

CHAPTER 362

(House Bill 169)

AN ACT concerning

Education – Children in Informal Kinship Care Relationships

FOR the purpose of requiring a superintendent of schools of a county to allow a child to attend a public school in a school attendance area other than the school in the school attendance area where the child is domiciled with the child's parent or legal guardian if the child lives with a relative in the school attendance area in an informal kinship care relationship due to a serious family hardship; requiring certain affidavits to include certain notice; making a conforming change concerning the form of a certain affidavit; and generally relating to children who live with relatives who provide informal kinship care due to a serious family hardship.

BY repealing and reenacting, with amendments,

Article – Education

Section 7–101

Annotated Code of Maryland

(2006 Replacement Volume and 2007 Supplement)

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

Article – Education

7–101.

(a) All individuals who are 5 years old or older and under 21 shall be admitted free of charge to the public schools of this State.

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

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

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

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

(c) (1) (i) In this subsection the following words have the meanings indicated.

(ii) "Informal kinship care" means a living arrangement in which a relative of a child, who is not in the care, custody, or guardianship of the local department of social services, provides for the care and custody of the child due to a serious family hardship.

(iii) "Relative" means an adult related to the child by blood or marriage within the fifth degree of consanguinity.

(iv) "Serious family hardship" means:

1. Death of a parent or legal guardian of the child;
2. Serious illness of a parent or legal guardian of the child;
3. Drug addiction of a parent or legal guardian of the child;
4. Incarceration of a parent or legal guardian of the child;
5. Abandonment by a parent or legal guardian of the child; or
6. Assignment of a parent or legal guardian of a child to active military duty.

(2) (i) A county superintendent shall allow a child who is a resident of this State to attend a public school in:

1. [a] A county other than the county where the child is domiciled with the child's parent or legal guardian if the child lives with a relative providing informal kinship care in the county and the relative verifies the informal kinship care relationship through a sworn affidavit; OR

2. A SCHOOL ATTENDANCE AREA OTHER THAN THE SCHOOL IN THE SCHOOL ATTENDANCE AREA WHERE THE CHILD IS DOMICILED WITH THE CHILD'S PARENT OR LEGAL GUARDIAN IF THE CHILD LIVES WITH A RELATIVE PROVIDING INFORMAL KINSHIP CARE IN THE SCHOOL ATTENDANCE AREA AND THE RELATIVE VERIFIES THE INFORMAL KINSHIP CARE RELATIONSHIP THROUGH A SWORN AFFIDAVIT.

(ii) 1. The affidavit shall be accompanied by supporting documentation of one or more serious family hardships and, where possible, the telephone number and address of any authority who is legally authorized to reveal information which can verify the assertions in the affidavit.

2. The supporting documentation required under subparagraph 1 of this subparagraph shall be consistent with local, State, and federal privacy and confidentiality policies and statutes.

(3) The affidavit shall include:

- (i) The name and date of birth of the child;
- (ii) The name and address of the child's parent or legal guardian;
- (iii) The name and address of the relative providing informal kinship care;
- (iv) The date the relative assumed informal kinship care;
- (v) The nature of the serious family hardship and why it resulted in informal kinship care;
- (vi) The kinship relation to the child of the relative providing informal kinship care;
- (vii) The name and address of the school the child previously attended;
- (viii) Notice that the county superintendent may verify the facts given by the relative providing informal kinship care in the affidavit and conduct an audit of the case after the child has been enrolled in the county public school system;
- (ix) Notice that if fraud or misrepresentation is discovered during an audit, the county superintendent shall remove the child from the **PUBLIC SCHOOL OR** county public school system roll; and

(x) Notice that any person who willfully makes a material misrepresentation in the affidavit shall be subject to a penalty payable to the county for three times the pro rata share of tuition for the time the child fraudulently attends a public school in the county.

(4) The affidavit shall be in the following form:

(i) I, the undersigned, am over eighteen (18) years of age and competent to testify to the facts and matters set forth herein.

(ii) _____ (name of child), whose date of birth is _____, is living with me because of the following serious family hardship: (check each that is applicable)

- _____ death of father/mother/legal guardian
- _____ serious illness of father/mother/legal guardian
- _____ drug addiction of father/mother/legal guardian
- _____ incarceration of father/mother/legal guardian
- _____ abandonment by father/mother/legal guardian
- _____ assignment of a parent or legal guardian of a child to active military duty

(iii) The name and last known address of the child's parent(s) or legal guardian is:

(iv) My kinship relation to the child is _____

(v) My address is:

Street Apt. No.

City State Zip Code

(vi) I assumed informal kinship care of this child for 24 hours a day and 7 days a week on _____ (day/month/year).

(vii) The name and address of the last school that the child attended is:

(viii) The county superintendent may verify the facts contained in the foregoing affidavit and conduct an audit on a case-by-case basis after the child has been enrolled in the county public school system. If the county superintendent discovers fraud or misrepresentation, the child shall be removed from the **PUBLIC SCHOOL OR** county public school system roll.

(ix) I solemnly affirm under the penalties of perjury that the contents of the foregoing are true to the best of my knowledge, information, and belief.

Signature of affiant

(Day/month/year)

(x) Any person who willfully makes a material misrepresentation in this affidavit shall be subject to a penalty payable to the county for three times the pro rata share of tuition for the time the child fraudulently attends a public school in the county.

(5) (i) Instructions that explain the necessity for both an affidavit and supporting documentation of the serious family hardship resulting in informal kinship care shall:

1. Be attached to affidavit forms that comply with paragraph (4) of this subsection; and

2. Include language encouraging the relative providing informal kinship care to submit the affidavit and supporting documentation prior to September 30 of each year.

(ii) The affidavit forms, with attached instructions, shall be made available free of charge at the offices of each county board of education, each local department of social services, and each local area agency on aging.

(6) If a change occurs in the care or in the serious family hardship of the child, the relative providing informal kinship care for the child shall notify the local school system in writing within 30 days after the change occurs.

(7) (i) An informal kinship care affidavit may be filed during a school year.

(ii) The relative providing informal kinship care shall file an affidavit annually at least 2 weeks prior to the beginning of the school year for each year the child continues to live with the relative because of a serious family hardship.

(8) Unless the court appoints a guardian for the child or awards custody of the child to someone other than the relative providing informal kinship care, the relative providing informal kinship care shall make the full range of educational decisions for the child.

(9) The relative providing informal kinship care shall make reasonable efforts to inform the parent or legal guardian of the child of the informal kinship care relationship.

(10) The parent or legal guardian of a child in an informal kinship care relationship shall have final decision making authority regarding the educational needs of the child.

(d) Section 4-122.1 of this article shall apply to the education funding of a child in an informal kinship care relationship if the fiscal impact of the requirements of subsections (b) and (c) of this section exceed 0.1% of a county board's total operating budget for a fiscal year.

(e) (1) By the 2007-2008 school year, each county board shall provide full-day kindergarten programs for all kindergarten students in that county.

(2) In the comprehensive master plan that is submitted under § 5-401 of this article, a county board shall identify the strategies that will be used in that county to ensure that full-day kindergarten programs are provided to all kindergarten students in that county by the 2007-2008 school year.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, May 13, 2008.