

*ENROLLED BILL*  
*-- Judicial Proceedings/Judiciary --*

Introduced by **Senators Gladden, Britt, Brochin, Forehand, Garagiola,  
Hollinger, Kasemeyer, Kelley, Klausmeier, and Lawlah**

Read and Examined by Proofreaders:

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Proofreader.

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Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this  
\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_ M.

\_\_\_\_\_  
President.

CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Children in Need of Assistance - Custody and Guardianship**

3 FOR the purpose of authorizing a juvenile court to grant custody and guardianship of  
4 certain children to certain individuals; providing for the effect of an order  
5 granting custody and guardianship; authorizing the court to order certain  
6 reviews after granting custody and guardianship to an individual; requiring  
7 certain considerations before the court grants custody and guardianship;  
8 prohibiting the court from entering an order granting custody and guardianship  
9 before a certain time; requiring the court to see a certain child in person before  
10 the court concludes a permanency plan review hearing; making clarifying  
11 changes; altering the purpose of the Court-Appointed Special Advocate  
12 Program; altering the permanency plans that a local department of social  
13 services is required to consider for a child in an out-of-home placement;  
14 requiring the Social Services Administration to adopt certain regulations;  
15 requiring certain individuals to obtain a criminal history records check; and  
16 generally relating to custody and guardianship of certain children.

1 BY repealing and reenacting, without amendments,  
2 Article - Courts and Judicial Proceedings  
3 Section 3-819(b) and (c)  
4 Annotated Code of Maryland  
5 (2002 Replacement Volume and 2004 Supplement)

6 BY adding to  
7 Article - Courts and Judicial Proceedings  
8 Section 3-819.2  
9 Annotated Code of Maryland  
10 (2002 Replacement Volume and 2004 Supplement)

11 BY repealing and reenacting, with amendments,  
12 Article - Courts and Judicial Proceedings  
13 Section 3-823(e) and (h)(1) and 3-830(b)  
14 Annotated Code of Maryland  
15 (2002 Replacement Volume and 2004 Supplement)

16 BY repealing and reenacting, with amendments,  
17 Article - Family Law  
18 Section 5-525(e)(2) and (i) and 5-561(c)  
19 Annotated Code of Maryland  
20 (2004 Replacement Volume)

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

23 **Article - Courts and Judicial Proceedings**

24 3-819.

25 (b) In making a disposition on a CINA petition under this subtitle, the court  
26 shall:

27 (1) Find that the child is not in need of assistance and, except as  
28 provided in subsection (e) of this section, dismiss the case; or

29 (2) Find that the child is in need of assistance and:

30 (i) Not change the child's custody status; or

31 (ii) Commit the child ON TERMS THE COURT CONSIDERS  
32 APPROPRIATE to the custody of:

33 1. A. A parent[,]; OR

1 B. SUBJECT TO § 3-819.2 OF THIS SUBTITLE, A relative, or  
2 other individual [on terms the court considers appropriate]; or

3 2. A local department, the Department of Health and Mental  
4 Hygiene, or both, ~~on terms that the court considers appropriate~~, including designation  
5 of the type of facility where the child is to be placed.

6 (c) In addition to any action under subsection (b)(2) of this section, the court  
7 may:

8 (1) (i) Place a child under the protective supervision of the local  
9 department on terms the court considers appropriate;

10 (ii) Grant limited guardianship to the department or an individual  
11 or both for specific purposes including medical and educational purposes or for other  
12 appropriate services if a parent is unavailable, unwilling, or unable to consent to  
13 services that are in the best interest of the child; or

14 (iii) Order the child and the child's parent, guardian, or custodian to  
15 participate in rehabilitative services that are in the best interest of the child and  
16 family; and

17 (2) Determine custody, visitation, support, or paternity of a child in  
18 accordance with § 3-803(b) of this subtitle.

19 3-819.2.

20 (A) SUBJECT TO SUBSECTION (E) OF THIS SECTION, THE COURT MAY GRANT  
21 CUSTODY AND GUARDIANSHIP TO A RELATIVE OR A NONRELATIVE UNDER THIS  
22 SUBTITLE.

23 (B) AN ORDER GRANTING CUSTODY AND GUARDIANSHIP TO AN INDIVIDUAL  
24 UNDER THIS SECTION TERMINATES THE LOCAL DEPARTMENT'S LEGAL OBLIGATIONS  
25 AND RESPONSIBILITIES TO THE CHILD.

26 (C) A GUARDIAN APPOINTED UNDER THIS SUBTITLE HAS LEGAL CUSTODY OF  
27 THE CHILD UNLESS THE COURT THAT APPOINTS THE GUARDIAN GIVES LEGAL  
28 CUSTODY TO ANOTHER PERSON.

29 (D) AFTER GRANTING CUSTODY AND GUARDIANSHIP TO AN INDIVIDUAL  
30 UNDER THIS SECTION, THE COURT MAY ORDER ANY FURTHER REVIEWS THAT THE  
31 COURT DETERMINES TO BE IN THE CHILD'S BEST INTERESTS, CONSISTENT WITH §  
32 3-823(H)(1)(III) OF THIS SUBTITLE.

33 (E) (L) BEFORE GRANTING CUSTODY AND GUARDIANSHIP UNDER THIS  
34 SECTION, THE COURT SHALL CONSIDER:

35 ~~(+)~~ (L) ANY ASSURANCE BY THE LOCAL DEPARTMENT THAT IT WILL  
36 PROVIDE FUNDS FOR NECESSARY SUPPORT AND MAINTENANCE FOR THE CHILD;

1           ~~(2)~~    (II)    ALL FACTORS NECESSARY TO DETERMINE THE BEST  
2 INTERESTS OF THE CHILD; AND

3           ~~(3)~~    ~~(4)~~    (III)    A REPORT BY A LOCAL DEPARTMENT OR A LICENSED  
4 CHILD PLACEMENT AGENCY, COMPLETED IN COMPLIANCE WITH REGULATIONS  
5 ADOPTED BY THE DEPARTMENT OF HUMAN RESOURCES, ON THE SUITABILITY OF  
6 THE INDIVIDUAL TO BE THE GUARDIAN OF THE CHILD.

7                   ~~(4)~~    (2)    THE REPORT UNDER PARAGRAPH (1)(III) OF THIS  
8 SUBSECTION SHALL INCLUDE A:

9                               ~~1-~~    (I)    HOME STUDY;

10                              ~~2-~~    (II)   CHILD PROTECTIVE SERVICES HISTORY;

11                              ~~3-~~    (III)   CRIMINAL HISTORY RECORDS CHECK; AND

12                              ~~4-~~    (IV)   REVIEW OF THE PROPOSED GUARDIAN'S PHYSICAL  
13 AND MENTAL HEALTH HISTORY.

14                           ~~(4)~~    (3)    IF THE LOCAL DEPARTMENT HAS NOT PRODUCED THE  
15 REPORT DESCRIBED IN ~~SUBPARAGRAPH (4)~~ PARAGRAPH (1)(III) OF THIS ~~PARAGRAPH~~  
16 SUBSECTION WITHIN 120 DAYS AFTER THE DATE THAT THE COURT ISSUED THE  
17 ORDER TO THE LOCAL DEPARTMENT TO PRODUCE THE REPORT, THE COURT SHALL:

18                           ~~1-~~    (I)    HOLD AN IMMEDIATE HEARING TO DETERMINE THE  
19 CAUSES OF THE DELAY;

20                           ~~2-~~    (II)    STATE ON THE RECORD THE DETERMINED CAUSES  
21 OF THE DELAY; AND

22                           ~~3-~~    (III)   MAKE A DETERMINATION AS TO WHETHER THE  
23 PROGRESS OF THE LOCAL DEPARTMENT IS ACCEPTABLE.

24                           ~~(4)~~    (4)    FOLLOWING THE HEARING REQUIRED UNDER  
25 PARAGRAPH ~~(4)~~ (3) OF THIS SUBSECTION, THE COURT SHALL:

26                           ~~1-~~    (I)    GRANT THE DEPARTMENT AN EXTENSION OF NO  
27 MORE THAN 90 DAYS; OR

28                           ~~2-~~    (II)    ORDER PRODUCTION OF THE REPORT BY A  
29 LICENSED CHILD PLACEMENT AGENCY, WITHIN A REASONABLE TIME AND ORDER  
30 THE LOCAL DEPARTMENT TO BEAR THE COST.

31    (F)    A COURT MAY NOT ENTER AN ORDER GRANTING CUSTODY AND  
32 GUARDIANSHIP UNDER THIS SECTION UNTIL THE REPORT UNDER SUBSECTION ~~(E)(3)~~  
33 (E)(1)(III) OF THIS SECTION IS SUBMITTED TO AND CONSIDERED BY THE COURT.

34 3-823.

35    (e)    At a permanency planning hearing, the court shall:

- 1 (1) Determine the child's permanency plan, which may be:
- 2 (i) Reunification with the parent or guardian;
- 3 (ii) Placement with a relative for:
- 4 1. Adoption; or
- 5 2. Custody and guardianship UNDER § 3-819.2 OF THIS
- 6 SUBTITLE;
- 7 (iii) Adoption by a nonrelative;
- 8 (iv) ~~Guardianship~~ CUSTODY AND GUARDIANSHIP by a nonrelative
- 9 UNDER § 3-819.2 OF THIS SUBTITLE;
- 10 (v) Continuation in a specified placement on a permanent basis
- 11 because of the child's special needs or circumstances;
- 12 (vi) Continuation in placement for a specified period because of the
- 13 child's special needs or circumstances; or
- 14 (vii) Independent living; and
- 15 (2) For a child who has attained the age of 16 YEARS, determine the
- 16 services needed to assist the child to make the transition from placement to
- 17 independent living.
- 18 (h) (1) (i) Except as provided in subparagraphs (ii) and (iii) of this
- 19 paragraph, the court shall conduct a hearing to review the permanency plan at least
- 20 every 6 months until commitment is rescinded or a voluntary placement is
- 21 terminated.
- 22 (ii) The court shall conduct a review hearing every 12 months after
- 23 the court determines that the child shall be continued in out-of-home placement with
- 24 a specific caregiver who agrees to care for the child on a permanent basis.
- 25 (iii) 1. Unless the court finds good cause, a case shall be
- 26 terminated after the court grants custody and guardianship of the child to a relative
- 27 or other individual.
- 28 2. If the court finds good cause not to terminate a case, the
- 29 court shall conduct a review hearing every 12 months until the case is terminated.
- 30 3. THE COURT MAY NOT CONCLUDE A REVIEW HEARING
- 31 UNDER SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH UNLESS THE COURT HAS
- 32 SEEN THE CHILD IN PERSON.
- 33 3-830.
- 34 (b) (1) There is a Court-Appointed Special Advocate Program.

1 (2) The purpose of the Program is to provide volunteers whose primary  
 2 purpose is to ensure [that children who are the subject of a CINA proceeding are  
 3 provided with] THE PROVISION OF appropriate service and case planning [that is in  
 4 their] CONSISTENT WITH THE best [interest] INTERESTS OF:

5 (I) A CHILD WHO IS THE SUBJECT OF A CINA PROCEEDING; OR

6 (II) A CHILD WHO IS THE SUBJECT OF A CUSTODY AND  
 7 GUARDIANSHIP PROCEEDING UNDER § 3-819.2 OF THIS SUBTITLE.

8 (3) The Administrative Office of the Courts:

9 (i) Shall administer the Program;

10 (ii) Shall report annually to the Chief Judge of the Court of Appeals  
 11 and, subject to § 2-1246 of the State Government Article, to the General Assembly  
 12 regarding the operation of the Program; and

13 (iii) May adopt rules governing the implementation and operation of  
 14 the Program including funding, training, selection, and supervision of volunteers.

15 **Article - Family Law**

16 5-525.

17 (e) (2) To the extent consistent with the best interests of the child in an  
 18 out-of-home placement, the local department shall consider the following  
 19 permanency plans, in descending order of priority:

20 (i) returning the child to the child's parent or guardian, unless the  
 21 LOCAL department is the guardian;

22 (ii) placing the child with relatives to whom adoption, ~~or~~  
 23 CUSTODY AND guardianship, ~~for care and custody,~~ in descending order of priority,  
 24 are planned to be granted;

25 (iii) adoption in the following descending order of priority:

26 1. by a current foster parent with whom the child has resided  
 27 continually for at least the 12 months prior to developing the permanency plan or for  
 28 a sufficient length of time to have established positive relationships and family ties;  
 29 or

30 2. by another approved adoptive family; OR

31 (IV) ~~PLACING THE CHILD IN~~ ANOTHER PLANNED PERMANENT  
 32 LIVING ARRANGEMENT; THAT:

1 1. ADDRESSES THE INDIVIDUALIZED NEEDS OF THE CHILD,  
 2 INCLUDING THE CHILD'S EDUCATIONAL PLAN, EMOTIONAL STABILITY, PHYSICAL  
 3 PLACEMENT, AND SOCIALIZATION NEEDS; AND

4 2. INCLUDES GOALS THAT PROMOTE THE CONTINUITY OF  
 5 RELATIONS WITH INDIVIDUALS WHO WILL FILL A LASTING AND SIGNIFICANT ROLE  
 6 IN THE CHILD'S LIFE.

7 ~~[(iv)] (V) placing the child [in a court approved permanent foster~~  
 8 ~~home with a specific caregiver] WITH A NONRELATIVE GUARDIAN; OR~~

9 ~~[(v)] (VI) [an independent living arrangement; or~~

10 ~~(vi) long term foster care] CONTINUATION IN A SPECIFIED~~  
 11 ~~PLACEMENT ON A PERMANENT BASIS BECAUSE OF THE CHILD'S SPECIAL NEEDS OR~~  
 12 ~~CIRCUMSTANCES.~~

13 (i) The Administration shall adopt regulations that:

14 (1) [for the 12-month period beginning on October 1, 1983, and for each  
 15 subsequent 12-month period, establish specific goals as to the maximum number of  
 16 children who will remain in foster care for more than 2 years] ESTABLISH GOALS AND  
 17 SPECIFY PERMANENCY PLANNING PROCEDURES THAT:

18 (I) MAXIMIZE THE PROSPECT FOR REDUCING LENGTH OF STAY IN  
 19 OUT-OF-HOME PLACEMENT IN THE BEST INTERESTS OF CHILDREN; AND

20 (II) IMPLEMENT THE INTENT OF THIS SECTION;

21 (2) prohibit a local department from seeking the custody or guardianship  
 22 of a child for placement in foster care solely because the child's parent or guardian  
 23 lacks shelter or solely because the child's parents are financially unable to provide  
 24 treatment or care for a child with a developmental disability or mental illness;

25 (3) specify the compelling reasons for placing a child in a local  
 26 jurisdiction other than the local jurisdiction where the child's parent or guardian  
 27 resides, under subsection (e)(3)(ii) of this section; [and]

28 (4) require the local department to make appropriate referrals to  
 29 emergency shelter and other services for families with children who lack shelter;

30 (5) ESTABLISH CRITERIA FOR INVESTIGATING AND APPROVING FOSTER  
 31 HOMES; AND

32 (6) FOR CASES IN WHICH THE PERMANENCY PLAN RECOMMENDED BY  
 33 THE LOCAL DEPARTMENT OR UNDER CONSIDERATION BY THE COURT INCLUDES  
 34 APPOINTMENT OF A GUARDIAN AND RESCISSION OF THE LOCAL DEPARTMENT'S  
 35 CUSTODY OR GUARDIANSHIP OF A CHILD:

1 (I) ESTABLISH CRITERIA FOR INVESTIGATING AND DETERMINING  
2 THE SUITABILITY OF PROSPECTIVE RELATIVE OR NONRELATIVE GUARDIANS; AND

3 (II) REQUIRE THE FILING OF A REPORT WITH THE COURT AS  
4 PROVIDED IN § 3-819.2 OF THE COURTS ARTICLE.

5 5-561.

6 (c) The following individuals shall obtain a criminal history records check  
7 under this Part VI of this subtitle:

8 (1) an individual who is seeking to adopt a child through a local  
9 department of social services or licensed child placement agency;

10 (2) AN INDIVIDUAL WHO IS SEEKING TO BECOME A GUARDIAN  
11 THROUGH A LOCAL DEPARTMENT OF SOCIAL SERVICES;

12 (3) AN INDIVIDUAL WHOM THE JUVENILE COURT APPOINTS AS A  
13 GUARDIAN OF A CHILD;

14 [(2)] (4) an adult relative with whom a child, committed to a local  
15 department of social services, is placed by the local department of social services;

16 [(3)] (5) any adult known by a local department of social services to be  
17 residing in a:

18 (i) family day care home required to be registered under Title 5 of  
19 this article;

20 (ii) home of an adult relative of a child with whom the child,  
21 committed to a local department of social services, is placed by the local department of  
22 social services;

23 (iii) foster care home or child care home required to be approved  
24 under Title 5 of this article; ~~or~~

25 (iv) home of an individual seeking to adopt a child through a local  
26 department of social services or a licensed child placement agency; ~~and~~ OR

27 (V) HOME OF AN INDIVIDUAL SEEKING TO BECOME A GUARDIAN  
28 THROUGH A LOCAL DEPARTMENT OF SOCIAL SERVICES; AND

29 [(4)] (6) if requested by a local department of social services:

30 (i) a parent or guardian of a child who is committed to the local  
31 department and is or has been placed in an out-of-home placement within the past  
32 year; and

33 (ii) any adult known by the local department to be residing in the  
34 home of the parent or guardian.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
2 October 1, 2005.