

Chapter 494

(Senate Bill 362)

AN ACT concerning

Education – Age for Compulsory Public School Attendance – Exemptions

FOR the purpose of altering the age at which certain children are required to attend a public school regularly during the entire school year, subject to certain exceptions; altering the age of certain children for which certain persons are responsible for the child's attendance at school or receipt of certain instruction; requiring certain children to return to attendance at school under certain circumstances; requiring the State Department of Education to complete certain tasks on or before a certain date; requiring the State Department of Education, in consultation with the Department of Labor, Licensing, and Regulation, to develop a certain program and request necessary legislation on or before a certain date; requiring the county boards of education to submit certain plans to the State Department of Education on or before a certain date; requiring the State Department of Education to submit certain reports to certain persons and entities on or before certain dates; making certain stylistic changes; providing for the application of this Act; providing for delayed effective dates; and generally relating to the age for compulsory public school attendance.

BY repealing and reenacting, with amendments,
 Article – Education
 Section 7–301
 Annotated Code of Maryland
 (2008 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,
 Article – Education
 Section 7–301(a), (a–1)(1), (c), ~~and (e)(2)~~ (e)(2), and (g)
 Annotated Code of Maryland
 (2008 Replacement Volume and 2011 Supplement)
 (As enacted by Section 1 of this Act)

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

Article – Education

7–301.

(A) THIS SECTION DOES NOT APPLY TO A CHILD UNDER THE AGE OF 17 YEARS WHO:

(1) HAS OBTAINED A MARYLAND HIGH SCHOOL DIPLOMA, AN EQUIVALENT OUT-OF-STATE HIGH SCHOOL DIPLOMA, OR A GED;

(2) IS A STUDENT WITH DISABILITIES AND HAS COMPLETED THE REQUIREMENTS FOR A MARYLAND HIGH SCHOOL CERTIFICATE OF COMPLETION;

(3) IS RECEIVING REGULAR, THOROUGH INSTRUCTION DURING THE SCHOOL YEAR IN THE STUDIES USUALLY TAUGHT IN THE PUBLIC SCHOOLS TO CHILDREN OF THE SAME AGE, ~~INCLUDING HOME SCHOOLING UNDER COMAR 13A.10.01;~~

(4) HAS COMPLETED AN INSTRUCTION PROGRAM UNDER PARAGRAPH (3) OF THIS SUBSECTION;

~~(4)~~ (5) IS SEVERELY ILL AND REQUIRES HOME OR HOSPITAL INSTRUCTION;

~~(5)~~ (6) IS MARRIED;

~~(6)~~ (7) IS IN MILITARY SERVICE;

~~(7)~~ (8) IS COMMITTED BY COURT ORDER TO AN INSTITUTION WITHOUT AN EDUCATIONAL PROGRAM;

~~(8)~~ (9) PROVIDES FINANCIAL SUPPORT TO THE CHILD'S FAMILY AS DOCUMENTED BY A LOCAL DEPARTMENT OF SOCIAL SERVICES;

~~(9)~~ (10) SUBJECT TO THE APPROVAL OF THE COUNTY SUPERINTENDENT, HAS BEEN EXPELLED UNDER § 7-305 OF THIS SUBTITLE;

~~(10)~~ (11) IS PREGNANT OR A PARENT AND IS ENROLLED IN AN ALTERNATIVE EDUCATIONAL PROGRAM;

~~(11)~~ (12) ATTENDS AN ALTERNATIVE EDUCATIONAL PROGRAM;

~~(12)~~ (13) SUBJECT TO WRITTEN PARENTAL CONSENT AND WRITTEN AGREEMENT WITH THE COUNTY BOARD, ATTENDS A PUBLIC SCHOOL ON A PART-TIME BASIS AND ATTENDS A PRIVATE CAREER SCHOOL AS DEFINED

UNDER § 10-101 OF THIS ARTICLE ~~OR PARTICIPATES IN GED COURSES ON A PART-TIME BASIS; OR~~

~~(13)~~ (14) IS WAIVED FROM THE PROVISIONS OF THIS SECTION BY THE STATE SUPERINTENDENT.

[(a)] (A-1) (1) Except as otherwise provided in this section, each child who resides in this State and is 5 years old or older and under **[16] 17** shall attend a public school regularly during the entire school year [unless the child is otherwise receiving regular, thorough instruction during the school year in the studies usually taught in the public schools to children of the same age].

(2) In accordance with regulations of the State Board of Education, a child who resides in this State and is 5 years old may be exempted from mandatory school attendance for 1 year if the child's parent or guardian files a written request with the local school system asking that the child's attendance be delayed due to the child's level of maturity.

(3) Except as provided in subsection (f) of this section or in regulations of the State Board of Education, each child who resides in this State shall attend a kindergarten program regularly during the school year prior to entering the first grade unless the child is otherwise receiving regular, thorough instruction in the skills and studies usually taught in a kindergarten program of a public school.

(b) A county superintendent, school principal, or an individual authorized by the county superintendent or principal may excuse a student for a lawful absence.

(c) Each person who has legal custody or care and control of a child who is 5 years old or older and under **[16] 17** shall see that the child attends school or receives instruction as required by this section.

(d) (1) This section applies to any child who has a mental, emotional, or physical handicap.

(2) This section does not apply to a child:

(i) Whose mental, emotional, or physical condition makes **[his] THE CHILD'S** instruction detrimental to **[his] THE CHILD'S** progress; or

(ii) Whose presence in school presents a danger of serious physical harm to others.

(3) With the advice of the school principal, supervisor, pupil personnel supervisor, or visiting teacher and with the written recommendation of a licensed physician or a State Department of Education certified or licensed psychologist, the county superintendent may:

(i) Make other appropriate provisions for the free education of any student excepted from attendance under paragraph (2) of this subsection; or

(ii) Permit the parents or guardians of that student to withdraw [him] **THE CHILD** from public school, for as long as the attendance of the child in a public school would be detrimental to [his] **THE CHILD'S** progress or [his] **THE CHILD'S** presence in school would present a danger of serious physical harm to others.

(4) If a child is withdrawn from a public school under this subsection, the county board shall make other appropriate provisions for the education of the child.

(5) If an appropriate educational placement is not available immediately, the county board shall make interim provisions for the education of the child until an appropriate placement becomes available.

(e) (1) Any person who induces or attempts to induce a child to [absent himself] **BE ABSENT** unlawfully from school or employs or harbors any child who is absent unlawfully from school while school is in session is guilty of a misdemeanor and on conviction is subject to a fine not to exceed \$500 or imprisonment not to exceed 30 days, or both.

(2) Any person who has legal custody or care and control of a child who is 5 years old or older and under [16] **17** who fails to see that the child attends school or receives instruction under this section is guilty of a misdemeanor and:

(i) For a first conviction is subject to a fine not to exceed \$50 per day of unlawful absence or imprisonment not to exceed 10 days, or both; and

(ii) For a second or subsequent conviction is subject to a fine not to exceed \$100 per day of unlawful absence or imprisonment not to exceed 30 days, or both.

(3) **(I)** As to any sentence imposed under this section, the court may suspend the fine or the prison sentence and establish terms and conditions [which] **THAT** would promote the child's attendance.

(II) The suspension authority provided for [in] **UNDER SUBPARAGRAPH (I) OF** this [subsection] **PARAGRAPH** is in addition to and not in limitation of the suspension authority under § 6-221 of the Criminal Procedure Article.

(e-1) (1) This subsection applies only:

(i) In a county in which the circuit administrative judge has established a Truancy Reduction Pilot Program under § 3–8C–02 of the Courts Article; and

(ii) To the extent that funds are provided in an annual State budget for a Truancy Reduction Pilot Program.

(2) A charge under this section may be filed in the juvenile court and assigned to a truancy docket for disposition under Title 3, Subtitle 8C of the Courts Article.

(3) (i) For a person with legal custody or care and control of a child at the time of an alleged violation of this section, it is an affirmative defense to a charge under this section that the person made reasonable and substantial efforts to see that the child attended school as required by law but was unable to cause the child to attend school.

(ii) If the court finds the affirmative defense is valid, the court shall dismiss the charge under this section against the defendant.

(4) The court may condition marking a charge under this section set on participation of the defendant in the appropriate Truancy Reduction Pilot Program under Title 3, Subtitle 8C of the Courts Article.

(f) A child may be exempted from attending kindergarten if a parent or guardian of the child files a written request with the local school system and verifies that the child is enrolled:

- (1) Full time in a licensed child care center;
- (2) Full time in a registered family child care home; or
- (3) Part time in a Head Start 5 year old program.

(G) SUBJECT TO DATA BEING AVAILABLE THROUGH THE MARYLAND LONGITUDINAL DATA SYSTEM ESTABLISHED UNDER § 24–702 OF THIS ARTICLE AND EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, A CHILD UNDER THE AGE OF 17 YEARS SHALL RETURN TO ATTENDANCE AT A PUBLIC SCHOOL REGULARLY DURING THE SCHOOL YEAR AS REQUIRED BY THIS SECTION, IF THE CHILD:

- (1) IS NO LONGER PARTICIPATING IN GED COURSES; AND**
- (2) HAS NOT OBTAINED A PASSING SCORE ON THE GED TEST THAT RESULTED IN THE ISSUANCE OF A MARYLAND HIGH SCHOOL DIPLOMA.**

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Education

7–301.

(a) This section does not apply to a child under the age of ~~[17]~~ **18** years who:

(1) Has obtained a Maryland high school diploma, an equivalent out-of-state high school diploma, or a GED;

(2) Is a student with disabilities and has completed the requirements for a Maryland high school certificate of completion;

(3) Is receiving regular, thorough instruction during the school year in the studies usually taught in the public schools to children of the same age, ~~including home schooling under COMAR 13A.10.01;~~

(4) *Has completed an instruction program under paragraph (3) of this subsection;*

~~(4)~~ (5) Is severely ill and requires home or hospital instruction;

~~(5)~~ (6) Is married;

~~(6)~~ (7) Is in military service;

~~(7)~~ (8) Is committed by court order to an institution without an educational program;

~~(8)~~ (9) Provides financial support to the child's family as documented by a local department of social services;

~~(9)~~ (10) Subject to the approval of the county superintendent, has been expelled under § 7–305 of this subtitle;

~~(10)~~ (11) Is pregnant or a parent and is enrolled in an alternative educational program;

~~(11)~~ (12) Attends an alternative educational program;

~~(12)~~ (13) Subject to written parental consent and written agreement with the county board, attends a public school on a part-time basis and attends a private career school as defined under § 10–101 of this article ~~or participates in GED courses on a part-time basis;~~ or

~~(13)~~ (14) Is waived from the provisions of this section by the State Superintendent.

(a-1) (1) Except as otherwise provided in this section, each child who resides in this State and is 5 years old or older and under [17] 18 shall attend a public school regularly during the entire school year.

(c) Each person who has legal custody or care and control of a child who is 5 years old or older and under [17] 18 shall see that the child attends school or receives instruction as required by this section.

(e) (2) Any person who has legal custody or care and control of a child who is 5 years old or older and under [17] 18 who fails to see that the child attends school or receives instruction under this section is guilty of a misdemeanor and:

(i) For a first conviction is subject to a fine not to exceed \$50 per day of unlawful absence or imprisonment not to exceed 10 days, or both; and

(ii) For a second or subsequent conviction is subject to a fine not to exceed \$100 per day of unlawful absence or imprisonment not to exceed 30 days, or both.

(g) Subject to data being available through the Maryland Longitudinal Data System established under § 24-702 of this article and except as otherwise provided in this section, a child under the age of [17] 18 years shall return to attendance at a public school regularly during the school year as required by this section, if the child:

(1) Is no longer participating in GED courses; and

(2) Has not obtained a passing score on the GED test that resulted in the issuance of a Maryland high school diploma.

SECTION 3. AND BE IT FURTHER ENACTED, That:

(a) On or before December 1, 2012, the State Department of Education shall:

(1) update the Drop Out Prevention/School Completion/Intervention/Resource Guide, synthesize the information, and analyze the effectiveness of local programs and services;

(2) report on the methodology for estimating the expected number of students per local school system that will remain in school as a result of this Act;

(3) estimate how to calculate State aid based on this methodology; and

(4) review available data from other states that have increased their compulsory age of attendance during the last decade.

(b) On or before December 1, 2012, the State Department of Education, in consultation with the Department of Labor, Licensing, and Regulation, shall develop a GED Options Program and request the departmental legislation necessary to implement the Program.

(c) On or before July 1, 2013, each county board of education shall submit a report to the State Department of Education on its plans for implementation of the provisions of this Act.

(d) On or before September 1, 2013, the State Department of Education shall submit to the Governor, the Secretary of Budget and Management, and, in accordance with § 2-1246 of the State Government Article, the Senate Education, Health, and Environmental Affairs Committee, the Senate Budget and Taxation Committee, the House Ways and Means Committee, and the House Appropriations Committee a compilation of the reports submitted by the county boards of education under subsection (c) of this section and any recommendations for programs, interventions, and services that are necessary prior to implementation of this Act.

(e) On or before September 1, 2013, the State Department of Education shall report to the General Assembly, in accordance with § 2-1246 of the State Government Article, on:

(1) successful interventions at the early childhood and elementary school level;

(2) best practices for parental education and involvement; and

(3) alternative educational pathways.

(f) On or before March 1, 2016, the State Department of Education shall submit a preliminary report to the General Assembly, in accordance with § 2-1246 of the State Government Article, on the implementation of this Act.

(g) On or before August 1, 2016, the State Department of Education shall submit a final report to the General Assembly, in accordance with § 2-1246 of the State Government Article, on the implementation of Section 1 of this Act.

(h) On or before August 1, 2018, the State Department of Education shall submit a final report to the General Assembly, in accordance with § 2-1246 of the State Government Article, on the implementation of Section 2 of this Act.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to:

- (1) any child who is 16 years old or older before July 1, 2015; or
- (2) any child who is 17 years old or older before July 1, 2017.

SECTION 5. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall take effect July 1, 2015.

SECTION ~~5~~ 6. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect July 1, ~~2016~~ 2017.

SECTION ~~4~~ 7. AND BE IT FURTHER ENACTED, That, except as provided in ~~Section 3~~ Sections 5 and 6 of this Act, this Act shall take effect ~~June 1, 2014~~ July 1, 2012.

Approved by the Governor, May 22, 2012.