

BY: Judicial Proceedings Committee

AMENDMENTS TO HOUSE BILL NO. 1093

(Third Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 5, after “guardianship;” insert “authorizing a court to find a certain child to be abandoned under certain circumstances;”; and strike beginning with “adding” in line 15 down through “parent;” in line 18 and substitute “requiring that notice of a certain petition for guardianship be given in a certain manner;”.

On page 2, in lines 11 and 14, in each instance, strike “authorizing” and substitute “requiring”; strike beginning with “requiring” in line 22 down through “hearing;” in line 23; in line 31, strike “5-322” and substitute “5-322(b)”; and after line 40, insert:

“BY repealing and reenacting, without amendments,

Article - Family Law

Section 5-322(a)

Annotated Code of Maryland

(1991 Replacement Volume and 1997 Supplement)”.”

On page 3, after line 16, insert:

“Preamble

WHEREAS, The goal of Maryland’s child welfare system is safety and permanency for children; and

WHEREAS, The State’s child welfare system is committed to preserve families when possible and to reunify children with parents when safe to do so; and

WHEREAS, The State recognizes that in some circumstances it is not possible or in the best

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interest of the child to return the child to the child's parents; and

WHEREAS, The State's child welfare system is committed to making reasonable efforts to ensure prompt permanency for children; now, therefore,."

AMENDMENT NO. 2

On pages 4 through 24, strike in their entirety the lines beginning with line 6 on page 4 through line 7 on page 24, inclusive, and substitute:

"5-313.

(a) A court may grant a decree of adoption or a decree of guardianship, without the consent of a natural parent otherwise required by §§ 5-311 and 5-317 of this subtitle, if the court finds by clear and convincing evidence that it is in the best interest of the child to terminate the natural parent's rights as to the child and that:

(1) the child is abandoned as provided in subsection (b) of this section;

(2) in a prior juvenile proceeding, the child has been adjudicated to be a child in need of assistance, a neglected child, an abused child, or a dependent child; or

(3) the following set of circumstances exists:

(i) the child has been continuously out of the custody of the natural parent and in the custody of a child placement agency for at least 1 year;

(ii) the conditions that led to the separation from the natural parent still exist or similar conditions of a potentially harmful nature still exist;

(iii) there is little likelihood that those conditions will be remedied at an early date so that the child can be returned to the natural parent in the immediate future; and

(iv) a continuation of the relationship between the natural parent and the child would diminish greatly the child's prospects for early integration into a stable and permanent family.

(b) (1) The court may find that a child is abandoned for purposes of this section if, after a thorough investigation by the child placement agency, the court finds that:

[(1)] (I) the identity of the child's natural parents is unknown; and

[(2)] (II) no one has claimed to be the child's natural parent within 2 months of the alleged abandonment of the child.

(2) (I) SUBJECT TO THE PROVISIONS OF SUBPARAGRAPHS (II) AND (III) OF THIS PARAGRAPH, THE COURT MAY FIND THAT A CHILD WHO IS 24 MONTHS OLD OR YOUNGER ON THE DATE THE PETITION FOR TERMINATION OF PARENTAL RIGHTS IS FILED IS ABANDONED FOR PURPOSES OF THIS SECTION IF THE NATURAL PARENT HAS NOT CONTACTED THE CHILD PLACEMENT AGENCY OR THE CHILD IN PERSON, BY TELEPHONE, IN WRITING, OR BY ANY OTHER METHOD OF COMMUNICATION WITHIN 6 CONSECUTIVE MONTHS BEFORE THE FILING OF THE PETITION, DESPITE THE OPPORTUNITY TO DO SO.

(II) THE COURT MAY NOT FIND THAT THE NATURAL PARENT LACKED THE OPPORTUNITY TO CONTACT THE CHILD PLACEMENT AGENCY OR THE CHILD SOLELY ON THE BASIS OF THE INCARCERATION OF THE PARENT.

(III) THE COURT MAY NOT FIND THAT A CHILD IS ABANDONED BY ONE NATURAL PARENT SOLELY ON THE BASIS OF THE TESTIMONY OF THE OTHER PARENT.

(c) In determining whether it is in the best interest of the child to terminate a natural parent's rights as to the child in any case, except the case of an abandoned child, the court shall [consider] GIVE:

(1) PARAMOUNT CONSIDERATION TO THE SAFETY AND THE EMOTIONAL, PSYCHOLOGICAL, AND PHYSICAL HEALTH OF THE CHILD; AND

(2) CONSIDERATION TO:

[(1)] (I) the timeliness, nature, and extent of the services offered by the child placement agency to facilitate reunion of the child with the natural parent;

[(2)] (II) any social service agreement between the natural parent and the child placement agency, and the extent to which all parties have fulfilled their obligations under the agreement;

[(3)] (III) the child's feelings toward and emotional ties with the child's natural parents, the child's siblings, and any other individuals who may significantly affect the child's best interest;

[(4)] (IV) the child's adjustment to home, school, and community;

[(5)] (V) THE OUTCOME OF the effort the natural parent has made to adjust the natural parent's circumstances, conduct, or conditions to make it in the best interest of the child to be returned to the natural parent's home, including:

[(i)] 1. the extent to which the natural parent has maintained regular contact with the child under a plan to reunite the child with the natural parent, but the court may not give significant weight to any incidental visit, communication, or contribution;

[(ii)] 2. if the natural parent is financially able, the payment of a reasonable part of the child's substitute physical care and maintenance;

[(iii)] 3. the maintenance of regular communication by the natural parent with the custodian of the child; and

[(iv)] 4. whether additional services would be likely to bring about a lasting parental adjustment so that the child could be returned to the natural parent within an ascertainable time, not exceeding 18 months from the time of placement, but the court may not consider whether the maintenance of the parent-child relationship may serve as an inducement for the natural parent's rehabilitation; [and]

[(6)] (VI) all services offered to the natural parent before the placement of the child, whether offered by the agency to which the child is committed or by other agencies or professionals;
AND

(VII) SUBJECT TO THE PROVISIONS OF SUBSECTION (D)(5) OF THIS SECTION THAT REQUIRE THE COURT TO MAKE A SPECIFIC FINDING AS TO THE FUTURE SAFETY OF THE CHILD, THE EXISTENCE OF ANY CIRCUMSTANCES OR ACTS ENUMERATED IN SUBSECTION (D)(1)(V) OF THIS SECTION.

(d) (1) In determining whether it is in the best interest of the child to terminate a natural parent's rights as to the child in a case involving a child who has been adjudicated to be a child in need of assistance, a neglected child, an abused child, or a dependent child, the court shall consider the factors in subsection (c) of this section and whether any of the following continuing or serious conditions or acts exist:

(i) the natural parent has a disability that renders the natural parent consistently unable to care for the immediate and ongoing physical or psychological needs of the child for long periods of time;

(ii) the natural parent has committed acts of abuse or neglect toward any child in the family;

(iii) the natural parent has failed repeatedly to give the child adequate food, clothing, shelter, and education or any other care or control necessary for the child's physical, mental, or emotional health, even though the natural parent is physically and financially able; [or]

(iv) 1. the child was born:

A. addicted to or dependent on cocaine, heroin, or a derivative thereof;

or

B. with a significant presence of cocaine, heroin, or a derivative thereof in the child's blood as evidenced by toxicology or other appropriate tests; and

2. the natural parent refuses admission into a drug treatment program or failed to fully participate in a drug treatment program; OR

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(V) THE NATURAL PARENT HAS:

1. SUBJECTED THE CHILD TO:

A. TORTURE, CHRONIC ABUSE, OR SEXUAL ABUSE;

B. LIFE-THREATENING CIRCUMSTANCES; OR

C. INTRACTABLE NEGLECT NOT AMELIORATED BY THE
PROVISION OF SERVICES;

2. COMMITTED MURDER OF ANOTHER CHILD OF THE
NATURAL PARENT;

3. COMMITTED VOLUNTARY MANSLAUGHTER OF
ANOTHER CHILD OF THE NATURAL PARENT;

4. COMMITTED CHILD ABUSE OF ANY CHILD;

5. BEEN CONVICTED IN ANY STATE OR ANY COURT OF THE
UNITED STATES OF ANY CRIME NOT OTHERWISE ENUMERATED IN THIS PARAGRAPH
(1)(V) THAT WOULD BE A CRIME OF VIOLENCE, AS DEFINED IN ARTICLE 27, § 643B OF
THE CODE IF COMMITTED IN THIS STATE, OR AIDED OR ABETTED, CONSPIRED, OR
SOLICITED TO COMMIT SUCH A CRIME AGAINST THE CHILD, THE OTHER NATURAL
PARENT OF THE CHILD, A SIBLING OF THE CHILD, OR ANY PERSON WHO RESIDES IN
THE HOUSEHOLD OF THE NATURAL PARENT;

6. AIDED OR ABETTED, ATTEMPTED, CONSPIRED, OR
SOLICITED TO COMMIT MURDER OR VOLUNTARY MANSLAUGHTER OF ANOTHER
CHILD OF THE NATURAL PARENT; OR

7. COMMITTED A FELONY ASSAULT THAT RESULTS
IN SERIOUS BODILY INJURY TO THE CHILD OR ANOTHER CHILD OF THE NATURAL

PARENT.

(2) If a natural parent does not provide specified medical treatment for a child because the natural parent is legitimately practicing religious beliefs, that reason alone does not make the natural parent a negligent parent.

(3) The court shall consider the evidence under paragraph (1)(I) THROUGH (IV) of this subsection regarding continuing or serious conditions or acts and may waive the child placement agency's obligations under subsection (c) of this section if the court, after appropriate evaluation of efforts made and services rendered, finds by clear and convincing evidence that the waiver of those obligations is in the best interest of the child.

(4) THE COURT SHALL WAIVE THE CHILD PLACEMENT AGENCY'S OBLIGATIONS UNDER SUBSECTION (C) OF THIS SECTION IF THE COURT FINDS THAT ONE OF THE CIRCUMSTANCES OR ACTS ENUMERATED IN PARAGRAPH (1)(V) OF THIS SUBSECTION EXISTS.

(5) IF THE COURT FINDS THAT ANY OF THE CIRCUMSTANCES OR ACTS ENUMERATED IN PARAGRAPH (1)(V) OF THIS SUBSECTION EXISTS, THE COURT SHALL MAKE A SPECIFIC FINDING, BASED ON FACTS IN THE RECORD, AS TO WHETHER OR NOT THE RETURN OF THE CHILD TO THE CUSTODY OF THE NATURAL PARENT POSES AN UNACCEPTABLE RISK TO THE FUTURE SAFETY OF THE CHILD.

5-322.

(a) (1) (i) Subject to paragraph (2) of this subsection, a petitioner shall give to each person whose consent is required notice of the filing of a petition for adoption or a petition for guardianship.

(ii) In addition to the notice of filing required under subparagraph (i) of this paragraph, if a petition for guardianship is filed after a juvenile proceeding in which the child has been adjudicated to be a child in need of assistance, a neglected child, or an abused child, a petitioner shall give notice of the filing of the petition for guardianship to:

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1. the attorney who represented a natural parent in the juvenile proceeding; and

2. the attorney who represented the minor child in the juvenile proceeding.

(2) A person whose consent is filed with the petition need not be given notice if the consent includes a waiver of the right to notice of the filing of the petition.

(3) The petitioner shall give notice by entry and service of a show cause order sent to the last known address that the petitioner has for each person whose consent is required.

(b) (1) If a petition for guardianship is filed after a juvenile proceeding in which the child has been adjudicated to be a child in need of assistance, the petitioner shall give notice to the child's natural parent by serving a show cause order by certified mail or private process on the natural parent:

[(1)] (I) if the natural parent was present at a CINA hearing and notified by the court of the requirements of § 3-837 of the Courts Article:

[(i)] 1. at the latest address listed in juvenile court records maintained in accordance with § 3-837 of the Courts Article;

[(ii)] 2. at the latest address listed in the records of the local department of social services; or

[(iii)] 3. at any other address listed in the records of the juvenile court or local department of social services within 6 months before the filing of the guardianship petition; or

[(2)] (II) if the natural parent was not present at a CINA hearing and notified by the court of the requirements of § 3-837 of the Courts Article:

[(i)] 1. at the latest address, if any, listed in juvenile court records maintained in accordance with § 3-837 of the Courts Article; or

[(ii)] 2. at any other address for the natural parent identified after reasonable good faith efforts to locate the parent.

(2) IF A PETITION FOR GUARDIANSHIP IS FILED AFTER A JUVENILE PROCEEDING IN WHICH THE CHILD HAS BEEN ADJUDICATED TO BE A CHILD IN NEED OF ASSISTANCE AND THE PETITION ALLEGES THAT THE CHILD HAS BEEN ABANDONED BY A PARENT AS DEFINED IN § 5-313(B)(2) OF THIS SUBTITLE, THE PETITIONER SHALL GIVE NOTICE IN ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBSECTION.

5-408.

(a) A subsidy may not be denied to an eligible child on the ground that the eligible child had a condition that was not known or discovered at the time of the adoption.

(b) An individual who has been approved by a child placement agency as an appropriate adoptive parent and who seeks to adopt an eligible child is eligible to receive a subsidy on behalf of the eligible child regardless of the individual's income or other eligibility factors.

(C) A SUBSIDY MAY NOT BE DENIED TO A CHILD WHOSE ADOPTION HAS BEEN DISSOLVED OR WHOSE ADOPTIVE PARENTS HAVE DIED IF THE CHILD RECEIVED AN ADOPTION SUBSIDY DURING THE CHILD'S PRIOR ADOPTION AND THE CHILD CONTINUES TO MEET THE CRITERIA SET FORTH IN § 5-403 OF THIS SUBTITLE.

[(c)] (D) The subsidy may not be discontinued solely because the adoptive parent moves from this State with the eligible child.

[(d)] (E) A subsidy may continue to be provided for an eligible child to an adult who is qualified to assume responsibility and who assumes responsibility for the care and welfare of the child upon the death or incapacitation of the child's adoptive parent.

5-501.

(Over)

(a) In this subtitle the following words have the meanings indicated.

(b) “Administration” means the Social Services Administration of the Department.

(C) “CHILD PLACEMENT AGENCY” HAS THE MEANING STATED IN § 5-301 OF THIS TITLE.

[(c)] (D) “Day care provider” means the adult who has primary responsibility for the operation of a family day care home.

[(d)] (E) “Family day care” means the care given to a child under the age of 13 years or to any developmentally disabled person under the age of 21 years of age, in place of parental care for less than 24 hours a day, in a residence other than the child's residence, for which the day care provider is paid.

[(e)] (F) “Family day care home” means a residence in which family day care is provided.

[(f)] (G) “Foster care” means continuous 24-hour care and supportive services provided for a minor child[,] PLACED in [a] AN APPROVED family home [or group facility, while the child needs substitute care].

(H) “GROUP CARE” MEANS CONTINUOUS 24-HOUR CARE AND SUPPORTIVE SERVICES PROVIDED FOR A MINOR CHILD PLACED IN A LICENSED GROUP FACILITY.

(I) “KINSHIP CARE” MEANS CONTINUOUS 24-HOUR CARE AND SUPPORTIVE SERVICES PROVIDED FOR A MINOR CHILD PLACED IN THE HOME OF A RELATIVE RELATED BY BLOOD OR MARRIAGE WITHIN THE 5TH DEGREE OF CONSANGUINITY OR AFFINITY UNDER THE CIVIL LAW RULE.

[(g)] (J) (1) “License” means a license issued by the Administration under this subtitle.

(2) “License” includes:

(i) a child placement agency license;

(ii) a child care home license; and

(iii) a child care institution license.

[(h)] (K) “Local board” means a local citizen board of review of foster care for children.

[(i)] (L) “Local department” means a local department of social services for a county.

(M) “OUT-OF-HOME PLACEMENT” MEANS PLACEMENT OF A CHILD INTO FOSTER CARE, KINSHIP CARE, GROUP CARE, OR RESIDENTIAL TREATMENT CARE.

(N) “RESIDENTIAL TREATMENT CARE” MEANS CONTINUOUS 24-HOUR CARE AND SUPPORTIVE SERVICES FOR A MINOR CHILD PLACED IN A FACILITY THAT PROVIDES FORMAL PROGRAMS OF BASIC CARE, SOCIAL WORK, AND HEALTH CARE SERVICES.

[(j)] (O) “State Board” means the State Citizen Board of Review of Foster Care for Children.

[(k)] (P) “Unregistered family day care home” means a residence in which family day care is provided and in which the day care provider:

(1) has not obtained a certificate of registration from the Department;

(2) is not related by blood or marriage to each child in the provider’s care;

(3) is not a friend of each child's parents or legal guardian and is providing care on a regular basis; and

(4) has not received the care of the child from a child placement agency licensed by the Administration or by a local department.

5-525.

(Over)

(a) The Administration shall establish a program of [foster care] OUT-OF-HOME PLACEMENT for minor children:

(1) who are placed in the custody of a local department, for a period of not more than 6 months, by a parent or legal guardian under a written agreement voluntarily entered into with the local department; or

(2) who are abused, abandoned, neglected, or dependent, if a juvenile court:

(i) has determined that continued residence in the child's home is contrary to the child's welfare; and

(ii) has committed the child to the custody or guardianship of a local department.

(B) IN ESTABLISHING THE OUT-OF-HOME PLACEMENT PROGRAM THE ADMINISTRATION SHALL:

(1) PROVIDE TIME-LIMITED FAMILY REUNIFICATION SERVICES TO A CHILD PLACED IN AN OUT-OF-HOME PLACEMENT AND TO THE PARENTS OR GUARDIAN OF THE CHILD, IN ORDER TO FACILITATE THE CHILD'S SAFE AND APPROPRIATE REUNIFICATION WITHIN A TIMELY MANNER; AND

(2) CONCURRENTLY DEVELOP AND IMPLEMENT A PERMANENCY PLAN THAT IS IN THE BEST INTERESTS OF THE CHILD.

[(b)] (C) (1) The local department shall provide 24-hour a day care and supportive services for a child who is committed to its custody or guardianship in [a licensed or approved foster family home, group home, or child care institution] AN OUT-OF-HOME PLACEMENT on a short-term basis[, while the local department develops and implements a permanency plan that is in the best interests of the child].

(2) (i) A child may not be committed to the custody or guardianship of a local department and placed in [foster care] AN OUT-OF-HOME PLACEMENT solely because the

child's parent or guardian lacks shelter.

(ii) The local department shall make appropriate referrals to emergency shelter services and other services for the homeless family with a child which lacks shelter.

(D) (1) UNLESS A COURT ORDERS THAT REASONABLE EFFORTS ARE NOT REQUIRED UNDER § 3-812.1 OF THE COURTS ARTICLE OR § 5-313 OF THIS TITLE, REASONABLE EFFORTS SHALL BE MADE TO PRESERVE AND REUNIFY FAMILIES:

(I) PRIOR TO THE PLACEMENT OF A CHILD IN AN OUT-OF-HOME PLACEMENT, TO PREVENT OR ELIMINATE THE NEED FOR REMOVING THE CHILD FROM THE CHILD'S HOME; AND

(II) TO MAKE IT POSSIBLE FOR A CHILD TO SAFELY RETURN TO THE CHILD'S HOME.

(2) IN DETERMINING THE REASONABLE EFFORTS TO BE MADE AND IN MAKING THE REASONABLE EFFORTS DESCRIBED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE CHILD'S SAFETY AND HEALTH SHALL BE THE PARAMOUNT CONCERN.

(3) REASONABLE EFFORTS TO PLACE A CHILD FOR ADOPTION OR WITH A LEGAL GUARDIAN MAY BE MADE CONCURRENTLY WITH THE REASONABLE EFFORTS DESCRIBED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

(4) IF CONTINUATION OF REASONABLE EFFORTS TO REUNIFY THE CHILD WITH THE CHILD'S PARENTS OR GUARDIAN IS DETERMINED TO BE INCONSISTENT WITH THE PERMANENCY PLAN FOR THE CHILD, REASONABLE EFFORTS SHALL BE MADE TO PLACE THE CHILD IN A TIMELY MANNER IN ACCORDANCE WITH THE PERMANENCY PLAN AND TO COMPLETE THE STEPS TO FINALIZE THE PERMANENT PLACEMENT OF THE CHILD.

[(c)] (E) (1) In developing a permanency plan for a child [under foster care] IN AN OUT-OF-HOME PLACEMENT, the local department of social services shall give primary

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consideration to the best interests of the child. The local department shall consider the following factors in determining the permanency plan that is in the best interests of the child:

(I) THE CHILD'S ABILITY TO BE SAFE AND HEALTHY IN THE HOME OF THE CHILD'S PARENT;

[(i)] (II) the child's attachment and emotional ties to the child's natural parents and siblings;

[(ii)] (III) the child's emotional attachment to the child's current caregiver and the caregiver's family;

[(iii)] (IV) the length of time the child has resided with the current caregiver;

[(iv)] (V) the potential emotional, developmental, and educational harm to the child if moved from the child's current placement; and

[(v)] (VI) the potential harm to the child by remaining in State custody for an excessive period of time.

(2) To the extent consistent with the best interests of the child [under foster care] IN AN OUT-OF-HOME PLACEMENT, the local department shall consider the following permanency plans, in descending order of priority:

(i) returning the child to the child's parent or guardian, unless the department is the guardian;

(ii) placing the child with relatives to whom adoption, guardianship, or care and custody, in descending order of priority, are planned to be granted;

(iii) adoption in the following descending order of priority:

1. by a current foster parent with whom the child has resided continually for at least the 12 months prior to developing the permanency plan or for a sufficient

length of time to have established positive relationships and family ties; or

2. by another approved adoptive family;

(iv) placing the child in a court approved permanent foster home with a specific caregiver;

(v) an independent living arrangement; or

(vi) long-term foster care.

[(d)] (F) (1) The local department shall:

(i) prepare the permanency plan in writing within 60 days of the date the child comes into care;

(ii) if the child is under the jurisdiction of the juvenile court, furnish the plan to the child's parents, the child or the child's counsel, and to the juvenile court; and

(iii) maintain the plan in the agency's case record.

(2) The local department shall amend the plan promptly as necessary in light of the child's situation and any court orders which affect the child.

[(e)] (G) Unless a child has received a review from the local board of review of foster care under § 5-544 of Part IV of this subtitle, the local department shall perform an administrative review every 6 months to determine the success of the efforts to meet the goals set out in the permanency plan or the agreement with the parents or guardians in voluntary placements.

[(f)] (H) (1) Foster parents who wish to adopt a foster child in their care and who wish to contest the agency's decision to place the child with another adoptive family may, within 30 days from the removal of the child, file with the agency a request for a hearing.

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(2) Within 10 days after receipt of a request for a hearing under paragraph (1) of this subsection, the agency shall notify the Office of Administrative Hearings, which shall hold the hearing and issue a decision within 45 days of the receipt of the request.

[(g)] (I) The Administration shall adopt regulations that:

(1) for the 12-month period beginning on October 1, 1983, and for each subsequent 12-month period, establish specific goals as to the maximum number of children who will remain in foster care for more than 2 years;

(2) prohibit a local department from seeking the custody or guardianship of a child for placement in foster care solely because the child's parent or guardian lacks shelter; and

(3) require the local department to make appropriate referrals to emergency shelter and other services for families with children who lack shelter.

5-525.1.

(A) If a child placement agency to which a child is committed under § 5-525 of this subtitle determines that adoption of the child is in the best interest of the child, the child placement agency shall refer the case to the agency attorney within 60 days of the determination and the agency attorney shall file a petition for termination of the natural parent's rights with the court within 60 days of receipt of the referral.

(B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A LOCAL DEPARTMENT TO WHICH A CHILD IS COMMITTED UNDER § 5-525 OF THIS SUBTITLE SHALL FILE A PETITION FOR TERMINATION OF PARENTAL RIGHTS OR JOIN A TERMINATION OF PARENTAL RIGHTS ACTION THAT HAS BEEN FILED IF:

(I) THE CHILD HAS BEEN IN AN OUT-OF-HOME PLACEMENT FOR 15 OF THE MOST RECENT 22 MONTHS;

(II) A COURT FINDS THAT THE CHILD IS AN ABANDONED INFANT;

OR

(III) A COURT FINDS THAT THE NATURAL PARENT HAS:

1. COMMITTED MURDER OF ANOTHER CHILD OF THE NATURAL PARENT;

2. COMMITTED VOLUNTARY MANSLAUGHTER OF ANOTHER CHILD OF THE NATURAL PARENT;

3. AIDED OR ABETTED, ATTEMPTED, CONSPIRED, OR SOLICITED TO COMMIT MURDER OR VOLUNTARY MANSLAUGHTER OF ANOTHER CHILD OF THE NATURAL PARENT; OR

4. COMMITTED A FELONY ASSAULT THAT RESULTS IN SERIOUS BODILY INJURY TO THE CHILD OR ANOTHER CHILD OF THE NATURAL PARENT.

(2) A LOCAL DEPARTMENT IS NOT REQUIRED TO FILE A PETITION OR JOIN AN ACTION IF:

(I) THE CHILD IS BEING CARED FOR BY A RELATIVE;

(II) THE LOCAL DEPARTMENT HAS DOCUMENTED IN THE CASE PLAN, WHICH SHALL BE AVAILABLE FOR COURT REVIEW, A COMPELLING REASON WHY TERMINATION OF PARENTAL RIGHTS WOULD NOT BE IN THE CHILD'S BEST INTERESTS; OR

(III) THE LOCAL DEPARTMENT HAS NOT PROVIDED SERVICES TO THE FAMILY CONSISTENT WITH THE TIME PERIOD IN THE LOCAL DEPARTMENT'S CASE PLAN THAT THE LOCAL DEPARTMENT CONSIDERS NECESSARY FOR THE SAFE RETURN OF THE CHILD TO THE CHILD'S HOME.

(C) IF A PETITION IS FILED UNDER SUBSECTION (B) OF THIS SECTION, THE LOCAL DEPARTMENT SHALL IDENTIFY, RECRUIT, PROCESS, AND SEEK TO APPROVE

A QUALIFIED FAMILY FOR ADOPTION, GUARDIANSHIP, OR OTHER PERMANENT PLACEMENT.

(D) THIS SECTION MAY NOT BE CONSTRUED TO PROHIBIT THE FILING OF A PETITION AT AN EARLIER DATE OR UNDER OTHER APPROPRIATE CIRCUMSTANCES.

Part IV. [Foster Care] OUT-OF-HOME PLACEMENT Review Boards.

5-539.

(a) (1) The State Board may adopt policies and procedures that:

(i) relate to the functions of the local boards; and

(ii) are consistent with the goals set forth in § 5-544 of this subtitle.

(2) If the Administration concurs, the State Board may establish categories of [foster care] children IN OUT-OF-HOME PLACEMENT for whom a satisfactory permanent placement has been made and who may be exempt from review by the local boards.

(b) The State Board shall:

(1) provide a training program for members of the local boards;

(2) review and coordinate the activities of the local boards;

(3) adopt policies and procedures that relate to reports and any other information that is required for any public or private agency or institution;

(4) make recommendations to the General Assembly that relate to [foster care] OUT-OF-HOME PLACEMENT policies and procedures; and

(5) subject to § 2-1246 of the State Government Article, report to the General Assembly on the first day of each year on the status of [foster care] children IN OUT-OF-HOME

PLACEMENT in this State.

5-540.

(a) Except as provided in subsection (b) of this section, there shall be at least 1 local board of review [of foster care] for minor children IN OUT-OF-HOME PLACEMENT in each county.

(b) Instead of a local board in each county, 2 or more counties may agree to establish a single multicounty local board.

5-541.

(a) (1) A local board consists of 7 members appointed by the Governor.

(2) If a single multicounty local board is established for 2 or more counties, and if it is necessary that 1 or more of those counties have a greater number of members on the local board in order for the local board to have 7 members, the greater number of members shall be appointed from the counties that have the largest [foster care] OUT-OF-HOME PLACEMENT populations, in order of the size of the [foster care] OUT-OF-HOME PLACEMENT populations.

(b) (1) Each member of a local board shall be a resident of a county that is served by the local board.

(2) Each member of a local board shall:

(i) be a citizen who has demonstrated an interest in minor children through community service, professional experience, or similar activities; or

(ii) have a background in law, sociology, psychology, psychiatry, education, social work, or medicine.

(c) (1) The term of a member is 4 years.

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(2) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(3) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

5-544.

The goals of each local board are:

(1) SUBJECT TO § 5-545 OF THIS SUBTITLE, as to minor children who have resided in [foster care] OUT-OF-HOME PLACEMENT under the jurisdiction of the local department for more than 6 months:

(i) to review the cases every 6 months to determine what efforts have been made to acquire permanent and stable placement for these children; and

(ii) to encourage and facilitate the return of each of these children to the child's parent or, on determining that return of a child to the child's parent is not in the best interests of the child, to encourage placement of the child with the child's relatives, provided the placement has legal status, or if neither measure is in the best interests of the child, to encourage efforts at adoption of the child;

(2) to encourage all possible efforts for permanent foster [care] PLACEMENT or guardianship for minor children for whom return to a parent or adoption is not feasible; and

(3) to report to the juvenile court on the status of efforts to secure permanent homes for minor children.

5-545.

(A) EACH LOCAL BOARD SHALL REVIEW CHILDREN IN OUT-OF-HOME PLACEMENT IN ACCORDANCE WITH LOCAL PLANS APPROVED BY THE STATE BOARD AND THE SECRETARY OF HUMAN RESOURCES.

[(a)] (B) Each local board shall report in writing to the juvenile court and the local department on each minor child whose case is reviewed by the local board.

[(b)] (C) In the report, the local board may recommend, as being in the best interest of the minor child:

(1) that the child be returned to the parent or legal guardian;

(2) that the child continue to be placed outside the home and that the present placement plan is appropriate to the child's needs;

(3) that the child continue to be placed outside the home, but that the present placement plan is inappropriate to the child's needs; or

(4) that proceedings be initiated to terminate the rights of the parent as to the child so that the child may be eligible for adoption.

5-546.

Each public or private agency or institution that provides or arranges [foster care] OUT-OF-HOME PLACEMENT for minor children under the jurisdiction of the local department shall give to the State Board and local boards any information that the boards [need] REQUEST to perform their duties.

5-547.

This Part IV of this subtitle [may]:

(1) MAY not be construed to restrict or alter the authority of any public or private agency or institution that deals with [foster care] OUT-OF-HOME PLACEMENT, adoption, or related matters; AND

(Over)

(2) IS RELATED TO AND SHOULD BE READ IN RELATION TO §§ 5-524, 5-525, 5-525.1, AND 5-534 OF THIS SUBTITLE.

Article - Courts and Judicial Proceedings

3-812.1.

(A) IN A PETITION ALLEGING THAT A CHILD IS IN NEED OF ASSISTANCE, THE LOCAL DEPARTMENT SHALL REQUEST THE COURT TO FIND THAT REASONABLE EFFORTS TO REUNIFY THE CHILD WITH THE CHILD'S NATURAL PARENT OR GUARDIAN ARE NOT REQUIRED IF THE LOCAL DEPARTMENT DETERMINES THAT A NATURAL PARENT HAS:

(1) SUBJECTED THE CHILD TO:

(I) TORTURE, CHRONIC ABUSE, OR SEXUAL ABUSE;

(II) LIFE-THREATENING CIRCUMSTANCES; OR

(III) INTRACTABLE NEGLECT NOT AMELIORATED BY THE PROVISION OF SERVICES;

(2) COMMITTED MURDER OF ANOTHER CHILD OF THE NATURAL PARENT;

(3) COMMITTED VOLUNTARY MANSLAUGHTER OF ANOTHER CHILD OF THE NATURAL PARENT;

(4) AIDED OR ABETTED, ATTEMPTED, CONSPIRED, OR SOLICITED TO COMMIT MURDER OR VOLUNTARY MANSLAUGHTER OF ANOTHER CHILD OF THE NATURAL PARENT;

(5) COMMITTED A FELONY ASSAULT THAT RESULTS IN SERIOUS BODILY INJURY TO THE CHILD OR ANOTHER CHILD OF THE NATURAL PARENT; OR

(6) INVOLUNTARILY LOST PARENTAL RIGHTS OF A SIBLING OF THE CHILD.

(B) IF THE LOCAL DEPARTMENT DETERMINES AFTER THE INITIAL PETITION IS FILED THAT ANY OF THE CIRCUMSTANCES SPECIFIED IN SUBSECTION (A) OF THIS SECTION EXISTS, THE LOCAL DEPARTMENT SHALL IMMEDIATELY REQUEST THE COURT TO FIND THAT REASONABLE EFFORTS TO REUNIFY THE CHILD WITH THE CHILD'S PARENT OR GUARDIAN ARE NOT REQUIRED.

(C) IF THE COURT FINDS BY CLEAR AND CONVINCING EVIDENCE THAT ANY OF THE CIRCUMSTANCES SPECIFIED IN SUBSECTION (A) OF THIS SECTION EXIST, THE COURT SHALL WAIVE THE REQUIREMENT THAT REASONABLE EFFORTS BE MADE TO REUNIFY THE CHILD WITH THE CHILD'S NATURAL PARENT OR GUARDIAN.

(D) IF THE COURT FINDS THAT REASONABLE EFFORTS ARE NOT REQUIRED, THE LOCAL DEPARTMENT SHALL:

(1) REQUEST THAT A PERMANENCY PLANNING HEARING BE HELD IN ACCORDANCE WITH § 3-826.1 OF THIS SUBTITLE WITHIN 30 DAYS AFTER THE COURT MAKES THE FINDING; AND

(2) MAKE REASONABLE EFFORTS TO PLACE THE CHILD IN A TIMELY MANNER IN ACCORDANCE WITH THE PERMANENCY PLAN AND COMPLETE THE STEPS NECESSARY TO FINALIZE THE PERMANENT PLACEMENT OF THE CHILD.

3-826.1.

(a) (1) THE COURT SHALL HOLD A PERMANENCY PLANNING HEARING:

(I) No later than [10] 11 months after [disposition made] A CHILD ENTERS AN OUT-OF-HOME PLACEMENT, AS DEFINED IN § 5-501 OF THE FAMILY LAW ARTICLE, in the case of a child alleged to be in need of assistance, [the court shall hold a hearing to

(Over)

review the implementation of a] TO DETERMINE THE permanency plan for each child committed under § 3-820(c)(1)(ii) of this subtitle; OR

(II) WITHIN 30 DAYS AFTER THE COURT DETERMINES THAT REASONABLE EFFORTS TO REUNIFY THE CHILD WITH THE CHILD'S NATURAL PARENT OR GUARDIAN ARE NOT REQUIRED BASED ON A FINDING THAT ONE OF THE CIRCUMSTANCES ENUMERATED IN § 3-812.1 OF THIS SUBTITLE HAS OCCURRED.

(2) FOR PURPOSES OF THIS SECTION AND § 5-525.1(B) OF THE FAMILY LAW ARTICLE, ENTRY INTO AN OUT-OF-HOME PLACEMENT OCCURS 30 DAYS AFTER THE CHILD IS PLACED INTO AN OUT-OF-HOME PLACEMENT.

(3) IF ALL PARTIES AGREE, THE PERMANENCY PLANNING HEARING MAY BE HELD ON THE SAME DAY AS THE REASONABLE EFFORTS HEARING.

(b) (1) Upon the written request of any party or on its own motion, the court may schedule a hearing at any earlier time to DETERMINE A PERMANENCY PLAN OR TO review the implementation of a permanency plan for any child committed pursuant to § 3-820 of this subtitle.

(2) The written request for review shall state the reason for the request and any issues to be raised.

(c) At the [review] PERMANENCY PLANNING hearing for [a] EACH child in placement, the court shall:

(1) Determine the [future status of] PERMANENCY PLAN FOR the child, including whether the child should be:

(i) Returned to the parent or guardian;

(ii) Placed with relatives to whom adoption or guardianship is granted;

(iii) Placed for adoption;

(iv) Emancipated;

(v) Because of the child's special needs or circumstances, continued in placement on a permanent or long-term basis; or

(vi) Because of the child's special needs or circumstances, continued in placement for a specified period; or

(2) For a child who has attained the age of 16, determine the services needed to assist the child to make the transition from placement to independent living.

(d) [For a child whom the court determines shall be continued in placement under subsection (c)(1)(vi) of this section:

(1) The court shall:

(i) Determine the continuing necessity for and appropriateness of the commitment;

(ii) Determine the extent of compliance with the permanency plan;

(iii) Determine the extent of progress which has been made toward alleviating or mitigating the causes necessitating commitment; and

(iv) Project a reasonable date by which a child in placement may be returned home or placed for adoption or legal guardianship; and

(2) The court shall conduct a review hearing no less frequently than every 6 months until commitment is rescinded.

(3) Every reasonable effort shall be made to effectuate a permanent placement for the child within 24 months from the date of initial placement.] THE COURT MAY NOT ORDER A CHILD TO BE CONTINUED IN PLACEMENT UNDER SUBSECTION (C)(1)(V) OR (VI) OF

(Over)

THIS SECTION UNLESS IT FINDS THAT THE AGENCY TO WHICH THE CHILD IS COMMITTED HAS DOCUMENTED A COMPELLING REASON FOR DETERMINING THAT IT WOULD NOT BE IN THE BEST INTEREST OF THE CHILD TO:

(1) RETURN HOME;

(2) BE REFERRED FOR TERMINATION OF PARENTAL RIGHTS; OR

(3) BE PLACED FOR ADOPTION OR GUARDIANSHIP WITH A SPECIFIED AND APPROPRIATE RELATIVE OR LEGAL GUARDIAN WILLING TO CARE FOR THE CHILD.

(e) For a child whom the court determines shall be placed for adoption under subsection (c)(1)(iii) of this section:

(1) The court shall order [that the petition for termination of parental rights shall be filed] A PARTY SUPPORTING A PLAN OF ADOPTION, WHO IS OTHERWISE PERMITTED TO FILE A PETITION FOR GUARDIANSHIP IN ACCORDANCE WITH TITLE 5, SUBTITLE 3 OF THE FAMILY LAW ARTICLE, TO FILE A PETITION within 30 days; and

(2) The court shall schedule the termination of parental rights hearing in lieu of the next 6-month review hearing.

[(f) For a child whom the court determines shall be placed in permanent foster care under subsection (c)(1)(v) of this section:

(1) The court may order permanent foster care or kinship care with a specific caregiver who agrees to care for the child on a permanent basis; and

(2) No review hearing need be held unless the court orders otherwise.

(g) For a child whom the court determines shall be placed in long-term foster care under subsection (c)(1)(v) of this section court reviews shall be conducted no less frequently than every 6 months.]

(F) (1) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE COURT SHALL CONDUCT A HEARING TO REVIEW THE PERMANENCY PLAN NO LESS FREQUENTLY THAN EVERY 6 MONTHS UNTIL COMMITMENT IS RESCINDED.

(II) THE COURT IS NOT REQUIRED TO HOLD A REVIEW HEARING EVERY 6 MONTHS IF THE COURT, AT THE PERMANENCY PLANNING HEARING OR AT A SUBSEQUENT REVIEW HEARING, GRANTS GUARDIANSHIP OF THE CHILD TO A RELATIVE OR OTHER PERSON, OR DETERMINES THAT THE CHILD SHALL BE CONTINUED IN PERMANENT FOSTER CARE OR KINSHIP CARE WITH A SPECIFIC CAREGIVER WHO AGREES TO CARE FOR THE CHILD ON A PERMANENT BASIS.

(2) AT THE REVIEW HEARING, THE COURT SHALL:

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

(II) DETERMINE THE EXTENT OF COMPLIANCE WITH THE PERMANENCY PLAN;

(III) DETERMINE THE EXTENT OF PROGRESS THAT HAS BEEN MADE TOWARD ALLEVIATING OR MITIGATING THE CAUSES NECESSITATING COMMITMENT;

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

(V) CHANGE THE PERMANENCY PLAN IF A CHANGE IN THE PERMANENCY PLAN WOULD BE IN THE CHILD'S BEST INTEREST; AND

(VI) EVALUATE THE SAFETY OF THE CHILD AND TAKE NECESSARY MEASURES TO PROTECT THE CHILD.

(Over)

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

(G)(1) IN THIS SUBSECTION, "PREADOPTIVE PARENT" MEANS AN INDIVIDUAL APPROVED AS AN ADOPTIVE PARENT BY A CHILD PLACEMENT AGENCY, AS DEFINED IN § 5-301 OF THE FAMILY LAW ARTICLE, TO ADOPT A CHILD WHO HAS BEEN PLACED IN THE INDIVIDUAL'S HOME FOR ADOPTION BEFORE THE GRANTING OF A FINAL DECREE OF ADOPTION.

(2) THE LOCAL DEPARTMENT SHALL GIVE AT LEAST 7 DAYS NOTICE, IF PRACTICABLE, BEFORE ANY HEARING CONDUCTED UNDER THIS SECTION TO THE CHILD'S FOSTER PARENT OR A PREADOPTIVE PARENT OR RELATIVE PROVIDING CARE FOR THE CHILD.

(3) THE FOSTER PARENT OR A PREADOPTIVE PARENT OR RELATIVE PROVIDING CARE FOR THE CHILD SHALL BE GIVEN THE OPPORTUNITY TO BE HEARD AT THE HEARING.

(4) A FOSTER PARENT OR A PREADOPTIVE PARENT OR RELATIVE PROVIDING CARE FOR THE CHILD MAY NOT BE CONSIDERED TO BE A PARTY SOLELY ON THE BASIS OF THE RIGHT TO NOTICE AND OPPORTUNITY TO BE HEARD PROVIDED UNDER THIS SUBSECTION."