
By: Delegates Cryor, Turner, Faulkner, Kittleman, Mossburg, and DeCarlo

Introduced and read first time: January 31, 1997

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Adoption and Guardianship Proceedings - Appointment of Counsel**

3 FOR the purpose of requiring appointment of counsel for an individual who is the subject
4 of certain termination of parental rights proceedings; providing that the
5 appointment of counsel in certain proceedings continues until a final adoption
6 decree is entered; and generally relating to appointment of counsel for an individual
7 who is the subject of certain termination of parental rights proceedings.

8 BY repealing and reenacting, with amendments,
9 Article - Family Law
10 Section 5-323(a)
11 Annotated Code of Maryland
12 (1991 Replacement Volume and 1996 Supplement)

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

15 **Article - Family Law**

16 5-323.

17 (a) (1) Subject to paragraph [(2)] (3) of this subsection, in a proceeding for an
18 adoption or guardianship, unless the public defender is required to provide
19 representation, the court shall appoint separate counsel to represent:

20 (i) the individual to be adopted, if the consent of the individual to be
21 adopted is required and the individual has a disability that renders the individual
22 incapable of consenting and otherwise effectively participating in the proceedings;

23 (ii) a natural parent who has a disability that renders the natural
24 parent incapable of consenting and effectively participating in the proceedings;

25 (iii) a minor parent; [and]

26 (iv) in an involuntary termination of parental rights, an individual who
27 is the subject of the proceeding; AND

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1 (V) IN A TERMINATION OF PARENTAL RIGHTS PROCEEDING IN
2 WHICH THE STATE IS PETITIONING FOR GUARDIANSHIP, AN INDIVIDUAL WHO IS
3 THE SUBJECT OF THE PROCEEDING.

4 (2) REPRESENTATION BY COUNSEL APPOINTED UNDER PARAGRAPH
5 (1)(IV) AND (V) OF THIS SUBSECTION SHALL CONTINUE UNTIL A FINAL JUDGMENT
6 OF ADOPTION IS ENTERED.

7 [(2)] (3) In any action in which payment for the services of a
8 court-appointed attorney for a child is the responsibility of the local department of social
9 services, unless the court finds that it would not be in the best interests of the child, the
10 court shall:

11 (i) appoint an attorney who has contracted with the Department of
12 Human Resources to provide those services; and

13 (ii) in an action in which an attorney has previously been appointed,
14 strike the appearance of the attorney previously appointed and appoint the attorney who
15 is currently under contract with the Department of Human Resources.

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
17 October 1, 1997.