# **SENATE BILL 732**

D4, O4	9lr1784
	CF HB 1283

### By: Senators Zucker, Feldman, Carozza, Guzzone, Peters, and Serafini Serafini, <u>West, Washington, Waldstreicher, Cassilly, Lee, Smith, Zirkin, Hough,</u> <u>Carter, Ready, and Hester</u>

Introduced and read first time: February 4, 2019 Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments Senate action: Adopted Read second time: March 13, 2019

# CHAPTER \_\_\_\_\_

### 1 AN ACT concerning

# Child in Need of Assistance – Guardianship by Local Department – ABLE Financial Accounts

FOR the purpose of authorizing requiring a court to issue a certain order on request of a
local department of social services that has been granted certain guardianship over
a child in need of assistance to have control over the property of the child for the
purpose of establishing a certain ABLE account account or trust on behalf of the
child; requiring an order authorizing a local department of social services to have
control of the property of the child for the purpose of establishing a certain account

- 10 <u>or trust on behalf of the child to include certain provisions;</u> and generally relating to
- 11 children in need of assistance and the establishment of ABLE accounts.
- 12 BY repealing and reenacting, without amendments,
- 13 Article Courts and Judicial Proceedings
- 14 Section 3–801(f), (g), and (p), 3–802(c), and 3–819(b)(1)(iii) and (c)(1)
- 15 Annotated Code of Maryland
- 16 (2013 Replacement Volume and 2018 Supplement)
- 17 BY repealing and reenacting, with amendments,
- 18 Article Courts and Judicial Proceedings
- 19 Section 3–819(g)
- 20 Annotated Code of Maryland
- 21 (2013 Replacement Volume and 2018 Supplement)

# EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

<u>Underlining</u> indicates amendments to bill.

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



#### **SENATE BILL 732**

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 - 801."Child in need of assistance" means a child who requires court intervention (f) because: (1)The child has been abused, has been neglected, has a developmental disability, or has a mental disorder; and (2)The child's parents, guardian, or custodian are unable or unwilling to give proper care and attention to the child and the child's needs. (g) "CINA" means a child in need of assistance. (p) "Local department" means: (1)The local department of social services for the county in which the court is located; or (2)In Montgomery County, the county department of health and human services. 3 - 802.(c) (1)In all judicial proceedings conducted in accordance with this subtitle or § 5–326 of the Family Law Article, the court may direct the local department to provide services to a child, the child's family, or the child's caregiver to the extent that the local department is authorized under State law. (2)The court shall exercise the authority described in paragraph (1) of this subsection to protect and advance a child's best interests. 3-819. In making a disposition on a CINA petition under this subtitle, the (b) (1)court shall: Subject to paragraph (2) of this subsection, find that the child is (iii) in need of assistance and: 1. Not change the child's custody status; or

 $\frac{1}{2}$ 

3

4

 $\mathbf{5}$ 

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

### **SENATE BILL 732**

$rac{1}{2}$	2. Commit the child on terms the court considers appropriate to the custody of:
3	A. A parent;
$\frac{4}{5}$	B. Subject to § 3–819.2 of this subtitle, a relative, or other individual; or
$6 \\ 7$	C. A local department, the Maryland Department of Health, or both, including designation of the type of facility where the child is to be placed.
8 9	(c) In addition to any action under subsection (b)(1)(iii) of this section, the court may:
10 11	(1) (i) Place a child under the protective supervision of the local department on terms the court considers appropriate;
$12 \\ 13 \\ 14 \\ 15$	(ii) Grant limited guardianship to the department or an individual or both for specific purposes including medical and educational purposes or for other appropriate services if a parent is unavailable, unwilling, or unable to consent to services that are in the best interest of the child; or
$\begin{array}{c} 16 \\ 17 \end{array}$	(iii) Order the child and the child's parent, guardian, or custodian to participate in rehabilitative services that are in the best interest of the child and family;
18 19	(g) (1) A guardian appointed under this section has no control over the property of the child unless $\frac{1}{4}$ the $\frac{1}{4}$ :
20	(1) THE court expressly grants that authority; OR
21 22 23	(2) THE LOCAL DEPARTMENT IS THE GUARDIAN AND EXERCISES THE CONTROL TO ESTABLISH AN ABLE ACCOUNT ON BEHALF OF THE CHILD IN ACCORDANCE WITH TITLE 18, SUBTITLE 19C OF THE EDUCATION ARTICLE.
24 25 26 27	(2) (I) IF A GUARDIAN APPOINTED UNDER THIS SECTION IS A LOCAL DEPARTMENT, THE COURT SHALL, ON REQUEST OF THE LOCAL DEPARTMENT, ISSUE A SEPARATE ORDER GRANTING THE LOCAL DEPARTMENT GUARDIANSHIP AUTHORITY TO ESTABLISH:
28	1. <u>AN INDIVIDUAL SAVINGS ACCOUNT;</u>
29 30	2. IF THE LOCAL DEPARTMENT IS UNABLE TO ESTABLISH AN INDIVIDUAL SAVINGS ACCOUNT DUE TO THE CHILD'S AGE, AN ABLE
31	ACCOUNT IN ACCORDANCE WITH THE PROVISIONS OF TITLE 18, SUBTITLE 19C OF
32	THE EDUCATION ARTICLE; OR

	4 SENATE BILL 732
1	<b><u>3.</u></b> A POOLED SPECIAL NEEDS TRUST UNDER § 14.5–1002
2	OF THE ESTATES AND TRUSTS ARTICLE.
3	(II) AN ORDER AUTHORIZING A LOCAL DEPARTMENT TO
4	ESTABLISH AN ACCOUNT OR A TRUST AS THE GUARDIAN OF A CHILD UNDER
<b>5</b>	SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL:
6	<b><u>1.</u> <u>REQUIRE THAT FUNDS DEPOSITED TO ESTABLISH AN</u></b>
$\overline{7}$	ABLE ACCOUNT UNDER SUBPARAGRAPH (I)2 OF THIS PARAGRAPH BE IN AN
8	FDIC-insured portfolio option that most minimizes the risk of capital
9	LOSS;
10	<b><u>2.</u> PROHIBIT THE LOCAL DEPARTMENT FROM</b>
11	WITHDRAWING FUNDS FROM ANY ACCOUNT OR TRUST ESTABLISHED UNDER THE
12	ORDER; AND
13	<b><u>3.</u> Require the local department to provide</b>
14	PROMPT NOTICE TO A FINANCIAL INSTITUTION, INCLUDING CONTACT INFORMATION
15	FOR THE CHILD OR SUBSEQUENT GUARDIAN OF THE CHILD, OF THE TERMINATION
16	<u>OF THE GUARDIANSHIP UNDER THIS SUBTITLE OR TITLE 5, SUBTITLE 3 OF THE</u>
17	FAMILY LAW ARTICLE.
18	SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect

18 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect 19 October 1, 2019.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.