

SENATE BILL 605

F1

2lr2551
CF HB 757

By: **Senator Kelley**

Introduced and read first time: February 3, 2012

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 16, 2012

CHAPTER _____

1 AN ACT concerning

2 **Education – ~~Children in State Supervised Care – Geographical Attendance~~**
3 **Area Domicile Requirements for Attendance – Exception**

4 FOR the purpose of ~~authorizing a child to remain in a school in a certain geographical~~
5 ~~attendance area regardless of whether the child resides within the area under~~
6 ~~certain circumstances; requiring that certain determinations regarding the best~~
7 ~~interests of certain children in State supervised care be made in accordance~~
8 ~~with certain factors;~~ requiring a county superintendent to allow a child to
9 remain at a certain school ~~the child attended prior to the child's removal from~~
10 ~~the child's home by a certain agency~~ under certain circumstances; requiring the
11 Secretary of Human Resources, ~~in coordination with the State Superintendent~~
12 ~~of Schools,~~ and the Secretary of Juvenile Services each to adopt certain
13 regulations establishing certain factors relating to the best interests of certain
14 children; ~~prohibiting a certain school from requiring a person enrolling a child~~
15 ~~in the school to produce certain documentation; requiring a certain child~~
16 ~~placement agency that has been unable to produce certain records to assist a~~
17 ~~certain school in obtaining the records under certain circumstances; requiring a~~
18 ~~certain child to remain enrolled in a certain school during a period of time when~~
19 ~~records are obtained; defining a certain term;~~ requiring the State Department of
20 Education to adopt certain regulations to implement a certain Act; and
21 generally relating to authorizing a child ~~in State supervised care~~ to remain in a
22 school regardless of ~~whether the child resides in the geographical area of the~~
23 ~~school~~ the domicile requirements for attendance at that school.

24 BY repealing and reenacting, with amendments,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Article – Education
 2 Section ~~4-109, 7-101(b), and 8-501~~
 3 Annotated Code of Maryland
 4 (2008 Replacement Volume and 2011 Supplement)

5 ~~BY adding to~~
 6 ~~Article – Education~~
 7 ~~Section 8-503.1~~
 8 ~~Annotated Code of Maryland~~
 9 ~~(2008 Replacement Volume and 2011 Supplement)~~

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

12 **Article – Education**

13 ~~4-109.~~

14 ~~(a) Subject to approval by the State Superintendent and in accordance with~~
 15 ~~the applicable bylaws, rules, and regulations of the State Board, a county board may~~
 16 ~~establish a public school if, in its judgment, it is advisable.~~

17 ~~(b) On approval by the State Superintendent, any school established under~~
 18 ~~this section becomes a part of the State program of public education.~~

19 ~~(c) (1) With the advice of the county superintendent, the county board~~
 20 ~~shall determine the geographical attendance area for each school established under~~
 21 ~~this section.~~

22 ~~(2) REGARDLESS OF WHETHER A CHILD RESIDES WITHIN A~~
 23 ~~SCHOOL'S GEOGRAPHIC ATTENDANCE AREA, THE CHILD MAY REMAIN AT THE~~
 24 ~~SCHOOL THE CHILD HAS BEEN ATTENDING IF:~~

25 ~~(i) THE CHILD IS A CHILD IN STATE SUPERVISED CARE, AS~~
 26 ~~DEFINED IN § 8-501 OF THIS ARTICLE; AND~~

27 ~~(ii) THE LOCAL DEPARTMENT OF SOCIAL SERVICES, THE~~
 28 ~~DEPARTMENT OF HEALTH AND MENTAL HYGIENE, OR THE DEPARTMENT OF~~
 29 ~~JUVENILE SERVICES DETERMINES THAT IT IS IN THE BEST INTERESTS OF THE~~
 30 ~~CHILD TO CONTINUE AT THAT SCHOOL.~~

31 ~~(3) THE DETERMINATION OF THE BEST INTERESTS OF A CHILD IN~~
 32 ~~STATE SUPERVISED CARE UNDER PARAGRAPH (2) OF THIS SUBSECTION SHALL~~
 33 ~~BE MADE IN ACCORDANCE WITH THE FACTORS UNDER THE REGULATIONS~~
 34 ~~ADOPTED IN ACCORDANCE WITH § 7-101(B)(2)(III) OF THIS ARTICLE.~~

1 7-101.

2 (b) (1) Except as provided in § 7-301 of this title and in paragraph (2) of
3 this subsection, each child shall attend a public school in the county where the child is
4 domiciled with the child's parent, guardian, or relative providing informal kinship
5 care, as defined in subsection (c) of this section.

6 (2) (I) Upon request and in accordance with a county board's
7 policies concerning residency, a county superintendent may allow a child to attend
8 school in the county even if the child is not domiciled in that county with the child's
9 parent or guardian.

10 ~~(H) A COUNTY SUPERINTENDENT SHALL ALLOW A CHILD~~
11 ~~TO REMAIN AT THE SCHOOL THE CHILD ATTENDED PRIOR TO THE CHILD'S~~
12 ~~REMOVAL FROM THE CHILD'S HOME BY A CHILD WELFARE AGENCY, IF:~~

13 ~~1. THE CHILD IS SUBJECT TO THE EDUCATIONAL~~
14 ~~STABILITY PROVISIONS OF THE FEDERAL FOSTERING CONNECTIONS TO~~
15 ~~SUCCESS AND INCREASING ADOPTIONS ACT OF 2008;~~

16 ~~2. THE CHILD IS NOT IN ANY OF THE FOLLOWING~~
17 ~~PLACEMENTS:~~

18 ~~A. A DETENTION FACILITY;~~

19 ~~B. A FORESTRY CAMP;~~

20 ~~C. A TRAINING SCHOOL;~~

21 ~~D. ANY STATE OWNED AND OPERATED FACILITY~~
22 ~~ACCOMMODATING MORE THAN 25 YOUTH; OR~~

23 ~~E. ANY OTHER FACILITY OPERATED PRIMARILY FOR~~
24 ~~THE PURPOSE OF DETAINING YOUTH WHO ARE DETERMINED TO BE~~
25 ~~DELINQUENT AND REQUIRE SECURE CUSTODY IN A PHYSICALLY RESTRICTIVE~~
26 ~~SETTING;~~

27 ~~3. THE LOCAL DEPARTMENT OF SOCIAL SERVICES,~~
28 ~~WITH INPUT FROM THE LOCAL SCHOOL SYSTEM, HAS DETERMINED THAT IT IS IN~~
29 ~~THE BEST INTERESTS OF THE CHILD TO CONTINUE AT THAT SCHOOL; AND~~

30 ~~4. THE LOCAL DEPARTMENT OF SOCIAL SERVICES~~
31 ~~PAYS THE COST OF TRANSPORTATION OF THE CHILD TO THE SCHOOL.~~

~~(III) THE SECRETARY OF HUMAN RESOURCES SHALL, IN COORDINATION WITH THE SUPERINTENDENT OF SCHOOLS, ADOPT REGULATIONS ESTABLISHING FACTORS THAT SHALL BE CONSIDERED IN DETERMINING THE BEST INTEREST OF A CHILD IN ACCORDANCE WITH ITEM (2)(H) OF THIS SUBSECTION.~~

(II) REGARDLESS OF WHERE THE CHILD IS CURRENTLY DOMICILED, A COUNTY SUPERINTENDENT SHALL ALLOW A CHILD TO REMAIN AT THE SCHOOL THAT THE CHILD IS ATTENDING, IF:

1. THE CHILD IS A CHILD WHO IS:

A. IN THE CUSTODY OF, COMMITTED TO, OR OTHERWISE PLACED BY A LOCAL DEPARTMENT OF SOCIAL SERVICES OR THE DEPARTMENT OF JUVENILE SERVICES; AND

B. SUBJECT TO THE EDUCATIONAL STABILITY PROVISIONS OF THE FEDERAL FOSTERING CONNECTIONS TO SUCCESS AND INCREASING ADOPTIONS ACT OF 2008;

2. THE CHILD IS NOT SUBJECT TO THE EDUCATIONAL STABILITY PROVISIONS OF THE FEDERAL MCKINNEY-VENTO HOMELESS ASSISTANCE ACT, AS AMENDED, AS A CHILD AWAITING FOSTER CARE PLACEMENT AS DEFINED BY THE DEPARTMENT IN REGULATION; AND

3. THE CHILD IS NOT IN ANY OF THE FOLLOWING PLACEMENTS:

A. A DETENTION FACILITY;

B. A FORESTRY CAMP;

C. A TRAINING SCHOOL;

D. A STATE-OWNED AND STATE-OPERATED FACILITY THAT ACCOMMODATES MORE THAN 25 CHILDREN; OR

E. ANY OTHER FACILITY OPERATED PRIMARILY FOR THE DETENTION OF CHILDREN WHO ARE DETERMINED TO BE DELINQUENT;

4. THE LOCAL DEPARTMENT OF SOCIAL SERVICES OR THE DEPARTMENT OF JUVENILE SERVICES DETERMINES, IN CONSULTATION WITH THE LOCAL SCHOOL SYSTEM, THAT IT IS IN THE BEST INTERESTS OF THE CHILD TO CONTINUE AT THAT SCHOOL; AND

1 **5. THE LOCAL DEPARTMENT OF SOCIAL SERVICES**
 2 **OR THE DEPARTMENT OF JUVENILE SERVICES PAYS FOR THE COST OF**
 3 **TRANSPORTING THE CHILD TO AND FROM SCHOOL.**

4 **(III) 1. THE DEPARTMENT OF HUMAN RESOURCES AND**
 5 **THE DEPARTMENT OF JUVENILE SERVICES EACH SHALL ADOPT REGULATIONS**
 6 **ESTABLISHING FACTORS THAT SHALL BE CONSIDERED IN DETERMINING THE**
 7 **BEST INTERESTS OF A CHILD UNDER THIS SECTION.**

8 **2. THE DEPARTMENT SHALL ADOPT REGULATIONS**
 9 **TO IMPLEMENT THE EDUCATIONAL STABILITY PROVISIONS OF THE FOSTERING**
 10 **CONNECTIONS TO SUCCESS AND INCREASING ADOPTIONS ACT OF 2008.**

11 (3) If a child fraudulently attends a public school in a county where
 12 the child is not domiciled with the child's parent or guardian, the child's parent or
 13 guardian shall be subject to a penalty payable to the county for the pro rata share of
 14 tuition for the time the child fraudulently attends a public school in the county.

15 (4) Nothing in this section alters the requirements for out-of-county
 16 placements contained in § 4-122 and Title 8, Subtitles 3 and 4 of this article or in any
 17 other State or federal law.

18 ~~§ 501.~~

19 ~~(a) In this subtitle the following words have the meanings indicated.~~

20 ~~(b) (1) "Child in State supervised care" means a child who is in the~~
 21 ~~custody of, committed to, or otherwise placed by a placement agency.~~

22 ~~(2) "Child in State supervised care" does not mean a child at the~~
 23 ~~Charles H. Hickey, Jr. School in Baltimore County who receives an educational~~
 24 ~~program under § 22-308 of this article.~~

25 ~~(c) "ENROLL" OR "ENROLLMENT" MEANS ATTENDING CLASSES AND~~
 26 ~~PARTICIPATING FULLY IN SCHOOL ACTIVITIES.~~

27 ~~[(c)] (D) "Noncollegiate educational institution" has the meaning stated in §~~
 28 ~~2-206 of this article.~~

29 ~~[(d)] (E) "Notice" means that written, verbal, or other communication~~
 30 ~~regarding the identification of a child in State supervised care has been effectuated.~~

31 ~~[(e)] (F) "Placement agency" means:~~

32 ~~(1) A local department of social services;~~

1 ~~(2) The Department of Health and Mental Hygiene;~~

2 ~~(3) The Department of Juvenile Services; or~~

3 ~~(4) A private agency that:~~

4 ~~(i) Engages in the placement of children in homes or with~~
5 ~~individuals; and~~

6 ~~(ii) Is licensed by the Social Services Administration under §~~
7 ~~5-507 of the Family Law Article.~~

8 ~~[(f)] (C) "Receiving school" means a public school or a noncollegiate~~
9 ~~educational institution affiliated with a residential child care program or treatment~~
10 ~~facility that has an educational program approved by the Department in which a child~~
11 ~~in State supervised care is newly enrolled or seeks to enroll.~~

12 ~~[(g)] (H) "Sending school" means a public school or a noncollegiate~~
13 ~~educational institution affiliated with a residential child care program or treatment~~
14 ~~facility that has an educational program approved by the Department in which a child~~
15 ~~in State supervised care was enrolled prior to enrolling, or seeking to enroll, in a~~
16 ~~receiving school.~~

17 ~~§ 503.1.~~

18 ~~(A) NOTWITHSTANDING ANY OTHER ENROLLMENT DOCUMENTATION~~
19 ~~REQUIREMENTS OF A RECEIVING SCHOOL, THE RECEIVING SCHOOL MAY NOT~~
20 ~~REQUIRE A PERSON ENROLLING A CHILD TO PRODUCE ANY MORE~~
21 ~~DOCUMENTATION THAN THE FOLLOWING:~~

22 ~~(1) PROOF THAT THE CHILD IS IN STATE SUPERVISED CARE;~~

23 ~~(2) PROOF OF RESIDENCY; AND~~

24 ~~(3) DOCUMENTATION THAT SUBSTANTIATES THE AUTHORITY OF~~
25 ~~THE PERSON TO ENROLL THE CHILD.~~

26 ~~(B) (1) IMMEDIATELY AFTER A CHILD PLACEMENT AGENCY ENROLLS~~
27 ~~A CHILD IN STATE SUPERVISED CARE, IF THE CHILD PLACEMENT AGENCY HAS~~
28 ~~BEEN UNABLE TO PRODUCE RECORDS THAT ARE NORMALLY REQUIRED, THE~~
29 ~~CHILD PLACEMENT AGENCY SHALL ASSIST THE RECEIVING SCHOOL IN~~
30 ~~OBTAINING ANY RECORDS THAT THE RECEIVING SCHOOL HAS BEEN UNABLE TO~~
31 ~~OBTAIN THROUGH THE PROCEDURES PROVIDED IN § 8-504 OF THIS SUBTITLE.~~

1 (2) ~~THROUGHOUT THE PERIOD DURING WHICH ANY MISSING~~
2 ~~RECORDS ARE OBTAINED, THE CHILD SHALL REMAIN ENROLLED IN THE~~
3 ~~RECEIVING SCHOOL.~~

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 July 1, 2012.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.