
By: Senators Kelley and McCabe (Governor's Commission on Adoption)

Introduced and read first time: February 7, 1996

Assigned to: Rules

A BILL ENTITLED

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 effective date; and generally relating to children in need of assistance.

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

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

24 BY repealing and reenacting, with amendments,
25 Article - Family Law
26 Section 1-201(a) and (c)
27 Annotated Code of Maryland
28 (1991 Replacement Volume and 1995 Supplement)

29 BY repealing
30 Article - Family Law
31 Section 1-201(d)

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1 Annotated Code of Maryland
2 (1991 Replacement Volume and 1995 Supplement)

3 Preamble

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

7 WHEREAS, In light of the continued lengthy delays in the adoption process, late in
8 1995, Governor Glendening created the Governor's Commission on Adoption; and

9 WHEREAS, The Commission was charged with making recommendations for
10 changes in laws, policies, and practices that would expedite the adoption and permanency
11 planning processes; and

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

16 WHEREAS, Maryland must use every available resource to reduce the foster care
17 caseload and move children waiting for adoption to stable, nurturing, permanent homes;
18 and

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

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

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

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

30 **Article - Courts and Judicial Proceedings**

31 3-804.

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

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

35 (2) WITH RESPECT TO ANY CHILD WHO IS UNDER THE JURISDICTION OF
36 THE JUVENILE COURT AND PREVIOUSLY HAS BEEN ADJUDICATED A CHILD IN NEED
37 OF ASSISTANCE, ALL TERMINATION OF PARENTAL RIGHTS PROCEEDINGS AND
38 RELATED ADOPTION PROCEEDINGS.

1 3-826.1.

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

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

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

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

14 (1) DETERMINE THE FUTURE STATUS OF THE CHILD, INCLUDING
15 WHETHER THE CHILD SHOULD BE:

16 (I) RETURNED TO THE PARENT OR GUARDIAN;

17 (II) PLACED WITH RELATIVES TO WHOM ADOPTION OR
18 GUARDIANSHIP IS GRANTED;

19 (III) PLACED FOR ADOPTION;

20 (IV) EMANCIPATED;

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

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

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

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

31 (1) THE COURT SHALL:

32 (I) DETERMINE THE CONTINUING NECESSITY FOR AND
33 APPROPRIATENESS OF THE COMMITMENT;

34 (II) DETERMINE THE EXTENT OF COMPLIANCE WITH THE CASE
35 PLAN;

4

1 (III) DETERMINE THE EXTENT OF PROGRESS WHICH HAS BEEN
2 MADE TOWARD ALLEVIATING OR MITIGATING THE CAUSES NECESSITATING
3 COMMITMENT; AND

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

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

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

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

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

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

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

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

23 (2) NO REVIEW HEARING NEED BE HELD UNLESS THE COURT ORDERS
24 OTHERWISE.

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

28 **Article - Family Law**

29 1-201.

30 (a) An equity court has jurisdiction over:

31 (1) adoption of a child, EXCEPT FOR A CHILD WHO IS UNDER THE
32 JURISDICTION OF THE JUVENILE COURT AND WHO PREVIOUSLY HAS BEEN
33 ADJUDICATED TO BE A CHILD IN NEED OF ASSISTANCE;

34 (2) alimony;

35 (3) annulment of a marriage;

36 (4) divorce;

5

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

4 (6) visitation of a child;

5 (7) legitimation of a child;

6 (8) paternity; and

7 (9) support of a child.

8 (c) [Except as provided in subsection (d) of this section, this] THIS section does
9 not take away or impair the jurisdiction of a juvenile court or a criminal court with respect
10 to the custody, guardianship, visitation, and support of a child.

11 [(d) If an adoption or guardianship with the right to consent to adoption or
12 long-term care short of adoption is ordered by the equity court, as to a child previously
13 adjudicated to be a child in need of assistance, a neglected child, an abused child, or a
14 dependent child, the jurisdiction of a juvenile court with regard to these issues is
15 terminated.]

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
17 October 1, 1996.