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HOUSE WAYS AND MEANS COMMITTEE

SENATE BILL 797

**EDUCATION—ACCESS TO ATTORNEYS, ADVOCATES, and CONSULTANTS FOR SPECIAL
EDUCATION PROGRAM AND FUND—ESTABLISHED**

MARCH 27, 2024

POSITION: SUPPORT

Disability Rights Maryland (DRM) is the protection and advocacy organization for the state of Maryland; the mission of the organization, part of a national network of similar agencies, is to advocate for the legal rights of people with disabilities throughout the state. Over the years, DRM has dedicated significant resources to representation of children with disabilities in special education matters, both individual and systemic, and to educational policy work. We appreciate the opportunity to submit this testimony in strong support of Senate Bill 797, which would create a program to enable families with limited resources to access lawyers, advocates or education consultants to assist them in certain special education matters. DRM agrees with House amendments to define “advocate” and to require training for participant attorneys, advocates and consultants. DRM also agrees with possible amendment of Senate Bill 797 to have funding for the program come through the Maryland Legal Services Corporation (MLSC), so long as MLSC receives an exception to permit adoption of the income limit established by the bill, i.e., 150% of the MLSC income limits.

DRM particularly appreciates this bill because it frontloads three quarters of the program’s funding for families in the Individualized Education Program (IEP) process or other informal proceedings, reserving one quarter of the funds for families facing due process hearings. So many of the families who contact DRM face significant decisions about their children’s special education services and placements, some with life-altering consequences, but the meetings can be intimidating, confusing and difficult to navigate without assistance or representation. House Bill 903 outlines criteria for financial and case issue eligibility to ensure that families whose children are facing potentially life-altering special education situations can obtain the assistance they need.¹ During the past year, DRM received nearly 500 requests for assistance with special

¹ Students who are eligible for the program include those whose family income is up to 150% of the guidelines set forth by the Maryland Legal Services Corporation and whose IEP teams are proposing a reduction in, or elimination of, special education or particular related services and the parent disagrees; students with disabilities who have been suspended or otherwise removed from school for disciplinary reasons for more than 10 days; students who are being recommended for a change to a more restrictive or less restrictive placement and the parent disagrees; students who have been restrained or secluded more than 10 times; students who are being proposed for placement in an alternative education program and the parent disagrees; students against whom a school system has requested a due process hearing; and students whose parent’s first language is not English and the parent

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education matters. Because of limited staff and resources, and because of DRM's focus, as Maryland's protection and advocacy organization, on cases that have systemic impact, DRM was only able to accept approximately 40 cases for full representation. More than half of the requests were addressed by the provision of information and referrals to other resources. Of the remaining requests for assistance, many were addressed through the provision of technical assistance to the family, and a number were referred to DRM's pro bono coordinator for assignment to a pro bono attorney. Currently, 46 students are waiting for pro bono attorneys for special education matters.

It has been particularly difficult to refer students whose family income is above the Maryland Legal Services Corporation (MLSC) income guidelines and who are thus, ineligible for a pro bono attorney, to other resources such as private attorneys and education consultants, knowing that many of those families will likely be unable to access those resources because of the cost. Because Senate Bill 797 sets an income limit of 150% of the MLSC guidelines, more families will be able to secure assistance.

In DRM's experience, families who have assistance at the IEP meeting stage are often able to resolve issues and secure appropriate services for their children. Allowing families to access assistance at the early stages of a disagreement or, with families who do not speak English or whose children have faced disciplinary action or restraint or seclusion, before a disagreement actually arises, increases the chances that the issue will be resolved before the disagreement, misunderstanding or miscommunication hardens into a dispute that can only be resolved by more formal means.

At its heart, Senate Bill 797 is about equity. Families with resources are able to hire consultants, advocates or experts at any point of their child's journey through the special education process. This bill would give that same opportunity to families who do not have the resources to do so.

For these reasons, DRM strongly supports Senate Bill 797 and urges a favorable report.

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needs assistance navigating the special education process. Families must make at least one attempt to resolve a disagreement with the IEP team before seeking assistance from the program.