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

Introduced and read first time: February 7, 1996

Assigned to: Rules

Re-referred to: Judicial Proceedings, February 14, 1996

Committee Report: Favorable

Senate action: Adopted

Read second time: March 12, 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 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,

2

1 Article - Family Law
2 Section 1-201(a) and (c)
3 Annotated Code of Maryland
4 (1991 Replacement Volume and 1995 Supplement)

5 BY repealing

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

10 Preamble

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

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

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

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

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

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

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

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

35 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
36 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) WITH RESPECT TO ANY CHILD WHO IS UNDER THE JURISDICTION OF
7 THE JUVENILE COURT AND PREVIOUSLY HAS BEEN ADJUDICATED A CHILD IN NEED
8 OF ASSISTANCE, ALL TERMINATION OF PARENTAL RIGHTS PROCEEDINGS AND
9 RELATED ADOPTION PROCEEDINGS.

10 3-826.1.

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

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

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

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

23 (1) DETERMINE THE FUTURE STATUS OF THE CHILD, INCLUDING
24 WHETHER THE CHILD SHOULD BE:

25 (I) RETURNED TO THE PARENT OR GUARDIAN;

26 (II) PLACED WITH RELATIVES TO WHOM ADOPTION OR
27 GUARDIANSHIP IS GRANTED;

28 (III) PLACED FOR ADOPTION;

29 (IV) EMANCIPATED;

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

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

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

4

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

3 (1) THE COURT SHALL:

4 (I) DETERMINE THE CONTINUING NECESSITY FOR AND
5 APPROPRIATENESS OF THE COMMITMENT;

6 (II) DETERMINE THE EXTENT OF COMPLIANCE WITH THE CASE
7 PLAN;

8 (III) DETERMINE THE EXTENT OF PROGRESS WHICH HAS BEEN
9 MADE TOWARD ALLEVIATING OR MITIGATING THE CAUSES NECESSITATING
10 COMMITMENT; AND

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

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

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

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

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

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

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

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

30 (2) NO REVIEW HEARING NEED BE HELD UNLESS THE COURT ORDERS
31 OTHERWISE.

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

35 **Article - Family Law**

36 1-201.

37 (a) An equity court has jurisdiction over:

5

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

4 (2) alimony;

5 (3) annulment of a marriage;

6 (4) divorce;

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

10 (6) visitation of a child;

11 (7) legitimation of a child;

12 (8) paternity; and

13 (9) support of a child.

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

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

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