

SENATE BILL 86

D4, O1

3lr0087

(PRE-FILED)

By: **Chair, Judicial Proceedings Committee (By Request – Departmental – Human Resources)**

Requested: November 15, 2012

Introduced and read first time: January 9, 2013

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Voluntary Placement for Former Children in Need of Assistance**

3 FOR the purpose of altering the jurisdiction of the juvenile court to include jurisdiction
4 over a certain former child in need of assistance (CINA); establishing the venue
5 for filing a certain voluntary placement petition; requiring the juvenile court to
6 take certain actions in making a disposition on a voluntary placement petition
7 for a former CINA; requiring the Social Services Administration of the
8 Department of Human Resources to establish a program of out-of-home
9 placement for certain former CINAs; requiring the Administration to adopt
10 certain regulations; prohibiting a local department of social services from
11 seeking legal custody of a former CINA under a voluntary placement
12 agreement; authorizing a former CINA to remain in an out-of-home placement
13 for more than a certain time period under certain circumstances; altering
14 certain definitions; defining a certain term; making certain conforming changes;
15 and generally relating to voluntary placement for certain former CINAs.

16 BY renumbering

17 Article – Family Law

18 Section 1–101(c) through (k), respectively

19 to be Section 1–101(d) through (l), respectively

20 Annotated Code of Maryland

21 (2012 Replacement Volume)

22 BY repealing and reenacting, with amendments,

23 Article – Courts and Judicial Proceedings

24 Section 3–801(bb), 3–804, 3–805(a), 3–811(a)(2), and 3–819.1

25 Annotated Code of Maryland

26 (2006 Replacement Volume and 2012 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing and reenacting, without amendments,
 2 Article – Family Law
 3 Section 1–101(b)
 4 Annotated Code of Maryland
 5 (2012 Replacement Volume)

6 BY adding to
 7 Article – Family Law
 8 Section 1–101(c)
 9 Annotated Code of Maryland
 10 (2012 Replacement Volume)

11 BY repealing and reenacting, with amendments,
 12 Article – Family Law
 13 Section 5–501(r) and 5–525(b)
 14 Annotated Code of Maryland
 15 (2012 Replacement Volume)

16 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 17 MARYLAND, That Section(s) 1–101(c) through (k), respectively, of Article – Family
 18 Law of the Annotated Code of Maryland be renumbered to be Section(s) 1–101(d)
 19 through (l), respectively.

20 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
 21 read as follows:

22 **Article – Courts and Judicial Proceedings**

23 3–801.

24 (bb) “Voluntary placement” means a placement in accordance with §
 25 5–525(b)(1)(i) or (iii) **OR (3)** of the Family Law Article.

26 3–804.

27 (a) **(1) [The] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
 28 **SUBSECTION, THE** court has jurisdiction under this subtitle only if the alleged CINA
 29 or child in a voluntary placement is under the age of 18 years when the petition is
 30 filed.

31 **(2) THE COURT HAS JURISDICTION UNDER THIS SUBTITLE OVER**
 32 **A FORMER CINA:**

33 **(I) WHOSE COMMITMENT TO THE LOCAL DEPARTMENT WAS**
 34 **TERMINATED AFTER THE INDIVIDUAL REACHED THE AGE OF 18 YEARS BUT**
 35 **BEFORE THE INDIVIDUAL REACHED THE AGE OF 20 YEARS AND 6 MONTHS; AND**

1 **(II) WHO DID NOT EXIT FOSTER CARE DUE TO**
2 **REUNIFICATION, ADOPTION, GUARDIANSHIP, MARRIAGE, OR MILITARY DUTY.**

3 (b) If the court obtains jurisdiction over a child, that jurisdiction continues in
4 that case until the child reaches the age of 21 years, unless the court terminates the
5 case.

6 (c) After the court terminates jurisdiction, a custody order issued by the
7 court in a CINA case:

8 (1) Remains in effect; and

9 (2) May be revised or superseded only by another court of competent
10 jurisdiction.

11 3–805.

12 (a) (1) A petition alleging that a child is a CINA shall be filed in the
13 county where:

14 (i) The child is residing when the petition is filed; or

15 (ii) The act on which the petition is based allegedly occurred.

16 (2) A voluntary placement petition shall be filed in the county where
17 **[the]:**

18 **(I) THE parent or legal guardian resides; OR**

19 **(II) THE FORMER CINA’S COMMITMENT TO THE LOCAL**
20 **DEPARTMENT WAS TERMINATED.**

21 3–811.

22 (a) (2) A voluntary placement petition under this subtitle shall allege that
23 continuation of a voluntary placement is in the best interests of the child **OR FORMER**
24 **CINA** and shall set forth in clear and simple language the facts supporting that
25 allegation.

26 3–819.1.

27 (a) Within 30 days after a voluntary placement petition is filed, the court
28 shall hold a voluntary placement hearing and shall make findings as to:

1 (1) Whether continuation of the placement is in the child's best
2 interests; and

3 (2) Whether reasonable efforts have been made to reunify the child
4 with the family or place the child in a timely manner in accordance with the child's
5 permanency plan.

6 (b) **[In] EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, IN**
7 **making a disposition on a voluntary placement petition under this section, the court**
8 **shall:**

9 (1) Order the child's voluntary placement to be terminated and the
10 child returned to the child's home and provided with available services and support
11 needed for the child to remain in the home;

12 (2) Order the child's voluntary placement to continue if the local
13 department and the child's parent or guardian continue to agree to the voluntary
14 placement;

15 (3) Subject to the provisions of § 3-819(h), (i), and (j) of this subtitle,
16 order an amendment to the voluntary placement agreement to address the needs of
17 the child; or

18 (4) If necessary to ensure the care, protection, safety, and mental and
19 physical development of the child, order the local department to file a CINA petition.

20 **(C) IN MAKING A DISPOSITION ON A VOLUNTARY PLACEMENT PETITION**
21 **FOR A FORMER CINA, THE COURT SHALL:**

22 **(1) ORDER THE FORMER CINA'S VOLUNTARY PLACEMENT TO**
23 **CONTINUE IF THE LOCAL DEPARTMENT AND THE FORMER CINA CONTINUE TO**
24 **AGREE TO THE VOLUNTARY PLACEMENT; OR**

25 **(2) (I) ORDER THE FORMER CINA'S VOLUNTARY PLACEMENT**
26 **TO BE TERMINATED; AND**

27 **(II) TERMINATE THE LOCAL DEPARTMENT'S PLACEMENT**
28 **AND CARE RESPONSIBILITIES FOR THE FORMER CINA.**

29 **Article – Family Law**

30 1-101.

31 (b) "Child in need of assistance" means an individual adjudicated as a child
32 in need of assistance under Title 3, Subtitle 8 of the Courts Article.

1 (c) **“CINA” MEANS A CHILD IN NEED OF ASSISTANCE.**

2 5–501.

3 (r) “Voluntary placement agreement” means a binding, written agreement
4 **THAT:**

5 (1) **IS** voluntarily entered into between a local department and:

6 (I) the parent or legal guardian of a minor child [that]; **OR**

7 (II) **A FORMER CINA WHOSE COMMITMENT TO THE LOCAL**
8 **DEPARTMENT WAS TERMINATED AFTER THE INDIVIDUAL REACHED THE AGE OF**
9 **18 YEARS BUT BEFORE THE INDIVIDUAL REACHED THE AGE OF 20 YEARS AND 6**
10 **MONTHS; AND**

11 (2) specifies, at a minimum[,]:

12 (I) the legal status of the child **OR FORMER CINA**; and

13 (II) the rights and obligations of the parent or legal guardian,
14 the child **OR FORMER CINA**, and the local department while the child **OR FORMER**
15 **CINA** is in placement.

16 5–525.

17 (b) (1) The Administration shall establish a program of out-of-home
18 placement for minor children:

19 (i) who are placed in the custody of a local department, for a
20 period of not more than 180 days, by a parent or legal guardian under a voluntary
21 placement agreement;

22 (ii) who are abused, abandoned, neglected, or dependent, if a
23 juvenile court:

24 1. has determined that continued residence in the child’s
25 home is contrary to the child’s welfare; and

26 2. has committed the child to the custody or
27 guardianship of a local department; or

28 (iii) who, with the approval of the Administration, are placed in
29 an out-of-home placement by a local department under a voluntary placement
30 agreement subject to paragraph (2) of this subsection.

1 (2) (i) A local department may not seek legal custody of a child
2 under a voluntary placement agreement if the child has a developmental disability or
3 a mental illness and the purpose of the voluntary placement agreement is to obtain
4 treatment or care related to the child's disability that the parent is unable to provide.

5 (ii) A child described in subparagraph (i) of this paragraph may
6 remain in an out-of-home placement under a voluntary placement agreement for
7 more than 180 days if the child's disability necessitates care or treatment in the
8 out-of-home placement and a juvenile court makes a finding that continuation of the
9 placement is in the best interests of the child.

10 (iii) Each local department shall designate, from existing staff, a
11 staff person to administer requests for voluntary placement agreements for children
12 with developmental disabilities or mental illnesses.

13 (iv) Each local department shall report annually to the
14 Administration on the number of requests for voluntary placement agreements for
15 children with developmental disabilities or mental illnesses that have been received,
16 the outcome of each request, and the reason for each denial.

17 (v) On receipt of a request for a voluntary placement agreement
18 for a child with a developmental disability or a mental illness, a local department shall
19 discuss the child's case at the next meeting of the local care team for the purpose of
20 determining whether any alternative or interim services for the child and family may
21 be provided by any agency.

22 **(3) (I) THE ADMINISTRATION SHALL ESTABLISH A PROGRAM**
23 **OF OUT-OF-HOME PLACEMENT FOR FORMER CINAS:**

24 **1. WHOSE COMMITMENT TO A LOCAL DEPARTMENT**
25 **WAS TERMINATED AFTER THE INDIVIDUALS REACHED THE AGE OF 18 YEARS**
26 **BUT BEFORE THE INDIVIDUALS REACHED THE AGE OF 20 YEARS AND 6 MONTHS;**
27 **AND**

28 **2. WHO DID NOT EXIT FOSTER CARE DUE TO**
29 **REUNIFICATION, ADOPTION, GUARDIANSHIP, MARRIAGE, OR MILITARY DUTY.**

30 **(II) THE ADMINISTRATION SHALL ADOPT REGULATIONS**
31 **THAT INCLUDE ELIGIBILITY REQUIREMENTS IN ACCORDANCE WITH FEDERAL**
32 **LAW AND REGULATIONS FOR PROVIDING ASSISTANCE TO INDIVIDUALS AT LEAST**
33 **18 YEARS OLD.**

34 **(III) A LOCAL DEPARTMENT MAY NOT SEEK LEGAL CUSTODY**
35 **OF A FORMER CINA UNDER A VOLUNTARY PLACEMENT AGREEMENT.**

1 **(IV) A FORMER CINA DESCRIBED IN SUBPARAGRAPH (I) OF**
2 **THIS PARAGRAPH MAY REMAIN IN AN OUT-OF-HOME PLACEMENT UNDER A**
3 **VOLUNTARY PLACEMENT AGREEMENT FOR MORE THAN 180 DAYS IF THE**
4 **FORMER CINA CONTINUES TO COMPLY WITH THE VOLUNTARY PLACEMENT**
5 **AGREEMENT AND A JUVENILE COURT MAKES A FINDING THAT THE**
6 **CONTINUATION OF THE PLACEMENT IS IN THE BEST INTERESTS OF THE FORMER**
7 **CINA.**

8 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
9 October 1, 2013.