
By: Delegates Healey and E. Burns (Governor's Commission on Adoption)

Introduced and read first time: February 8, 1996

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 18, 1996

CHAPTER ____

1 AN ACT concerning

2 **Permanency for Children in Out-of-Home Placements**

3 FOR the purpose of establishing certain hearings in the juvenile court for children
4 adjudicated to be in need of assistance in order to review the implementation of a
5 permanency placement plan for children in need of assistance committed under a
6 certain provision of the juvenile causes law; requiring the juvenile court to make
7 certain determinations regarding the future status of children in placement, the
8 services they will need for transition to independent living, the necessity for
9 continuing the out-of-home commitment, and the need for placement for adoption;
10 transferring from the equity court to the juvenile court the jurisdiction over
11 termination of parental rights proceedings and adoption proceedings involving
12 children in need of assistance under the jurisdiction of the juvenile court; providing
13 for a certain exception to the transfer of jurisdiction; providing for ~~a certain~~
14 ~~effective date~~ the application of certain provisions of this Act; and generally relating
15 to children in need of assistance.

16 BY repealing and reenacting, with amendments,
17 Article - Courts and Judicial Proceedings
18 Section 3-804(a)
19 Annotated Code of Maryland
20 (1995 Replacement Volume and 1995 Supplement)

21 BY adding to
22 Article - Courts and Judicial Proceedings
23 Section 3-826.1
24 Annotated Code of Maryland
25 (1995 Replacement Volume and 1995 Supplement)

1 BY repealing and reenacting, with amendments,
2 Article - Family Law
3 Section 1-201(a) and (c)
4 Annotated Code of Maryland
5 (1991 Replacement Volume and 1995 Supplement)

6 BY repealing
7 Article - Family Law
8 Section 1-201(d)
9 Annotated Code of Maryland
10 (1991 Replacement Volume and 1995 Supplement)

11 Preamble

12 ~~WHEREAS, Maryland has over 10,000 children in temporary out-of-home~~
13 ~~placements under the custody of local departments of social services and the average~~
14 ~~length of stay is approaching three years; and~~

15 ~~WHEREAS, In light of the continued lengthy delays in the adoption process, late in~~
16 ~~1995, Governor Glendening created the Governor's Commission on Adoption; and~~

17 ~~WHEREAS, The Commission was charged with making recommendations for~~
18 ~~changes in laws, policies, and practices that would expedite the adoption and permanency~~
19 ~~planning processes; and~~

20 ~~WHEREAS, The overriding principles that emerged from the Commission's~~
21 ~~deliberations are that the best interests of the child should always prevail in the judicial,~~
22 ~~legal, and administrative arenas and that the child's need for a permanent and nurturing~~
23 ~~family should at least be equal to the rights of the parents; and~~

24 ~~WHEREAS, Maryland must use every available resource to reduce the foster care~~
25 ~~easeload and move children waiting for adoption to stable, nurturing, permanent homes;~~
26 ~~and~~

27 ~~WHEREAS, The Commission found that the current court structure in Maryland~~
28 ~~cannot respond quickly in the area of adoptions, courts are not able to comply with the~~
29 ~~required 180 day timeframe for a decision on termination of parental rights, and~~
30 ~~termination of parental rights is not viewed as a priority by many judges; and~~

31 ~~WHEREAS, The Commission found that continuity in cases is lacking when child~~
32 ~~welfare proceedings for one child are held in two different courts; and~~

33 ~~WHEREAS, The Commission found that changing the court review interval to 12~~
34 ~~months, with extensions of temporary custody only in special circumstances, would reduce~~
35 ~~the delays in achieving a permanent placement for a child; now, therefore~~

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

3

1 **Article - Courts and Judicial Proceedings**

2 3-804.

3 (a) The court has exclusive original jurisdiction over:

4 (1) [a] A child alleged to be delinquent, in need of supervision, in need of
5 assistance or who has received a citation for a violation; AND

6 (2) EXCEPT IN MONTGOMERY COUNTY, WITH RESPECT TO ANY CHILD
7 WHO IS UNDER THE JURISDICTION OF THE JUVENILE COURT AND PREVIOUSLY HAS
8 BEEN ADJUDICATED A CHILD IN NEED OF ASSISTANCE, ALL TERMINATION OF
9 PARENTAL RIGHTS PROCEEDINGS AND RELATED ADOPTION PROCEEDINGS.

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

12 **Article - Courts and Judicial Proceedings**

13 3-826.1.

14 (A) NO LATER THAN 10 MONTHS AFTER DISPOSITION MADE IN THE CASE OF A
15 CHILD ALLEGED TO BE IN NEED OF ASSISTANCE, THE COURT SHALL HOLD A
16 HEARING TO REVIEW THE IMPLEMENTATION OF A PERMANENCY PLAN FOR EACH
17 CHILD COMMITTED UNDER § 3-820(C)(1)(II) OF THIS SUBTITLE.

18 (B) (1) UPON THE WRITTEN REQUEST OF ANY PARTY OR ON ITS OWN
19 MOTION, THE COURT MAY SCHEDULE A HEARING AT ANY EARLIER TIME TO
20 REVIEW THE IMPLEMENTATION OF A PERMANENCY PLAN FOR ANY CHILD
21 COMMITTED PURSUANT TO § 3-820 OF THIS SUBTITLE.

22 (2) THE WRITTEN REQUEST FOR REVIEW SHALL STATE THE REASON
23 FOR THE REQUEST AND ANY ISSUES TO BE RAISED.

24 (C) AT THE REVIEW HEARING FOR A CHILD IN PLACEMENT, THE COURT
25 SHALL:

26 (1) DETERMINE THE FUTURE STATUS OF THE CHILD, INCLUDING
27 WHETHER THE CHILD SHOULD BE:

28 (I) RETURNED TO THE PARENT OR GUARDIAN;

29 (II) PLACED WITH RELATIVES TO WHOM ADOPTION OR
30 GUARDIANSHIP IS GRANTED;

31 (III) PLACED FOR ADOPTION;

32 (IV) EMANCIPATED;

33 (V) BECAUSE OF THE CHILD'S SPECIAL NEEDS OR
34 CIRCUMSTANCES, CONTINUED IN PLACEMENT ON A PERMANENT OR LONG-TERM
35 BASIS; OR

36 (VI) BECAUSE OF THE CHILD'S SPECIAL NEEDS OR
37 CIRCUMSTANCES, CONTINUED IN PLACEMENT FOR A SPECIFIED PERIOD; OR

4

1 (2) FOR A CHILD WHO HAS ATTAINED THE AGE OF 16, DETERMINE THE
2 SERVICES NEEDED TO ASSIST THE CHILD TO MAKE THE TRANSITION FROM
3 PLACEMENT TO INDEPENDENT LIVING.

4 (D) FOR A CHILD WHOM THE COURT DETERMINES SHALL BE CONTINUED IN
5 PLACEMENT UNDER SUBSECTION (C)(1)(VI) OF THIS SECTION:

6 (1) THE COURT SHALL:

7 (I) DETERMINE THE CONTINUING NECESSITY FOR AND
8 APPROPRIATENESS OF THE COMMITMENT;

9 (II) DETERMINE THE EXTENT OF COMPLIANCE WITH THE ~~CASE~~
10 PERMANENCY PLAN;

11 (III) DETERMINE THE EXTENT OF PROGRESS WHICH HAS BEEN
12 MADE TOWARD ALLEVIATING OR MITIGATING THE CAUSES NECESSITATING
13 COMMITMENT; AND

14 (IV) PROJECT A REASONABLE DATE BY WHICH A CHILD IN
15 PLACEMENT MAY BE RETURNED HOME OR PLACED FOR ADOPTION OR LEGAL
16 GUARDIANSHIP; AND

17 (2) THE COURT SHALL CONDUCT A REVIEW HEARING NO LESS
18 FREQUENTLY THAN EVERY 6 MONTHS UNTIL COMMITMENT IS RESCINDED.

19 (3) EVERY REASONABLE EFFORT SHALL BE MADE TO EFFECTUATE A
20 PERMANENT PLACEMENT FOR THE CHILD WITHIN 24 MONTHS FROM THE DATE OF
21 INITIAL PLACEMENT.

22 (E) FOR A CHILD WHOM THE COURT DETERMINES SHALL BE PLACED FOR
23 ADOPTION UNDER SUBSECTION (C)(1)(III) OF THIS SECTION:

24 (1) THE COURT SHALL ORDER THAT THE PETITION FOR TERMINATION
25 OF PARENTAL RIGHTS SHALL BE FILED WITHIN 30 DAYS; AND

26 (2) THE COURT SHALL SCHEDULE THE TERMINATION OF PARENTAL
27 RIGHTS HEARING IN LIEU OF THE NEXT 6-MONTH REVIEW HEARING.

28 (F) FOR A CHILD WHOM THE COURT DETERMINES SHALL BE PLACED IN
29 PERMANENT FOSTER CARE UNDER SUBSECTION (C)(1)(V) OF THIS SECTION:

30 (1) THE COURT MAY ORDER PERMANENT FOSTER CARE OR KINSHIP
31 CARE WITH A SPECIFIC CAREGIVER WHO AGREES TO CARE FOR THE CHILD ON A
32 PERMANENT BASIS; AND

33 (2) NO REVIEW HEARING NEED BE HELD UNLESS THE COURT ORDERS
34 OTHERWISE.

35 (G) FOR A CHILD WHOM THE COURT DETERMINES SHALL BE PLACED IN
36 LONG-TERM FOSTER CARE UNDER SUBSECTION (C)(1)(V) OF THIS SECTION COURT
37 REVIEWS SHALL BE CONDUCTED NO LESS FREQUENTLY THAN EVERY 6 MONTHS.

5

1 SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland
2 read as follows:

3 **Article - Family Law**

4 1-201.

5 (a) An equity court has jurisdiction over:

6 (1) adoption of a child, EXCEPT FOR A CHILD WHO IS UNDER THE
7 JURISDICTION OF ~~THE~~ ANY JUVENILE COURT OTHER THAN THE JUVENILE COURT
8 FOR MONTGOMERY COUNTY AND WHO PREVIOUSLY HAS BEEN ADJUDICATED TO
9 BE A CHILD IN NEED OF ASSISTANCE;

10 (2) alimony;

11 (3) annulment of a marriage;

12 (4) divorce;

13 (5) custody or guardianship of a child EXCEPT FOR A CHILD WHO IS
14 UNDER THE JURISDICTION OF THE JUVENILE COURT AND WHO PREVIOUSLY HAS
15 BEEN ADJUDICATED TO BE A CHILD IN NEED OF ASSISTANCE;

16 (6) visitation of a child;

17 (7) legitimation of a child;

18 (8) paternity; and

19 (9) support of a child.

20 (c) ~~{Except as provided in subsection (d) of this section, this} THIS~~ section does
21 not take away or impair the jurisdiction of a juvenile court or a criminal court with respect
22 to the custody, guardianship, visitation, and support of a child.

23 ~~{(d) IF IN MONTGOMERY COUNTY, IF an adoption or guardianship with the right~~
24 ~~to consent to adoption or long-term care short of adoption is ordered by the equity court,~~
25 ~~as to a child previously adjudicated to be a child in need of assistance, a neglected child,~~
26 ~~an abused child, or a dependent child, the jurisdiction of a juvenile court with regard to~~
27 ~~these issues is terminated.}~~

28 ~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect~~
29 ~~October 1, 1996.~~

30 SECTION 4. AND BE IT FURTHER ENACTED, That Sections 1 and 3 of this
31 Act shall apply only to termination of parental rights proceedings and related adoption
32 proceedings initiated on or after October 1, 1996.

33 SECTION 5. AND BE IT FURTHER ENACTED, That all hearings to review the
34 implementation of a permanency plan for a child committed under § 3-820(c)(1)(ii) of
35 the Courts and Judicial Proceedings Article conducted on or after October 1, 1996 shall
36 be conducted in accordance with the provisions of Section 2 of this Act. However, any
37 review hearing scheduled prior to October 1, 1996 to occur on or after October 1, 1996

HOUSE BILL 1145

6

1 need not be rescheduled in accordance with the time frames established in Section 2 of
2 this Act.

3 SECTION 6. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 October 1, 1996.