

H.B. 120 – 1.24.23 – Ways & Means

TESTIMONY

Thank you Chair Atterbeary, Vice Chair Washington, and Members of the Committee. It's great to be presenting here today!

I'm requesting a favorable report on H.B. 120, the *Harford County – Due Process Proceedings for Children with Disabilities – Burden of Proof Act*.

As a member of this committee, I was inspired by last year's Howard County Delegation bill H.B. 865, upon which H.B. 120 was built as it's the same bill but for Harford County.

As many of you know, my eight-year-old son, Tristan, is a special needs child and a student with an IEP within the Harford County Public Schools.

Unlike many families, I am fortunate to be able to advocate for him and his right to an education, but I want to make sure that every parent, regardless of circumstance, has that same opportunity for their child. Therefore, because there are so many families who are unable to provide this for their child due to circumstances, I am proud today to bring H.B. 120 before the committee.

Building upon the intent of H.B. 865 introduced and passed out of this committee and the House of Delegates last year, H.B. 120 seeks to do right by special needs students and their families in Harford County when questions regarding the implementation of and adherence to their child's IEP arise. In most cases, these questions can be addressed through robust conversation and collaboration with interested and vested stakeholders, such as parents, school administrators, teachers, faculty, and staff.

However, when such collaboration is not sufficient to reach a resolution, parents are placed in a position to prove their claim regarding the implementation status and adherence of their child's IEP. In these cases, as noted, many parents face a significant disadvantage as most are unable to afford experienced legal counsel and do not have access to the data on their child's learning.

This is not the case, however, for the school systems. They have access to the data and retain the experienced legal counsel needed to prove a case.

Therefore, H.B. 120 shifts the burden of proof in a due process proceeding regarding a special needs child's IEP from the parents to the school system. In doing so, this

will alleviate the burden on the families who oftentimes cannot sustain it.

It is also worth noting that although statewide initiatives to shift the burden of proof in these proceedings have failed since 2013, there is support for this change, as was evident with H.B. 865 unanimously passing the House of Delegates during the 2022 legislative session.

During that time, one specific point of opposition to the shift claimed that if passed and implemented, the change would cause an increase in claims.

However, in 2018 when similar legislation was introduced statewide, the fiscal note stated that although there may be a relatively modest increase in complaints and hearings after the shift, based upon other states' experiences that have already made the change, the shift would likely **not** have a lasting significant effect on the number of claims.

In fact, after the shift was implemented in New Jersey, data indicated that in subsequent years, the number of due process hearings returned to a level at or below the level reached prior to the shift. This finding was reenforced again in 2022 when H.B. 865 was introduced.

For these reasons, and so many others, I respectfully request a favorable report on H.B. 120. At the end of the day, this is about doing what is right for students with special needs, such as my son Tristan, and so many others just like him.

Thank you for your time, and I request a favorable report on H.B. 120.