTEM CONTRACT MAY NOT INCLUDE A PROVISION THAT:**

21 **(1) REQUIRES THE PUBLIC SCHOOL SYSTEM TO INDEMNIFY, DEFEND,**
22 **OR HOLD HARMLESS ANOTHER PERSON WITHOUT AN APPROPRIATION OF FUNDS**
23 **FOR THAT PURPOSE;**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **(2) REQUIRES THE PUBLIC SCHOOL SYSTEM TO AGREE TO BINDING**
2 **ARBITRATION OR ANY OTHER BINDING EXTRAJUDICIAL DISPUTE RESOLUTION**
3 **PROCESS;**

4 **(3) NAMES A JURISDICTION OR VENUE FOR ANY ACTION OR DISPUTE**
5 **AGAINST THE PUBLIC SCHOOL SYSTEM OTHER THAN A COURT OF PROPER**
6 **JURISDICTION IN THE STATE;**

7 **(4) REQUIRES THE PUBLIC SCHOOL SYSTEM TO AGREE TO LIMIT THE**
8 **LIABILITY FOR ANY DIRECT LOSS TO THE PUBLIC SCHOOL SYSTEM FOR BODILY**
9 **INJURY, DEATH, OR DAMAGE TO PROPERTY OF THE PUBLIC SCHOOL SYSTEM**
10 **CAUSED BY THE NEGLIGENCE, INTENTIONAL OR WILLFUL MISCONDUCT,**
11 **FRAUDULENT ACT, RECKLESSNESS, OR OTHER TORTIOUS CONDUCT OF A PERSON OR**
12 **A PERSON'S EMPLOYEES OR AGENTS OR A PROVISION THAT WOULD OTHERWISE**
13 **IMPOSE AN INDEMNIFICATION OBLIGATION ON THE PUBLIC SCHOOL SYSTEM;**

14 **(5) REQUIRES THE PUBLIC SCHOOL SYSTEM TO BE BOUND BY A TERM**
15 **OR CONDITION THAT:**

16 **(i) IS UNKNOWN TO THE PUBLIC SCHOOL SYSTEM AT THE TIME**
17 **OF SIGNING A CONTRACT;**

18 **(ii) MAY BE UNILATERALLY CHANGED BY THE OTHER PARTY;**
19 **OR**

20 **(iii) IS ELECTRONICALLY ACCEPTED BY A PUBLIC SCHOOL**
21 **SYSTEM EMPLOYEE WITHOUT AUTHORITY;**

22 **(6) RESTRICTS A PUBLIC SCHOOL SYSTEM'S DISCRETION TO SELECT**
23 **THE APPROPRIATE LEGAL COUNSEL TO REPRESENT ITS INTERESTS;**

24 **(7) IS INCONSISTENT WITH THE PUBLIC SCHOOL SYSTEM'S**
25 **OBLIGATIONS UNDER TITLE 3 OR TITLE 4 OF THE GENERAL PROVISIONS ARTICLE;**

26 **(8) CREATES A DEFICIENCY, INCURS A LIABILITY, OR SPENDS MONEY**
27 **IN EXCESS OF THE APPROPRIATION, OR BINDS A PUBLIC SCHOOL SYSTEM TO PAY AN**
28 **AMOUNT UNLESS FUNDS HAVE BEEN APPROPRIATED FOR THAT PURPOSE;**

29 **(9) REQUIRES AUTOMATIC RENEWAL OF THE CONTRACT AND**
30 **OBLIGATES THE PUBLIC SCHOOL SYSTEM TO ALLOCATE FUNDING IN SUBSEQUENT**
31 **FISCAL YEARS; OR**

1 **(10) LIMITS THE PUBLIC SCHOOL SYSTEM’S ABILITY TO RECOVER A**
2 **DIFFERENCE IN THE COST OF A REPLACEMENT CONTRACTOR TO PERFORM THE**
3 **SERVICES NOT PERFORMED BY THE ORIGINAL CONTRACTOR.**

4 **(C) IF A PUBLIC SCHOOL SYSTEM CONTRACT CONTAINS A PROVISION**
5 **LISTED UNDER SUBSECTION (B) OF THIS SECTION, THE PROVISION IS VOID AB INITIO**
6 **AND THE CONTRACT CONTAINING THAT PROVISION SHALL BE ENFORCEABLE AS IF**
7 **IT DID NOT CONTAIN THE PROVISION.**

8 **(D) A PUBLIC SCHOOL SYSTEM CONTRACT THAT CONTAINS A PROVISION**
9 **LISTED UNDER SUBSECTION (B) OF THIS SECTION SHALL BE GOVERNED BY AND**
10 **CONSTRUED IN ACCORDANCE WITH STATE LAW, NOTWITHSTANDING ANY TERM OR**
11 **CONDITION TO THE CONTRARY IN THE CONTRACT.**

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to
13 apply only prospectively and may not be applied or interpreted to have any effect on or
14 application to any public school system contract executed before the effective date of this
15 Act or to the renewal or extension of a public school system contract executed before the
16 effective date of this Act.

17 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July
18 1, 2026.