

SENATE BILL 780

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5lr2773
CF 5lr1842

By: **Senators Gallion, Carozza, and Bailey**

Introduced and read first time: January 27, 2025

Assigned to: Education, Energy, and the Environment

A BILL ENTITLED

1 AN ACT concerning

2 **Prekindergarten – 3-Year-Olds – Private Providers**
3 **(Parental Choice for Prekindergarten Act)**

4 FOR the purpose of altering the definition of “Tier I child” for purposes of publicly provided
5 prekindergarten to not include 3-year-olds and only include certain 4-year-olds;
6 authorizing an eligible private prekindergarten provider to enroll 3-year-olds in
7 publicly provided prekindergarten; requiring an eligible private provider that elects
8 to enroll a Tier I 3-year-old to enter into a certain memorandum of understanding
9 with the State Department of Education and the county board of education; requiring
10 notice about eligible private providers who elect to enroll certain 3-year-olds to be
11 given to certain local departments; and generally relating to the enrollment of
12 3-year-olds in publicly funded prekindergarten.

13 BY repealing and reenacting, with amendments,
14 Article – Education
15 Section 7–1A–01 through 7–1A–03, 7–1A–05, and 7–1A–06
16 Annotated Code of Maryland
17 (2022 Replacement Volume and 2024 Supplement)

18 BY adding to
19 Article – Education
20 Section 7–1A–04.1
21 Annotated Code of Maryland
22 (2022 Replacement Volume and 2024 Supplement)

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

25 **Article – Education**

26 7–1A–01.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

(b) “Cost of quality” means the per–pupil amount provided under § 5–229 of this article.

(c) “Early childhood educator career ladder” means the career ladder for private provider prekindergarten educators established by the Department under § 7–1A–08 of this subtitle.

(d) “Eligible prekindergarten provider” includes an:

(1) Eligible public provider; and

(2) Eligible private provider.

(e) (1) “Eligible private provider” means a community–based early learning program that:

(i) Is licensed in the State;

(ii) Does not charge more tuition for full–day prekindergarten than the cost of quality; and

(iii) Meets the requirements under § 7–1A–04 of this subtitle.

(2) “Eligible private provider” includes the Ulysses Currie Head Start Program under § 5–231 of this article.

(f) “Eligible public provider” means an early learning program that:

(1) Is provided by a county board at a public school; and

(2) Meets the requirements under § 7–1A–04 of this subtitle.

(g) “Full–day prekindergarten” means an early learning program with a six and one–half hour school day.

(h) “Prekindergarten program” means an early learning program at an eligible prekindergarten provider.

(i) “Prekindergarten provider hub” means a coordinated partnership between eligible prekindergarten providers and other entities established by the Department under § 7–1A–09 of this subtitle.

(j) “Prekindergarten slot” means the available space for a child to attend a prekindergarten program.

(k) “Tier I child” means a child:

(1) (I) Who is [3 or] 4 years old;

[(2) (i)] (II) 1. Whose family income is less than or equal to 300% of the federal poverty level; or

[(ii)] 2. Who is a homeless youth; and

[(3)] (III) Whose family chooses to enroll the child in full-day prekindergarten; OR

(2) (I) WHO IS 3 YEARS OLD;

(II) WHO RESIDES IN A COUNTY IN WHICH AN ELIGIBLE PRIVATE PROVIDER ELECTS TO ENROLL 3-YEAR-OLDS IN ITS PREKINDERGARTEN PROGRAM UNDER § 7-1A-04.1 OF THIS SUBTITLE;

(III) 1. WHOSE FAMILY INCOME IS LESS THAN OR EQUAL TO 300% OF THE FEDERAL POVERTY LEVEL; OR

2. WHO IS A HOMELESS YOUTH; AND

(IV) WHOSE FAMILY CHOOSES TO ENROLL THE CHILD IN FULL-DAY PREKINDERGARTEN WITH AN ELIGIBLE PRIVATE PROVIDER.

(l) “Tier II child” means a child:

(1) Who is 4 years old;

(2) (i) In fiscal year 2026, whose family income is more than 300% but not more than 360% of the federal poverty level; and

(ii) In fiscal year 2027 and in each fiscal year thereafter, whose family income is more than 300% but not more than 600% of the federal poverty level; and

(3) Whose family chooses to enroll the child in full-day prekindergarten.

(m) “Tier III child” means a child:

(1) Who is 4 years old;

(2) Whose family income is more than 600% of the federal poverty level; and

(3) Whose family chooses to enroll the child in full-day prekindergarten.

7-1A-02.

(a) (1) A local department of social services or a local health department shall provide a parent or guardian with oral and written notice that their child may be eligible for publicly funded prekindergarten programs if the parent or guardian:

(i) Applied for economic services with the local department of social services or the local health department; and

(ii) 1. Has a child who will be [3 or] 4 years old by September 1 of the next academic year; OR

2. **SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, HAS A CHILD WHO WILL BE 3 YEARS OLD BY SEPTEMBER 1 OF THE NEXT ACADEMIC YEAR.**

(2) The notice required under paragraph (1) of this subsection shall include:

(i) Contact information for the enrollment office of the local school system and the Division of Early Childhood Development in the Department; and

(ii) Information on the existence of the child care scholarship for before and after full-day prekindergarten programming and the possibility of eligibility for State aid.

(3) IF THE DEPARTMENT HAS NOTIFIED THE LOCAL DEPARTMENT OF SOCIAL SERVICES OR LOCAL HEALTH DEPARTMENT THAT ELIGIBLE PRIVATE PROVIDERS IN THE COUNTY HAVE ELECTED TO ENROLL TIER I 3-YEAR-OLDS IN ACCORDANCE WITH § 7-1A-04.1 OF THIS SUBTITLE, A LOCAL DEPARTMENT OF SOCIAL SERVICES OR A LOCAL HEALTH DEPARTMENT SHALL PROVIDE NOTICE TO THE PARENT OR GUARDIAN OF A CHILD WHO WILL BE 3 YEARS OLD BY SEPTEMBER 1 OF THE NEXT ACADEMIC YEAR IN ACCORDANCE WITH PARAGRAPHS (1) AND (2) OF THIS SUBSECTION.

~~[(3)]~~ (4) On or before December 1 of each year, each local department of social services and each local health department shall report to the General Assembly, in accordance with § 2-1257 of the State Government Article, on the number of parents who were given a notification and subsequently enrolled their child in a publicly funded prekindergarten program.

(b) Each local department of social services or a local health department shall provide to each local school system the name and contact information for each parent or guardian provided notice under subsection (a) of this section.

(c) The requirements set forth in § 7–101(b) of this title regarding the domicile of a child and the residency of the child’s parent or guardian shall apply to prekindergarten programs established by county boards as required by this subtitle.

7–1A–03.

(a) **(1)** Except as provided under subsection (b) of this section, a county board shall ensure that:

[(1)] (I) Beginning in the 2024–2025 school year, prekindergarten slots provided by eligible private providers shall account for at least 10% of the total prekindergarten slots provided by eligible prekindergarten providers in each county;

[(2)] (II) The proportion of eligible private provider prekindergarten slots in each county increases by 10 percentage points every school year, until, in the 2028–2029 school year, eligible private provider prekindergarten slots account for at least 50% of eligible prekindergarten provider prekindergarten slots in each county; and

[(3)] (III) In each year after the 2028–2029 school year, the proportion of eligible private provider prekindergarten slots in each county shall continue to constitute at least 50% of eligible prekindergarten provider prekindergarten slots in each county.

(2) A TIER I 3–YEAR–OLD ENROLLED WITH AN ELIGIBLE PRIVATE PROVIDER UNDER § 7–1A–04.1 OF THIS SUBTITLE SHALL COUNT TOWARD THE NUMBER OF ELIGIBLE PRIVATE PROVIDER PREKINDERGARTEN SLOTS UNDER PARAGRAPH (1) OF THIS SUBSECTION.

(b) (1) The Department shall issue a waiver from the requirements of this section to a county board if:

(i) 1. All families in the county who desire to enroll their eligible children with eligible prekindergarten providers are able to do so; or

2. After reasonable cross–jurisdictional or regional efforts, there are too few eligible private providers to meet the minimum requirements of this section; and

(ii) The county board demonstrates to the Department that it has made a good faith effort to fully embrace the mixed delivery system, including by adopting a memorandum of understanding in accordance with § 7–1A–05 of this subtitle.

(2) The Department may exclude by annual waiver Tier I children who are 3 years old in a county from the calculation under subsection (a) of this section until the 2031–2032 school year.

(3) The Department may exclude by annual waiver Tier I children who are 4 years old in a county from the calculation under subsection (a) of this section until the 2028–2029 school year.

(4) The Department shall establish waiver application procedures to carry out the provisions of this subsection.

7–1A–04.1.

(A) (1) SUBJECT TO SUBSECTION (B) OF THIS SECTION, AN ELIGIBLE PRIVATE PROVIDER MAY ELECT TO ENROLL A TIER I CHILD WHO IS 3 YEARS OLD.

(2) AN ELIGIBLE PRIVATE PROVIDER WHO ELECTS TO ENROLL A TIER I CHILD WHO IS 3 YEARS OLD SHALL RECEIVE PUBLIC FUNDING IN ACCORDANCE WITH § 5–229 OF THIS ARTICLE FOR THAT CHILD.

(B) (1) AN ELIGIBLE PRIVATE PROVIDER THAT ELECTS TO ENROLL TIER I 3–YEAR–OLDS SHALL:

(I) MEET ALL THE APPLICABLE REQUIREMENTS OF THIS SUBTITLE; AND

(II) ENTER INTO A MEMORANDUM OF UNDERSTANDING IN ACCORDANCE WITH § 7–1A–05 OF THIS SUBTITLE THAT SPECIFICALLY GOVERNS THE DUTIES AND RESPONSIBILITIES OF THE PRIVATE PROVIDER, THE DEPARTMENT, AND THE COUNTY BOARD TOWARD THE ENROLLED TIER I 3–YEAR–OLDS.

(2) AT A MINIMUM, THE MEMORANDUM OF UNDERSTANDING SHALL:

(I) GOVERN THE DISTRIBUTION OF FUNDS BY THE DEPARTMENT AND THE COUNTY BOARD IN THE SAME MANNER AS OTHER FUNDING DISTRIBUTED TO ELIGIBLE PRIVATE PROVIDERS IN ACCORDANCE WITH § 5–229 OF THIS ARTICLE; AND

(II) REQUIRE THE ELIGIBLE PRIVATE PROVIDER TO PROMPTLY NOTIFY AND CONTINUALLY UPDATE THE DEPARTMENT AND THE COUNTY BOARD ON:

1 **1. THE NUMBER OF PREKINDERGARTEN SLOTS THE**
2 **PRIVATE PROVIDER IS USING TO ENROLL TIER I 3-YEAR-OLDS; AND**

3 **2. THE TIME PERIOD DURING WHICH A TIER I**
4 **3-YEAR-OLD IS USING THOSE PREKINDERGARTEN SLOTS.**

5 **(c) (1) THE DEPARTMENT SHALL NOTIFY A LOCAL DEPARTMENT OF**
6 **SOCIAL SERVICES AND A LOCAL DEPARTMENT OF HEALTH IF ELIGIBLE PRIVATE**
7 **PROVIDERS IN THE COUNTY HAVE ELECTED TO ENROLL TIER I 3-YEAR-OLDS IN**
8 **ACCORDANCE WITH THIS SECTION TO ASSIST IN PROVIDING THE NOTICE REQUIRED**
9 **UNDER § 7-1A-02 OF THIS SUBTITLE.**

10 **(2) THE DEPARTMENT'S NOTICE SHALL INCLUDE INFORMATION ON**
11 **THE ELIGIBLE PRIVATE PROVIDER AND THE NUMBER OF AND DURATION OF**
12 **PREKINDERGARTEN SLOTS FOR 3-YEAR-OLDS AVAILABLE.**

13 7-1A-05.

14 (a) (1) Each county board shall enter into a memorandum of understanding
15 with the Department, each eligible private provider participating in publicly funded
16 prekindergarten in the county, and other applicable government agencies.

17 (2) Before executing a memorandum of understanding under this section,
18 each county board shall submit an implementation plan of the proposed memorandum of
19 understanding to the Accountability and Implementation Board in accordance with §
20 5-404 of this article.

21 (b) The Department shall develop a model memorandum of understanding for use
22 by county boards of education in fulfilling the requirements under this section.

23 (c) Each memorandum of understanding shall, at a minimum, provide for:

24 (1) The adoption of an early childhood educator career ladder by eligible
25 private providers in accordance with § 7-1A-08 of this subtitle;

26 (2) Services for children with disabilities;

27 (3) A process by which a parent is able to indicate a preference for eligible
28 prekindergarten providers;

29 (4) The manner for processing the payment of the State share, local share,
30 and family share for each child who is enrolled with an eligible prekindergarten provider;

31 (5) Any agreed upon administrative costs to be retained by an agency that
32 is party to the agreement;

(6) The manner in which the parties will meet the requirements of this subtitle;

(7) A plan to address racial and socioeconomic integration in prekindergarten classrooms;

(8) A method for the county board to distribute a list of eligible public and private providers in the same area with a parent interested in enrolling the parent's child in a prekindergarten program;

(9) Facilitation of peer-to-peer eligible prekindergarten provider meetings, through a prekindergarten provider hub if one is established in the area, in which eligible prekindergarten providers are able to share best practices in the field; [and]

(10) IF THERE IS AN ELIGIBLE PRIVATE PROVIDER THAT ELECTS TO ENROLL TIER I 3-YEAR-OLDS IN ACCORDANCE WITH § 7-1A-04.1 OF THIS SUBTITLE IN THE COUNTY, A PLAN TO EFFICIENTLY ENROLL 3-YEAR-OLDS IN ACCORDANCE WITH THIS SUBTITLE; AND

[(10)] (11) Any other provisions necessary to carry out this subtitle.

(d) A memorandum of understanding under this section shall seek to avoid, to the extent practicable, a disproportionate concentration of students of the same race, ethnicity, disability status, and income within an eligible provider.

7-1A-06.

(a) (1) Beginning in the 2022-2023 school year, Tier I children who are [3 or] 4 years old may be enrolled in a full-day prekindergarten program under this subtitle.

(2) (i) For the 2023-2024 through 2025-2026 school years, children who are [3 or] 4 years old may enroll in a full-day prekindergarten program under this subtitle if the children are:

1. Children whose family income is more than 300% but not more than 600% of the federal poverty level; and

2. A. Children with disabilities; or

B. Children from homes in which English is not the primary spoken language.

(ii) For the 2023-2024 through 2025-2026 school years only, children described under subparagraph (i) of this paragraph shall be counted as Tier I children for purposes of funding allocated under § 5-229 of this article.

1 **(3) BEGINNING IN THE 2025–2026 SCHOOL YEAR, TIER I CHILDREN**
2 **WHO ARE 3 YEARS OLD MAY BE ENROLLED IN A FULL–DAY PREKINDERGARTEN**
3 **PROGRAM WITH AN ELIGIBLE PRIVATE PROVIDER IN ACCORDANCE WITH §**
4 **7–1A–04.1 OF THIS SUBTITLE.**

5 (b) **[(1)** The proportion of enrolled Tier I children who are 3 years old shall
6 increase annually until all Tier I children who are 3 years old are enrolled in a full–day
7 prekindergarten program.

8 **(2)]** The proportion of enrolled Tier I children who are 4 years old shall
9 increase annually so that all Tier I children who are 4 years old shall be enrolled in a
10 full–day prekindergarten program.

11 (c) Beginning in the 2025–2026 school year, Tier II children not described under
12 subsection (a)(2)(i) of this section may be enrolled in a full–day prekindergarten program if
13 space is available to encourage socioeconomic diversity in prekindergarten classrooms.

14 (d) Priority in expanding prekindergarten slots shall be provided to **[3– and**
15 **4–year olds]** ~~4–YEAR–OLDS~~ who are:

16 (1) Tier I children;

17 (2) Children with disabilities, regardless of income; or

18 (3) Children from homes in which English is not the primary spoken
19 language.

20 (e) The ability of a family to choose the prekindergarten provider in which to
21 enroll their child does not supersede local authority to set school attendance boundaries.

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to
23 apply only prospectively and may not be applied or interpreted to have any effect on a child
24 who is 3 years old and is enrolled in publicly provided prekindergarten with an eligible
25 public provider or is scheduled, on or before June 30, 2025, to be enrolled in publicly
26 provided prekindergarten with an eligible public provider for the 2025–2026 school year.

27 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July
28 1, 2025.