

SB0551/208370/1

BY: Judicial Proceedings Committee

AMENDMENTS TO SENATE BILL 551
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, strike beginning with “CINA,” in line 2 down through “Custodian” in line 3 and substitute “Child Custody Determinations – Prohibition Against Consideration of Disabilities”; strike beginning with the first “in” in line 4 down through “proceeding” in line 26 and substitute “in determining whether to grant custody and guardianship of a child in need of assistance to a relative or a nonrelative, from considering a disability of the relative or nonrelative, except under certain circumstances; prohibiting a court, in making a decision regarding child custody or visitation, from considering a disability of a party, except under certain circumstances; and generally relating to child custody, guardianship, and visitation”; and in line 29, strike “3-816.1(d), 3-819(b), and 3-819.2(a)” and substitute “3-819.2”.

On page 2, strike in their entirety lines 2 through 17, inclusive.

AMENDMENT NO. 2

On pages 2 through 4, strike in their entirety the lines beginning with line 26 on page 2 through line 22 on page 4, inclusive, and substitute:

“3-819.2.

(A) (1) IN THIS SECTION, “DISABILITY” MEANS A PHYSICAL IMPAIRMENT THAT SUBSTANTIALLY LIMITS ONE OR MORE OF THE MAJOR LIFE ACTIVITIES OF AN INDIVIDUAL.

(2) “DISABILITY” DOES NOT INCLUDE ILLEGAL USE OF OR ADDICTION TO:

(Over)

(I) A CONTROLLED DANGEROUS SUBSTANCE AS DEFINED IN § 5-101 OF THE CRIMINAL LAW ARTICLE; OR

(II) A CONTROLLED SUBSTANCE AS DEFINED IN § 102 OF THE FEDERAL CONTROLLED SUBSTANCES ACT.

[(a)](B) Subject to subsection [(e)] (F) of this section, the court may grant custody and guardianship to a relative or a nonrelative under this subtitle.

[(b)](C) An order granting custody and guardianship to an individual under this section terminates the local department's legal obligations and responsibilities to the child.

[(c)](D) A guardian appointed under this subtitle has legal custody of the child unless the court that appoints the guardian gives legal custody to another person.

[(d)](E) After granting custody and guardianship to an individual under this section, the court may order any further reviews that the court determines to be in the child's best interests, consistent with § 3-823(h)(1)(iii) of this subtitle.

[(e)](F) (1) Before granting custody and guardianship under this section, the court shall consider:

(i) Any assurance by the local department that it will provide funds for necessary support and maintenance for the child;

(ii) All factors necessary to determine the best interests of the child; and

(iii) A report by a local department or a licensed child placement agency, completed in compliance with regulations adopted by the Department of Human Resources, on the suitability of the individual to be the guardian of the child.

(2) The report under paragraph (1)(iii) of this subsection shall include
a:

(i) Home study;

(ii) Child protective services history;

(iii) Criminal history records check; and

(iv) Review of the proposed guardian's physical and mental health history.

(3) If the local department has not produced the report described in paragraph (1)(iii) of this subsection within 120 days after the date that the court issued the order to the local department to produce the report, the court shall:

(i) Hold an immediate hearing to determine the causes of the delay;

(ii) State on the record the determined causes of the delay; and

(iii) Make a determination as to whether the progress of the local department is acceptable.

(4) Following the hearing required under paragraph (3) of this subsection, the court shall:

(i) Grant the local department an extension of no more than 90 days; or

(ii) Order production of the report by a licensed child placement agency, within a reasonable time and order the local department to bear the cost.

(G) IN DETERMINING WHETHER TO GRANT CUSTODY AND GUARDIANSHIP TO A RELATIVE OR A NONRELATIVE UNDER THIS SECTION, THE COURT MAY NOT CONSIDER A DISABILITY OF THE RELATIVE OR NONRELATIVE, UNLESS THE COURT FINDS THAT THE DISABILITY CAUSES A CONDITION THAT IS DETRIMENTAL TO THE BEST INTERESTS OF THE CHILD.

[(f)] (H) A court may not enter an order granting custody and guardianship under this section until the report under subsection [(e)(1)(iii)] (F)(1)(III) of this section is submitted to and considered by the court.

On pages 4 through 6, strike in their entirety the lines beginning with line 24 on page 4 through line 13 on page 6, inclusive.

On page 6, strike in their entirety lines 15 and 16 and substitute:

“(A) (1) IN THIS SECTION, “DISABILITY” MEANS A PHYSICAL IMPAIRMENT THAT SUBSTANTIALLY LIMITS ONE OR MORE OF THE MAJOR LIFE ACTIVITIES OF AN INDIVIDUAL.

(2) “DISABILITY” DOES NOT INCLUDE ILLEGAL USE OF OR ADDICTION TO:

(I) A CONTROLLED DANGEROUS SUBSTANCE AS DEFINED IN § 5-101 OF THE CRIMINAL LAW ARTICLE; OR

(II) A CONTROLLED SUBSTANCE AS DEFINED IN § 102 OF THE FEDERAL CONTROLLED SUBSTANCES ACT.

(B) IN MAKING A DECISION REGARDING CUSTODY OR VISITATION, THE COURT MAY NOT CONSIDER A DISABILITY OF A PARTY, UNLESS THE COURT FINDS THAT THE DISABILITY CAUSES A CONDITION THAT IS DETRIMENTAL TO THE BEST INTERESTS OF THE CHILD.”.