

BY: House Judiciary Committee

AMENDMENTS TO HOUSE BILL NO. 1093

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in the sponsor line, strike “and E. Burns” and substitute “E. Burns, Taylor, Dewberry, Hurson, Dembrow, B. Hughes, Brinkley, Pitkin, Doory, Hixson, Kagan, Howard, Cadden, Petzold, DeCarlo, Finifter, Barve, Frank, Franchot, Minnick, Dypski, Leopold, Conroy, Morhaim, Valderrama, Kopp, Billings, Edwards, Love, Owings, Flanagan, Patterson, Harkins, Healey, Preis, Kittleman, Getty, McHale, Faulkner, Ciliberti, Cryor, Baldwin, Frush, Goldwater, Hecht, Mandel, Nathan-Pulliam, and Snodgrass”.

AMENDMENT NO. 2

On page 1, strike beginning with “authorizing” in line 3 down through “circumstances;” in line 4 and substitute “altering the purpose of certain provisions of law governing adoption and guardianship; altering the factors that a court is required to consider in determining whether it is in the best interest of a child to terminate a natural parent’s rights as to the child;”; in lines 6 and 22, in each instance, strike “requiring” and substitute “authorizing”; strike beginning with “requiring” in line 8 down through “manner;” in line 9 and substitute “requiring a court to make a specific finding as to whether or not the return of a child to the custody of the natural parent poses an unacceptable risk to the future safety of the child under certain circumstances; adding the Armed Forces of the United States to the list of agencies and persons that a local department of social services is required to contact before a court shall determine that a reasonable, good faith effort has been made to identify the address of a natural parent;”; in line 20, strike “requiring” and substitute “authorizing”; in line 19, after “circumstances;” insert “requiring local foster care review boards to review children in out-of-home placements in accordance with certain local plans; making certain conforming changes in certain provisions of law relating to foster care review boards;”; and in line 30, after “circumstances;” insert “requiring a court to evaluate certain factors and take certain actions at a certain review hearing;”.

On page 2, in line 4, after “Section” insert “5-303,”; in the same line, strike “5-322(b)” and

(Over)

substitute “5-322”; in the same line, after “5-525.1” insert “; and 5-539, 5-540, 5-541, 5-544, 5-545, 5-546, and 5-547, to be under the amended part “Part IV. Out-of-Home Placement Review Boards””; strike in their entirety lines 7 through 11, inclusive; and strike in their entirety lines 22 through 30, inclusive.

AMENDMENT NO. 3

On page 3, after line 1, insert:

“5-303.

(a) The General Assembly finds that the policies and procedures of this subtitle that concern adoption are socially necessary and desirable.

(b) The purposes of this subtitle are to:

(1) PROVIDE CHILDREN WITH STABLE HOMES THAT PROTECT THEIR SAFETY AND HEALTH;

(2) protect[

(1)] children from[

(i)] unnecessary separation from their natural parents; [and

(ii)] (3) PERMIT adoption ONLY by individuals who are [unfit] FIT for the responsibility;

[(2)] (4) PROTECT natural parents from MAKING a hurried or ill-considered decision to give up a child; and

[(3)] (5) PROTECT adoptive parents:

(i) by providing them information about the child and the child's background;

and

(ii) from a future disturbance of their relationship with the child by a natural parent.”.

AMENDMENT NO. 4

On page 3, in line 21, strike “(1)””; in lines 24 and 25, in each instance, strike the brackets; in the same lines strike “(I)” and “(II)”, respectively; and on pages 3 and 4, strike in their entirety the lines beginning with line 27 on page 3 through line 6 on page 4, inclusive.

On page 6, in line 34, strike “(1)””.

On page 7, in lines 1, 3, 5, 7, 10, 12, and 14, in each instance, strike the brackets; in lines 1, 3, 5, 7, 10, 12, and 14, strike “(I)”, “1.”, “2.”, “3.”, “(II)”, “1.”, and “2.”, respectively; and strike in their entirety lines 16 through 21, inclusive.

AMENDMENT NO. 5

On page 4, in line 9, strike “consider” and substitute “GIVE”; after line 9, insert:

“(1) PRIMARY CONSIDERATION TO THE SAFETY AND HEALTH OF THE CHILD; AND

(2) CONSIDERATION TO:”;

in lines 10, 12, 15, 18, 19, and 35, strike “(1)”, “(2)”, “(3)”, “(4)”, “(5)”, and “(6)”, respectively, and substitute “(I)”, “(II)”, “(III)”, “(IV)”, “(V)”, and “(VI)”, respectively; in lines 22, 26, 28, and 30, strike “(i)”, “(ii)”, “(iii)”, and “(iv)”, respectively, and substitute “1.”, “2.”, “3.”, and “4.”, respectively; and in line 19, before the first “the” insert “THE RESULT OF”.

AMENDMENT NO. 6

On page 5, strike beginning with “ABUSE” in line 24 down through “CHRONIC” in line 25 and substitute “ANY OF THE CONDITIONS SPECIFIED IN ITEMS (I), (II), OR (III) OF THIS PARAGRAPH THAT ARE CHRONIC OR LIFE-THREATENING TO THE CHILD”; in lines 26, 28, and 33, in each instance, strike “COMMITTED” and substitute “BEEN CONVICTED OF”; and

strike beginning with “AIDED” in line 30 down through “SOLICITED” in line 31 and substitute “BEEN CONVICTED OF AIDING OR ABETTING, ATTEMPTING, CONSPIRING, OR SOLICITING”.

On page 13, in lines 10, 12, and 17, in each instance, strike “COMMITTED” and substitute “BEEN CONVICTED OF”; and strike beginning with “AIDED” in line 14 down through “SOLICITED” in line 15 and substitute “BEEN CONVICTED OF AIDING OR ABETTING, ATTEMPTING, CONSPIRING, OR SOLICITING”.

On page 14, strike beginning with “ABUSE” in line 8 down through “CHRONIC” in line 9 and substitute “ANY OF THE CONDITIONS SPECIFIED IN § 5-313(D)(1)(I), (II), OR (III) OF THE FAMILY LAW ARTICLE THAT ARE CHRONIC OR LIFE-THREATENING TO THE CHILD”; in lines 10, 12, and 17, in each instance, strike “COMMITTED” and substitute “BEEN CONVICTED OF”; and in line 14, strike “AIDED OR ABETTED, ATTEMPTED, CONSPIRED, OR SOLICITED” and substitute “BEEN CONVICTED OF AIDING OR ABETTING, ATTEMPTING, CONSPIRING, OR SOLICITING”.

AMENDMENT NO. 7

On page 6, strike beginning with “paragraph” in line 6 down through “(IV)” in line 7 and substitute “PARAGRAPH (1)”; and strike in their entirety lines 12 through 15, inclusive.

On page 14, in lines 4, 23, and 27, in each instance, strike “SHALL” and substitute “MAY”.

AMENDMENT NO. 8

On page 6, after line 15, insert:

“(4) 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.”.

AMENDMENT NO. 9

On page 7, after line 21, insert:

“(c) (1) Except in an independent adoption, if the court is satisfied by affidavit or testimony that the petitioner, after reasonable efforts in good faith, cannot learn the identity or location of a natural parent, the court may waive the requirement of notice to the natural parent.

(2) In an independent adoption, if the court is satisfied by affidavit or testimony that the petitioner, after reasonable efforts in good faith, cannot learn the identity or location of a natural parent, the court may not waive the requirement of notice to the natural parent, but the court shall:

(i) order notice by publication; or

(ii) if the court finds the petitioner to be indigent, order notice by posting.

(3) If the child has been adjudicated to be a child in need of assistance in a prior juvenile proceeding, and the court is satisfied by affidavit or testimony that the petitioner has made reasonable good faith efforts to serve by both certified mail and private process one show cause order on the parent at the addresses specified in subsection (b) of this section, but was not successful, the court shall waive the requirement of notice to the natural parent.

(d) If a person is notified under this section and fails to file notice of objection within the time stated in the show cause order or if a person's notification has been waived under subsection (c) of this section:

(1) the court shall consider the person who is notified or whose notice is waived to have consented to the adoption or to the guardianship; and

(2) the petition shall be treated in the same manner as a petition to which consent has been given.

(e) (1) For a petition filed by a local department of social services, the court shall determine that a reasonable, good faith effort has been made to identify the last known address of the parent if the petitioner shows, by affidavit or testimony, that inquiries were made after the petition was filed, or within the 6 months preceding the filing of the petition, with the following:

(Over)

(i) the State Motor Vehicle Administration;

(ii) the local department of social services;

(iii) the State Department of Public Safety and Correctional Services;

(iv) the State Division of Parole and Probation;

(V) THE ARMED FORCES OF THE UNITED STATES, INCLUDING THE NATIONAL GUARD AND RESERVE;

[(v)] (VI) the detention center for the local jurisdiction in which the petition is filed;

[(vi)] (VII) the records of the juvenile court for the jurisdiction in which the petition is filed;

[(vii)] (VIII) a particular social services agency or detention facility, if the local department is aware that the parent has received benefits from that social services agency, or has been confined in that detention facility, within the 9 months preceding the filing of the petition; and

[(viii)] (IX) each of the following individuals that the petitioner is able to locate and contact:

1. the other parent of the child;
2. known members of the parent's immediate family; and
3. the parent's current or last known employer.

(2) (i) The inquiry shall be considered sufficient if made by searching the computer files of an identified agency or by making an inquiry to the agency or person by regular mail.

(ii) Failure to receive a response to an inquiry within 30 days of mailing shall constitute a negative response to the inquiry.

AMENDMENT NO. 10

On page 8, in line 23, after “PLACED” insert “BY A CHILD PLACEMENT AGENCY”.

AMENDMENT NO. 11

On page 10, in line 26, strike “PARAMOUNT” and substitute “PRIMARY”.

AMENDMENT NO. 12

On page 13, in line 1, strike “(2)” and substitute “(3)”; after line 19, insert:

“(2) FOR PURPOSES OF THIS SUBSECTION, A CHILD SHALL BE CONSIDERED TO HAVE ENTERED AN OUT-OF-HOME PLACEMENT 30 DAYS AFTER THE CHILD IS PLACED INTO AN OUT-OF-HOME PLACEMENT.”;

and in line 20, strike “(2)” and substitute “(3)”.

AMENDMENT NO. 13

On page 13, in line 35, after “TO” insert “;”

(1)”;

and in line 36, after “CIRCUMSTANCES” insert “; OR

(2) REQUIRE A LOCAL DEPARTMENT TO FILE A PETITION OR, EXCEPT AS OTHERWISE PROVIDED BY LAW, REQUIRE EXPEDITED TERMINATION OF PARENTAL RIGHTS FOR A CHILD IN KINSHIP CARE, AS DEFINED IN § 5-501 OF THIS SUBTITLE”.

AMENDMENT NO. 14

On page 13, after line 36, insert:

“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.

(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.

(Over)

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] OUT-OF-HOME PLACEMENT or guardianship for minor children for whom return to a parent or adoption is not feasible; and

(3) to report to the juvenile OR FAMILY 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 OR FAMILY 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

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

AMENDMENT NO. 15

On page 14, in line 26, after “FINDS” insert “BY CLEAR AND CONVINCING EVIDENCE”.

(Over)

AMENDMENT NO. 16

On page 15, in line 3, strike “12” and substitute “11”; and strike beginning with “ENTRY” in line 12 down through “PLACEMENT” in line 13 and substitute “FOR PURPOSES OF THIS SECTION, A CHILD SHALL BE CONSIDERED TO HAVE ENTERED AN OUT-OF-HOME PLACEMENT 30 DAYS AFTER THE CHILD IS PLACED INTO AN OUT-OF-HOME PLACEMENT”.

AMENDMENT NO. 17

On page 17, in line 28, strike “AND”; and in line 30, after “INTEREST” insert “; AND”

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

AMENDMENT NO. 18

On page 18, after line 23, insert:

“SECTION 4. AND BE IT FURTHER ENACTED, That any reference in the Annotated Code to “foster care review boards”, rendered obsolete by this Act, shall be corrected by the publisher of the Annotated Code in consultation with the Executive Director of Legislative Services, with no further action required by the General Assembly. The publisher of the Annotated Code shall adequately describe any such correction in an editor’s note following the section affected.”;

and in line 24, strike “4.” and substitute “5.”.