



AMERICAN CIVIL LIBERTIES UNION FOUNDATION OF MARYLAND

3600 Clipper Mill Road, Suite 350, Baltimore, MD 21211
410-889-8555 • 410-366-7838 (FAX) • www.aclu-md.org

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Contact: Bebe Verdery
(410) 889-8550, x106
Susan Goering
(410)889-8550, x107

THORNTON FUNDING REQUIRED TO PROVIDE CONSTITUTIONAL ADEQUACY FOR SCHOOLS

The "Thornton" legislation implementing a new education formula for Maryland public schools is constitutional and its funding is mandated, even if a criticized section of the bill is found not to be valid, the American Civil Liberties Union of Maryland said today. The Maryland Attorney General's office, in an internal memo leaked Tuesday, suggested that the "trigger" clause (requiring passage of a joint resolution in the next legislative session) may be unconstitutional.

"The upshot of this debate is that if the "trigger" resolution is found to be unconstitutional, the full funding of the Thornton legislation must proceed anyway," commented Bebe Verdery, Education Reform Director of the ACLU-MD. The Attorney General's memo noted that the bill allows an unconstitutional section to be severed-- dropped out-- and the rest of the statute remains intact.

The memo also focused on whether full Thornton funding would proceed if the joint resolution provision were struck down or whether, alternately, funding would be slashed back to only a 5% increase. Verdery continued, "The requirement for a joint resolution and the option to scale back to the 5% increase are in the same section of the bill. If the 'trigger' resolution is removed, so is the option for partial funding. Not," she added, "what some political leaders seem to have in mind."

Under the trigger provision, if the General Assembly votes in its joint resolution that full funding is not within the state's fiscal capacity, then the law allows scaled-back funding to go into effect.

The Thornton legislation (SB 856) was passed in 2002 after a two-year study by a state-appointed commission found that funding for Maryland schools was inadequate. Using expert Dr. John Augenblick, the commission determined a new formula and funding based on the "gap" of how far each county was from necessary funding to provide an adequate education to its children. The commission acknowledged that funding for education had a special status under the Maryland constitution's directive to provide a "thorough and efficient" education for children.

"While the heads of government debate the constitutionality of a clause of the bill, what they most need to attend to is Maryland's constitutional requirement that each child receive an adequate education," asserted Susan Goering, ACLU-MD Executive Director. "It's the single affirmative directive in our

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constitution. The legislature and Governor acted wisely in approving this legislation; now they need to unite to determine the funding sources for this historic formula.”

The ACLU-MD represents the plaintiffs, parents of at-risk children, in Bradford v. Md. State Board of Education, the lawsuit whose consent decree led to the City-State Partnership in Baltimore City. Circuit Court Judge Joseph Kaplan ruled in June, 2000, that funds to city school children ought to increase to the approximate 2008 level enacted in the Thornton legislation.