

HOUSE BILL 705

Unofficial Copy
D4
HB 437/00 - JUD

2001 Regular Session
11r0504
CF 11r0503

By: **Delegates Vallario and Giannetti**
Introduced and read first time: February 8, 2001
Assigned to: Judiciary

Committee Report: Favorable
House action: Adopted
Read second time: February 27, 2001

CHAPTER _____

1 AN ACT concerning

2 **Family Law - Petitions for Adoption or Guardianship - Notice to Parents**

3 FOR the purpose of repealing provisions of law concerning waiver of notice to a
4 natural parent of the filing of a petition for adoption or guardianship; repealing
5 a provision of law authorizing a court to order notice by posting under certain
6 circumstances; requiring a court to order notice by publication under certain
7 circumstances; establishing the manner of notice by publication; clarifying
8 language; and generally relating to notice of the filing of a petition for adoption
9 or guardianship.

10 BY repealing and reenacting, with amendments,
11 Article - Family Law
12 Section 5-322
13 Annotated Code of Maryland
14 (1999 Replacement Volume and 2000 Supplement)

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

17 **Article - Family Law**

18 5-322.

19 (a) (1) (i) Subject to paragraph (2) of this subsection, a petitioner shall
20 give to each person whose consent is required notice of the filing of a petition for
21 adoption or a petition for guardianship.

1 (ii) In addition to the notice of filing required under subparagraph
2 (i) of this paragraph, if a petition for guardianship is filed after a juvenile proceeding
3 in which the child has been adjudicated to be a child in need of assistance, a neglected
4 child, or an abused child, a petitioner shall give notice of the filing of the petition for
5 guardianship to:

6 1. the attorney who represented a natural parent in the
7 juvenile proceeding; and

8 2. the attorney who represented the minor child in the
9 juvenile proceeding.

10 (2) A person whose consent is filed with the petition need not be given
11 notice if the consent includes a waiver of the right to notice of the filing of the petition.

12 (3) The petitioner shall give notice by entry and service of a show cause
13 order sent to the last known address that the petitioner has for each person whose
14 consent is required.

15 (b) If a petition for guardianship is filed after a juvenile proceeding in which
16 the child has been adjudicated to be a child in need of assistance, the petitioner shall
17 give notice to [the child's] EACH natural parent OF THE CHILD by serving a show
18 cause order by certified mail or private process on the natural parent:

19 (1) if the natural parent was present at a CINA hearing and notified by
20 the court of the requirements of § 3-837 of the Courts Article:

21 (i) at the latest address listed in juvenile court records maintained
22 in accordance with § 3-837 of the Courts Article;

23 (ii) at the latest address listed in the records of the local
24 department of social services; or

25 (iii) at any other address listed in the records of the juvenile court or
26 local department of social services within 6 months before the filing of the
27 guardianship petition; or

28 (2) if the natural parent was not present at a CINA hearing and notified
29 by the court of the requirements of § 3-837 of the Courts Article:

30 (i) at the latest address, if any, listed in juvenile court records
31 maintained in accordance with § 3-837 of the Courts Article; or

32 (ii) at any other address for the natural parent identified after
33 reasonable good faith efforts to locate the parent.

34 (c) (1) [Except in an independent adoption, if the court is satisfied by
35 affidavit or testimony that the petitioner, after reasonable efforts in good faith,
36 cannot learn the identity or location of a natural parent, the court may waive the
37 requirement of notice to the natural parent.

1 (2) In an independent adoption, if] IF THE CHILD HAS NOT BEEN
2 ADJUDICATED TO BE A CHILD IN NEED OF ASSISTANCE IN A PRIOR JUVENILE
3 PROCEEDING AND the court is satisfied by affidavit or testimony that the petitioner,
4 after reasonable efforts in good faith, cannot learn the identity or location of a natural
5 parent, [the court may not waive the requirement of notice to the natural parent,
6 but] the court shall[:

7 (i)] order notice by publication AS TO THAT PARENT[; or

8 (ii) if the court finds the petitioner to be indigent, order notice by
9 posting].

10 [(3)] (2) If the child has been adjudicated to be a child in need of
11 assistance in a prior juvenile proceeding, and the court is satisfied by affidavit or
12 testimony that the petitioner has made reasonable good faith efforts to serve by both
13 certified mail and private process one show cause order on the parent at the
14 addresses specified in subsection (b) of this section, but was not successful, the court
15 shall [waive the requirement of notice to the natural parent] ORDER NOTICE BY
16 PUBLICATION AS TO THAT PARENT.

17 (3) IF THE COURT ORDERS NOTICE BY PUBLICATION UNDER THIS
18 SUBSECTION, THE SHOW CAUSE ORDER SHALL BE PUBLISHED AT LEAST ONCE IN
19 ONE OR MORE NEWSPAPERS OF GENERAL CIRCULATION PUBLISHED IN THE COUNTY
20 IN WHICH THE PETITION IS FILED.

21 (d) If a person is notified under this section and fails to file notice of objection
22 within the time stated in the show cause order [or if a person's notification has been
23 waived under subsection (c) of this section]:

24 (1) the court shall consider the person who is notified [or whose notice is
25 waived] to have consented to the adoption or to the guardianship; and

26 (2) the petition shall be treated in the same manner as a petition to
27 which consent has been given.

28 (e) (1) For a petition filed by a local department of social services, the court
29 shall determine that a reasonable, good faith effort has been made to identify the last
30 known address of the parent if the petitioner shows, by affidavit or testimony, that
31 inquiries were made after the petition was filed, or within the 6 months preceding the
32 filing of the petition, with the following:

33 (i) the State Motor Vehicle Administration;

34 (ii) the local department of social services;

35 (iii) the State Department of Public Safety and Correctional
36 Services;

37 (iv) the State Division of Parole and Probation;

1 (v) the detention center for the local jurisdiction in which the
2 petition is filed;

3 (vi) the records of the juvenile court for the jurisdiction in which the
4 petition is filed;

5 (vii) a particular social services agency or detention facility, if the
6 local department is aware that the parent has received benefits from that social
7 services agency, or has been confined in that detention facility, within the 9 months
8 preceding the filing of the petition; and

9 (viii) each of the following individuals that the petitioner is able to
10 locate and contact:

11 1. the other parent of the child;

12 2. known members of the parent's immediate family; and

13 3. the parent's current or last known employer.

14 (2) (i) The inquiry shall be considered sufficient if made by searching
15 the computer files of an identified agency or by making an inquiry to the agency or
16 person by regular mail.

17 (ii) Failure to receive a response to an inquiry within 30 days of
18 mailing shall constitute a negative response to the inquiry.

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
20 October 1, 2001.