

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 708

(Chair, Judicial Proceedings Committee)(By Request -
Departmental)

Judicial Proceedings

Judiciary

Family Law - Kinship Care

This departmental bill generally alters statutory provisions relating to the kinship care program within the Department of Human Services (DHS) to further prioritize placing children in need of out-of-home placement with kinships caregivers. Notably, among other provisions, the bill (1) expands the definition of a “kinship caregiver” by including a kinship parent and other individuals (related or unrelated) who have specified bonds or connections with the child or have otherwise been identified by the child’s parent; (2) requires the placement of a child with a kinship caregiver if a kinship caregiver is located subsequent to the child’s placement in a foster care setting; and (3) specifies, if a kinship caregiver cannot be located, considerations that must be taken into account when placing a child in out-of-home care. The bill also alters the definition of “relative” in Title 3, Subtitle 8 of the Courts and Judicial Proceedings Article (generally pertaining to child in need of assistance proceedings) to mean a “kinship caregiver,” as defined in the bill.

Fiscal Summary

State Effect: The bill does not materially affect the operations or finances of the Judiciary or DHS. Revenues are not affected.

Local Effect: The bill does not materially affect local government operations or finances.

Small Business Effect: DHS has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

Analysis

Bill Summary: A “kinship caregiver” includes (1) a kinship parent; (2) an individual who is related to the child through blood or marriage, adoption, tribal law or custom, or cultural custom or practice; and (3) an individual who is unrelated to the child but has a strong familial or other significant bond with the child, or is a person identified by the child’s parent.

A local department of social services, in selecting a placement that is in the best interests of a child in need of out-of-home placement, must give preference to placement with a kinship caregiver, unless there is good cause to the contrary. The bill specifies that a local department must exhaust all reasonable resources to make *proactive, thorough, and timely efforts* to locate a kinship caregiver for initial placement of the child. If the local department cannot locate a kinship caregiver at the time of initial placement, preference must be given to a placement that most approximates a family in which the child’s special needs, if any, may be met, taking into account (1) the proximity of the placement to the child’s home, extended family, or siblings; (2) the child’s culture or language continuity; (3) the child’s age; and (4) the child’s developmental and educational needs.

If a kinship caregiver is located after the placement of a child in a foster care setting, the local department *must*, in the best interest of the child, place the child with the kinship caregiver. A kinship caregiver may not be younger than age 18. The local department *must* approve an individual as a kinship caregiver if (1) the individual is related to the child through blood or marriage, adoption, tribal law or custom, or cultural custom or practice; (2) the individual has a strong familial or other significant bond to the child or the child’s family, or is a person identified by the child’s parent; and (3) placement with the individual is in the child’s best interest.

A prospective kinship caregiver must provide to the local department any information the local department requests to enable the local department’s determination whether the individual meets the specified criteria.

The Social Services Administration (SSA) within DHS must adopt appropriate regulations *and policies*.

Current Law: SSA within DHS is required to establish a program for kinship care, which is continuous 24-hour care and supportive services provided for a minor child placed by a child placement agency in the home of a relative by blood or marriage. A “kinship parent” is an individual who is related by blood or marriage within five degrees of consanguinity or affinity to a child who is in the care, custody, or guardianship of a local department and with whom the child may be placed for temporary or long-term care other than adoption.

When selecting a placement that is in the best interests of a child in need of out-of-home placement, the local department, as a first priority, must attempt to place the child with a kinship parent. The local department must exhaust all reasonable resources to locate a kinship parent for initial placement of a child. If no kinship parent is located at the time of the initial placement, the child must be placed in a foster care setting or, as an alternative, may be placed with a kinship caregiver. If a kinship parent or caregiver is located subsequent to the placement of a child in a foster care setting and it is in the best interest of the child, the local department may place the child with the kinship parent or caregiver. A kinship parent may not be younger than age 18, and a kinship caregiver may not be younger than age 21.

The local department may approve an individual as a kinship caregiver only if (1) the individual is related to the child by blood or marriage beyond five degrees of consanguinity or affinity under the civil law or rule, or is a close family friend of the child or the child's family; (2) the individual has a strong familial or other significant bond to the child or the child's family; (3) the individual has maintained regular contact with the child or the child's family sufficient to demonstrate strong familiarity with the child's activities and daily needs; and (4) placement with the individual is in the child's best interest. A prospective kinship caregiver must submit to the local department an affidavit that includes specific facts to enable the local department to determine whether the individual meets the criteria specified.

Under Title 3, Subtitle 8 of the Courts and Judicial Proceedings Article, "relative" means an individual who is (1) related to the child by blood or marriage within five degrees of consanguinity or affinity under the civil law and (2) is at least age 21 *or* is at least age 18 and lives with a spouse who is at least age 21.

Background: DHS reports that the kinship care program promotes lifelong well-being and connection for children and youth in out-of-home placements, including foster care. According to DHS, a "kin-first approach" to out-of-home placements generally reduces delays in placement, as well as frequent and disruptive placement changes. By updating the definition of "kinship caregiver," DHS intends to help ensure that children are being placed, when necessary, with prioritized individuals who are uniquely able to support their specific needs.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: HB 1499 (Delegate Clippinger) - Judiciary.

Information Source(s): Montgomery County; Judiciary (Administrative Office of the Courts); Department of Human Services; Department of Legislative Services

Fiscal Note History: First Reader - February 16, 2024
rh/jkb Third Reader - March 22, 2024
Revised - Amendment(s) - March 22, 2024
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Analysis by: Amanda L. Douglas

Direct Inquiries to:
(410) 946-5510
(301) 970-5510

ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Family Law – Kinship Care

BILL NUMBER: SB0708

PREPARED BY: Vincent Pacheco

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND
SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND
SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS