

SENATE BILL 360

D4

(6lr1957)

ENROLLED BILL

— Judicial Proceedings/Judiciary —

Introduced by **Chair, Judicial Proceedings Committee (By Request – Maryland Judicial Conference)**

Read and Examined by Proofreaders:

Proofreader.

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 **Juvenile Causes – Permanency Plans – ~~Age~~ Age Restrictions on Use of Another**
3 **Planned Permanent Living Arrangement**

4 FOR the purpose of providing that another planned permanent living arrangement may be
5 a child's permanency plan only if the child is at least a certain age; ~~requiring a local~~
6 ~~department of social services to document certain efforts and steps at certain~~
7 ~~permanency planning hearings, certain permanency plan review hearings, and~~
8 ~~certain guardianship review hearings, under certain circumstances;~~ and generally
9 relating to permanency plans for the out-of-home placement of children.

10 BY repealing and reenacting, with amendments,
11 Article – Courts and Judicial Proceedings
12 Section 3-823(e) ~~and (h)~~
13 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber/conference committee amendments.



(2013 Replacement Volume and 2015 Supplement)

BY repealing and reenacting, with amendments,
 Article – Family Law
 Section 5–326(a) and 5–525(f)
 Annotated Code of Maryland
 (2012 Replacement Volume and 2015 Supplement)

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

Article – Courts and Judicial Proceedings

3–823.

(e) (1) At a permanency planning hearing, the court shall:

(i) Determine the child’s permanency plan, which, to the extent
 consistent with the best interests of the child, may be, in descending order of priority:

1. Reunification with the parent or guardian;
2. Placement with a relative for:
 - A. Adoption; or
 - B. Custody and guardianship under § 3–819.2 of this subtitle;
3. Adoption by a nonrelative;
4. Custody and guardianship by a nonrelative under §
 3–819.2 of this subtitle; or
5. **[Another] FOR A CHILD AT LEAST 16 YEARS OLD,**

ANOTHER planned permanent living arrangement that:

A. Addresses the individualized needs of the child, including
 the child’s educational plan, emotional stability, physical placement, and socialization
 needs; and

B. Includes goals that promote the continuity of relations
 with individuals who will fill a lasting and significant role in the child’s life; and

(ii) For a child who has attained the age of 16 years, determine the
 services needed to assist the child to make the transition from placement to independent
 living.

1 (2) In determining the child's permanency plan, the court shall consider
2 the factors specified in § 5-525(f)(1) of the Family Law Article.

3 ~~(3) AT A PERMANENCY PLANNING HEARING FOR A CHILD WHOSE~~
4 ~~RECOMMENDED PERMANENCY PLAN IS ANOTHER PLANNED PERMANENT LIVING~~
5 ~~ARRANGEMENT THAT MEETS THE REQUIREMENTS OF PARAGRAPH (1)(I)5 OF THIS~~
6 ~~SUBSECTION, THE LOCAL DEPARTMENT SHALL DOCUMENT:~~

7 ~~(i) THE ONGOING EFFORTS TO PLACE THE CHILD~~
8 ~~PERMANENTLY WITH A PARENT OR RELATIVE OR IN A GUARDIANSHIP OR AN~~
9 ~~ADOPTIVE PLACEMENT; AND~~

10 ~~(ii) THE STEPS THAT THE LOCAL DEPARTMENT IS TAKING TO~~
11 ~~ENSURE THAT:~~

12 ~~1. THE CHILD'S RESOURCE PROVIDER IS FOLLOWING~~
13 ~~THE REASONABLE AND PRUDENT PARENT STANDARD; AND~~

14 ~~2. THE CHILD HAS REGULAR OPPORTUNITIES TO~~
15 ~~ENGAGE IN AGE OR DEVELOPMENTALLY APPROPRIATE ACTIVITIES.~~

16 ~~(h) (1) (i) Except as provided in subparagraphs (ii) and (iii) of this~~
17 ~~paragraph, the court shall conduct a hearing to review the permanency plan at least every~~
18 ~~6 months until commitment is rescinded or a voluntary placement is terminated.~~

19 ~~(ii) The court shall conduct a review hearing every 12 months after~~
20 ~~the court determines that the child shall be continued in out-of-home placement with a~~
21 ~~specific caregiver who agrees to care for the child on a permanent basis.~~

22 ~~(iii) 1. Unless the court finds good cause, a case shall be~~
23 ~~terminated after the court grants custody and guardianship of the child to a relative or~~
24 ~~other individual.~~

25 ~~2. If the court finds good cause not to terminate a case, the~~
26 ~~court shall conduct a review hearing every 12 months until the case is terminated.~~

27 ~~3. The court may not conclude a review hearing under~~
28 ~~subsubparagraph 2 of this subparagraph unless the court has seen the child in person.~~

29 ~~(2) At the review hearing, the court shall:~~

30 ~~(i) Determine the continuing necessity for and appropriateness of~~
31 ~~the commitment;~~

32 ~~(ii) Determine and document in its order whether reasonable efforts~~
33 ~~have been made to finalize the permanency plan that is in effect;~~

~~(iii) Determine the extent of progress that has been made toward alleviating or mitigating the causes necessitating commitment;~~

~~(iv) Project a reasonable date by which a child in placement may be returned home, placed in a preadoptive home, or placed under a legal guardianship;~~

~~(v) Evaluate the safety of the child and take necessary measures to protect the child; and~~

~~(vi) Change the permanency plan if a change in the permanency plan would be in the child's best interest.~~

~~(3) AT EACH REVIEW HEARING FOR A CHILD WHOSE PERMANENCY PLAN IS ANOTHER PLANNED PERMANENT LIVING ARRANGEMENT THAT MEETS THE REQUIREMENTS OF SUBSECTION (E)(1)(I)5 OF THIS SECTION, THE LOCAL DEPARTMENT SHALL DOCUMENT:~~

~~(I) THE ONGOING EFFORTS TO PLACE THE CHILD PERMANENTLY WITH A PARENT OR RELATIVE OR IN A GUARDIANSHIP OR AN ADOPTIVE PLACEMENT; AND~~

~~(II) THE STEPS THAT THE LOCAL DEPARTMENT IS TAKING TO ENSURE THAT:~~

~~1. THE CHILD'S RESOURCE PROVIDER IS FOLLOWING THE REASONABLE AND PRUDENT PARENT STANDARD; AND~~

~~2. THE CHILD HAS REGULAR OPPORTUNITIES TO ENGAGE IN AGE OR DEVELOPMENTALLY APPROPRIATE ACTIVITIES.~~

~~(3)(4) Every reasonable effort shall be made to effectuate a permanent placement for the child within 24 months after the date of initial placement.~~

Article - Family Law

5-326.

(a) (1) A juvenile court shall hold:

(i) an initial guardianship review hearing as scheduled under § 5-324(b)(1)(vi) of this subtitle to establish a permanency plan for the child; and

(ii) at least once each year after the initial guardianship review hearing until the juvenile court's jurisdiction terminates, a guardianship review hearing.

1 B. each of the child's living parents who has not waived the
2 right to notice and that parent's attorney.

3 (ii) Notice to a parent under this paragraph shall be sent to the
4 parent's last address known to the juvenile court.

5 (6) A child's permanency plan may be, in order of priority:

6 (i) adoption of the child;

7 (ii) custody and guardianship of the child by an individual; or

8 (iii) **FOR A CHILD AT LEAST 16 YEARS OLD**, another planned
9 permanent living arrangement that:

10 1. addresses the individualized needs of the child, including
11 the child's educational plan, emotional stability, physical placement, and socialization
12 needs; and

13 2. includes goals that promote the continuity of relations
14 with individuals who will fill a lasting and significant role in the child's life.

15 (7) Every reasonable effort shall be made to implement a permanency plan
16 within 1 year.

17 (8) At each guardianship review hearing for a child, a juvenile court shall:

18 (i) evaluate the child's safety and act as needed to protect the child;

19 (ii) consider the written report of a local out-of-home placement
20 review board required under § 5-545 of this title;

21 (iii) determine the extent of compliance with the permanency plan;

22 (iv) make a specific factual finding on whether reasonable efforts
23 have been made to finalize the child's permanency plan and document the finding;

24 (v) subject to subsection (b) of this section, change the child's
25 permanency plan if a change would be in the child's best interests;

26 (vi) project a reasonable date by which the permanency plan will be
27 finalized;

28 (vii) enter any order that the juvenile court finds appropriate to
29 implement the permanency plan; and

(viii) take all other action that the juvenile court considers to be in the child's best interests, including any order allowed under § 5-324(b)(1)(ii) of this subtitle.

~~(9) AT EACH GUARDIANSHIP REVIEW HEARING FOR A CHILD WHOSE PERMANENCY PLAN IS ANOTHER PLANNED PERMANENT LIVING ARRANGEMENT THAT MEETS THE REQUIREMENTS OF PARAGRAPH (6)(H) OF THIS SUBSECTION, THE LOCAL DEPARTMENT SHALL DOCUMENT:~~

~~(I) THE ONGOING EFFORTS TO PLACE THE CHILD PERMANENTLY WITH A PARENT OR RELATIVE OR IN A GUARDIANSHIP OR AN ADOPTIVE PLACEMENT; AND~~

~~(II) THE STEPS THAT THE LOCAL DEPARTMENT IS TAKING TO ENSURE THAT:~~

~~1. THE CHILD'S RESOURCE PROVIDER IS FOLLOWING THE REASONABLE AND PRUDENT PARENT STANDARD; AND~~

~~2. THE CHILD HAS REGULAR OPPORTUNITIES TO ENGAGE IN AGE OR DEVELOPMENTALLY APPROPRIATE ACTIVITIES.~~

~~(9)~~ (10) (9) A juvenile court may approve a permanency plan other than adoption of a child only if the juvenile court finds that, for a compelling reason, adoption is not in the child's best interests.

~~(10)~~ (11) (10) (i) At a guardianship review hearing held 1 year or more after a juvenile court enters an order for guardianship of a child, the juvenile court may designate an individual guardian of the child if:

1. the local department certifies the child's successful placement with the individual under the supervision of the local department or its agent for at least 180 days or a shorter period allowed by the juvenile court on recommendation of the local department;

2. the local department files a report by a child placement agency, completed in accordance with department regulations, as to the suitability of the individual to be the child's guardian; and

3. the juvenile court makes a specific finding that:

A. for a compelling reason, adoption is not in the child's best interests; and

B. custody and guardianship by the individual is in the child's best interests and is the least restrictive alternative available.

1 (ii) Designation of a guardian under this paragraph terminates the
2 local department's legal obligations and responsibilities to the child.

3 (iii) After designation of a guardian under this paragraph, a juvenile
4 court may order any further review that the juvenile court finds to be in the child's best
5 interests.

6 5-525.

7 (f) (1) In developing a permanency plan for a child in an out-of-home
8 placement, the local department shall give primary consideration to the best interests of
9 the child, including consideration of both in-State and out-of-state placements. The local
10 department shall consider the following factors in determining the permanency plan that
11 is in the best interests of the child:

12 (i) the child's ability to be safe and healthy in the home of the child's
13 parent;

14 (ii) the child's attachment and emotional ties to the child's natural
15 parents and siblings;

16 (iii) the child's emotional attachment to the child's current caregiver
17 and the caregiver's family;

18 (iv) the length of time the child has resided with the current
19 caregiver;

20 (v) the potential emotional, developmental, and educational harm to
21 the child if moved from the child's current placement; and

22 (vi) the potential harm to the child by remaining in State custody for
23 an excessive period of time.

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

27 (i) returning the child to the child's parent or guardian, unless the
28 local department is the guardian;

29 (ii) placing the child with relatives to whom adoption, custody and
30 guardianship, or care and custody, in descending order of priority, are planned to be
31 granted;

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

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

4 2. by another approved adoptive family; or

5 (iv) **FOR A CHILD AT LEAST 16 YEARS OLD**, another planned
6 permanent living arrangement that:

7 1. addresses the individualized needs of the child, including
8 the child's educational plan, emotional stability, physical placement, and socialization
9 needs; and

10 2. includes goals that promote the continuity of relations
11 with individuals who will fill a lasting and significant role in the child's life.

12 (3) Subject to paragraphs (1) and (2) of this subsection and to the extent
13 consistent with the best interests of a child in an out-of-home placement, in determining
14 a permanency plan, the local department shall consider the following in descending order
15 of priority:

16 (i) placement of the child in the local jurisdiction where the child's
17 parent or guardian resides; or

18 (ii) if the local department finds, based on a compelling reason, that
19 placement of the child as described in item (i) of this paragraph is not in the best interest
20 of the child, placement of the child in another jurisdiction in the State after considering:

21 1. the availability of resources to provide necessary services
22 to the child;

23 2. the accessibility to family treatment, if appropriate; and

24 3. the effect on the local school system.

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
26 October 1, 2016.