

HOUSE BILL 1093

Unofficial Copy
D4

1998 Regular Session
(8lr2503)

ENROLLED BILL
-- Judiciary/Judicial Proceedings --

Introduced by Delegates Montague, Menes, Comeau, Hubbard, Turner, Genn, Jones, Grosfeld, R. Baker, and E. Burns 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

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Family Law - Children in Out-of-Home Placements**

3 FOR the purpose of ~~authorizing a court to find a certain child to be abandoned under~~
4 ~~certain circumstances; altering the purpose of certain provisions of law~~
5 ~~governing adoption and guardianship; altering the factors that a court is~~
6 ~~required to consider in determining whether it is in the best interest of a child to~~
7 ~~terminate a natural parent's rights as to the child; adding to the continuing or~~
8 ~~serious conditions or acts a court is required to consider in determining whether~~
9 ~~it is in the best interest of a certain child to terminate the natural parent's~~
10 ~~rights; requiring authorizing requiring~~ a court to waive certain obligations of a

1 child placement agency under certain circumstances; ~~requiring that notice of a~~
 2 ~~certain petition for guardianship be given in a certain manner; requiring a court~~
 3 ~~to make a specific finding as to whether or not the return of a child to the~~
 4 ~~custody of the natural parent poses an unacceptable risk to the future safety of~~
 5 ~~the child under certain circumstances; adding the Armed Forces of the United~~
 6 ~~States to the list of agencies and persons that a local department of social~~
 7 ~~services is required to contact before a court shall determine that a reasonable,~~
 8 ~~good faith effort has been made to identify the address of a natural parent;~~
 9 prohibiting an adoption subsidy from being denied to a certain child whose
 10 adoption has been dissolved or whose adoptive parents have died under certain
 11 circumstances; requiring the Social Services Administration, in establishing an
 12 out-of-home placement program, to provide certain reunification services and
 13 concurrently develop and implement a certain permanency plan; requiring
 14 certain reasonable efforts to preserve and reunify families under certain
 15 circumstances; adding to the factors a local department of social services is
 16 required to consider in determining the permanency plan that is in the best
 17 interests of a child; requiring a local department of social services to file a
 18 petition for termination of parental rights or join a termination of parental
 19 rights action that has been filed under certain circumstances; requiring local
 20 foster care review boards to review children in out-of-home placements in
 21 accordance with certain local plans; making certain conforming changes in
 22 certain provisions of law relating to foster care review boards; requiring
 23 authorizing a local department of social services to request a court to find that
 24 reasonable efforts to reunify the child with the child's parent are not required
 25 under certain circumstances; ~~requiring authorizing~~ *requiring* a court to waive
 26 the requirement that reasonable efforts be made under certain circumstances;
 27 requiring the local department to take certain actions if the court finds that
 28 reasonable efforts are not required; altering the time period within which a
 29 court is required to hold a permanency planning hearing; prohibiting a court
 30 from continuing certain children in placement unless it makes a certain finding;
 31 requiring the court to order a certain party to file a certain petition within a
 32 certain time period; providing that the court is not required to hold certain
 33 review hearings under certain circumstances; requiring a court to evaluate
 34 certain factors and take certain actions at a certain review hearing; requiring a
 35 local department of social services to give *certain* notice of certain hearings to
 36 certain persons *under certain circumstances*; altering certain definitions;
 37 defining certain terms; requiring the State to comply with certain provisions of
 38 this Act for a certain number of children by a certain date; providing for the
 39 application of a certain provision of this Act; and generally relating to certain
 40 children in out-of-home placements.

41 BY repealing and reenacting, with amendments,
 42 Article - Family Law
 43 Section ~~5-303, 5-313, 5-322(b) 5-322,~~ 5-408, 5-501, 5-525, and 5-525.1; and
 44 5-539, 5-540, 5-541, 5-544, 5-545, 5-546, and 5-547, to be under the
 45 amended part "Part IV. Out-of-Home Placement Review Boards"
 46 Annotated Code of Maryland
 47 (1991 Replacement Volume and 1997 Supplement)

1 ~~BY repealing and reenacting, without amendments,~~
 2 ~~Article - Family Law~~
 3 ~~Section 5-322(a)~~
 4 ~~Annotated Code of Maryland~~
 5 ~~(1991 Replacement Volume and 1997 Supplement)~~

6 BY adding to
 7 Article - Courts and Judicial Proceedings
 8 Section 3-812.1
 9 Annotated Code of Maryland
 10 (1995 Replacement Volume and 1997 Supplement)

11 BY repealing and reenacting, with amendments,
 12 Article - Courts and Judicial Proceedings
 13 Section 3-826.1
 14 Annotated Code of Maryland
 15 (1995 Replacement Volume and 1997 Supplement)

16 **Preamble**

17 ~~WHEREAS, The goal of Maryland's child welfare system is safety and~~
 18 ~~permanency for children; and~~

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

21 ~~WHEREAS, The State recognizes that in some circumstances it is not possible~~
 22 ~~or in the best interest of the child to return the child to the child's parents; and~~

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

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

27 **Article - Family Law**

28 5-303.

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

31 (b) The purposes of this subtitle are to:

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

1 (2) protect;

2 (1)] children from;

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

4 (ii)] (3) PERMIT adoption ONLY by individuals who are [unfit] FIT

5 for the responsibility;

6 [(2)] (4) PROTECT natural parents from MAKING a hurried or

7 ill-considered decision to give up a child; and

8 [(3)] (5) PROTECT adoptive parents:

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

10 background; and

11 (ii) from a future disturbance of their relationship with the child by

12 a natural parent.

13 5-313.

14 (a) A court may grant a decree of adoption or a decree of guardianship,

15 without the consent of a natural parent otherwise required by §§ 5-311 and 5-317 of

16 this subtitle, if the court finds by clear and convincing evidence that it is in the best

17 interest of the child to terminate the natural parent's rights as to the child and that:

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

19 (2) in a prior juvenile proceeding, the child has been adjudicated to be a

20 child in need of assistance, a neglected child, an abused child, or a dependent child; or

21 (3) the following set of circumstances exists:

22 (i) the child has been continuously out of the custody of the natural

23 parent and in the custody of a child placement agency for at least 1 year;

24 (ii) the conditions that led to the separation from the natural

25 parent still exist or similar conditions of a potentially harmful nature still exist;

26 (iii) there is little likelihood that those conditions will be remedied

27 at an early date so that the child can be returned to the natural parent in the

28 immediate future; and

29 (iv) a continuation of the relationship between the natural parent

30 and the child would diminish greatly the child's prospects for early integration into a

31 stable and permanent family.

32 (b) (+) The court may find that a child is abandoned for purposes of this

33 section if, after a thorough investigation by the child placement agency, the court

34 finds that:

1 ~~{1}~~ ~~(A)~~ the identity of the child's natural parents is unknown; and

2 ~~{2}~~ ~~(B)~~ no one has claimed to be the child's natural parent within 2
3 months of the alleged abandonment of the child.

4 ~~(2)~~ ~~(1)~~ ~~SUBJECT TO THE PROVISIONS OF SUBPARAGRAPHS (II) AND (III)~~
5 ~~OF THIS PARAGRAPH, THE COURT MAY FIND THAT A CHILD WHO IS 24 MONTHS OLD~~
6 ~~OR YOUNGER ON THE DATE THE PETITION FOR TERMINATION OF PARENTAL RIGHTS~~
7 ~~IS FILED IS ABANDONED FOR PURPOSES OF THIS SECTION IF THE NATURAL PARENT~~
8 ~~HAS NOT CONTACTED THE CHILD PLACEMENT AGENCY OR THE CHILD IN PERSON,~~
9 ~~BY TELEPHONE, IN WRITING, OR BY ANY OTHER METHOD OF COMMUNICATION~~
10 ~~WITHIN 6 CONSECUTIVE MONTHS BEFORE THE FILING OF THE PETITION, DESPITE~~
11 ~~THE OPPORTUNITY TO DO SO.~~

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

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

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

21 ~~(1)~~ ~~PRIMARY CONSIDERATION TO THE SAFETY AND HEALTH OF THE~~
22 ~~CHILD; AND~~

23 ~~(2)~~ ~~CONSIDERATION TO:~~

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

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

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

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

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

36 ~~(1)~~ ~~1.~~ the extent to which the natural parent has maintained
37 regular contact with the child under a plan to reunite the child with the natural

1 parent, but the court may not give significant weight to any incidental visit,
2 communication, or contribution;

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

5 ~~(iii)~~ 3. the maintenance of regular communication by the natural
6 parent with the custodian of the child; and

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

13 ~~(6)~~ (VI) all services offered to the natural parent before the placement of
14 the child, whether offered by the agency to which the child is committed or by other
15 agencies or professionals.

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

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

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

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

30 (iv) 1. the child was born:

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

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

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

1 (V) THE NATURAL PARENT HAS:

2 1. ~~SUBJECTED THE CHILD TO ABUSE OR NEGLECT THAT IS~~
 3 ~~SIGNIFICANT, LIFE-THREATENING, OR CHRONIC ANY OF THE CONDITIONS~~
 4 ~~SPECIFIED IN ITEMS (I), (II), OR (III) OF THIS PARAGRAPH THAT ARE CHRONIC OR~~
 5 ~~LIFE-THREATENING TO THE CHILD;~~

6 2. ~~COMMITTED BEEN CONVICTED OF MURDER OF ANOTHER~~
 7 ~~CHILD OF THE NATURAL PARENT;~~

8 3. ~~COMMITTED BEEN CONVICTED OF VOLUNTARY~~
 9 ~~MANSLAUGHTER OF ANOTHER CHILD OF THE NATURAL PARENT;~~

10 4. ~~AIDED OR ABETTED, ATTEMPTED, CONSPIRED, OR~~
 11 ~~SOLICITED BEEN CONVICTED OF AIDING OR ABETTING, ATTEMPTING, CONSPIRING,~~
 12 ~~OR SOLICITING TO COMMIT MURDER OR VOLUNTARY MANSLAUGHTER OF ANOTHER~~
 13 ~~CHILD OF THE NATURAL PARENT;~~

14 5. ~~COMMITTED BEEN CONVICTED OF A FELONY ASSAULT~~
 15 ~~THAT RESULTS IN SERIOUS BODILY INJURY TO THE CHILD OR ANOTHER CHILD OF~~
 16 ~~THE NATURAL PARENT; OR~~

17 6. ~~INVOLUNTARILY LOST PARENTAL RIGHTS OF A SIBLING~~
 18 ~~OF THE CHILD.~~

19 1. SUBJECTED THE CHILD TO:

20 A. TORTURE, CHRONIC ABUSE, OR SEXUAL ABUSE; OR

21 B. CHRONIC AND LIFE-THREATENING NEGLECT;

22 2. BEEN CONVICTED:

23 A. IN THIS STATE OF A CRIME OF VIOLENCE, AS DEFINED IN
 24 ARTICLE 27, § 643B OF THE CODE, AGAINST THE CHILD, THE OTHER NATURAL
 25 PARENT OF THE CHILD, ANOTHER CHILD OF THE NATURAL PARENT, OR ANY PERSON
 26 WHO RESIDES IN THE HOUSEHOLD OF THE NATURAL PARENT;

27 B. IN ANY STATE OR IN ANY COURT OF THE UNITED STATES
 28 OF A CRIME THAT WOULD BE A CRIME OF VIOLENCE, AS DEFINED IN ARTICLE 27, §
 29 643B OF THE CODE, IF COMMITTED IN THIS STATE AGAINST THE CHILD, THE OTHER
 30 NATURAL PARENT OF THE CHILD, ANOTHER CHILD OF THE NATURAL PARENT, OR
 31 ANY PERSON WHO RESIDES IN THE HOUSEHOLD OF THE NATURAL PARENT; OR

32 C. OF AIDING OR ABETTING, CONSPIRING, OR SOLICITING TO
 33 COMMIT A CRIME DESCRIBED IN ITEM A OR ITEM B OF THIS ITEM; OR

34 3. INVOLUNTARILY LOST PARENTAL RIGHTS OF A SIBLING
 35 OF THE CHILD.

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

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

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

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

18 ~~(4) (5) IF THE COURT FINDS THAT ANY OF THE CIRCUMSTANCES OR~~
 19 ~~ACTS ENUMERATED IN PARAGRAPH (1)(V) OF THIS SUBSECTION EXISTS, THE COURT~~
 20 ~~SHALL MAKE A SPECIFIC FINDING, BASED ON FACTS IN THE RECORD, AS TO~~
 21 ~~WHETHER OR NOT THE RETURN OF THE CHILD TO THE CUSTODY OF THE NATURAL~~
 22 ~~PARENT POSES AN UNACCEPTABLE RISK TO THE FUTURE SAFETY OF THE CHILD.~~

23 ~~5-322.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 (i) ~~order notice by publication; or~~

1 (ii) ~~if the court finds the petitioner to be indigent, order notice by~~
2 ~~posting;~~

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

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

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

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

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

21 (i) ~~the State Motor Vehicle Administration;~~

22 (ii) ~~the local department of social services;~~

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

25 (iv) ~~the State Division of Parole and Probation;~~

26 (v) ~~THE ARMED FORCES OF THE UNITED STATES, INCLUDING THE~~
27 ~~NATIONAL GUARD AND RESERVE;~~

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

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

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

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

3 ~~1. the other parent of the child;~~

4 ~~2. known members of the parent's immediate family; and~~

5 ~~3. the parent's current or last known employer.~~

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

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

11 5-408.

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

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

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

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

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

29 5-501.

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

31 (b) "Administration" means the Social Services Administration of the
 32 Department.

33 (C) "CHILD PLACEMENT AGENCY" HAS THE MEANING STATED IN § 5-301 OF
 34 THIS TITLE.

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

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

7 [(e)] (F) "Family day care home" means a residence in which family day care
8 is provided.

9 [(f)] (G) "Foster care" means continuous 24-hour care and supportive services
10 provided for a minor child[,] PLACED BY A CHILD PLACEMENT AGENCY in [a] AN
11 APPROVED family home [or group facility, while the child needs substitute care].

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

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

18 [(g)] (J) (1) "License" means a license issued by the Administration under
19 this subtitle.

20 (2) "License" includes:

21 (i) a child placement agency license;

22 (ii) a child care home license; and

23 (iii) a child care institution license.

24 [(h)] (K) "Local board" means a local citizen board of review of foster care for
25 children.

26 [(i)] (L) "Local department" means a local department of social services for a
27 county.

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

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

34 [(j)] (O) "State Board" means the State Citizen Board of Review of Foster
35 Care for Children.

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

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

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

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

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

9 5-525.

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

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

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

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

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

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

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

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

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

34 (2) (i) A child may not be committed to the custody or guardianship of
35 a local department and placed in [foster care] AN OUT-OF-HOME PLACEMENT solely
36 because the child's parent or guardian lacks shelter.

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

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

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

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

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

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

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

25 [(c)] (E) (1) In developing a permanency plan for a child [under foster care]
26 IN AN OUT-OF-HOME PLACEMENT, the local department of social services shall give
27 primary consideration to the best interests of the child. The local department shall
28 consider the following factors in determining the permanency plan that is in the best
29 interests of the child:

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

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

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

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

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

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

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

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

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

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

14 1. by a current foster parent with whom the child has resided
15 continually for at least the 12 months prior to developing the permanency plan or for
16 a sufficient length of time to have established positive relationships and family ties;
17 or

18 2. by another approved adoptive family;

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

21 (v) an independent living arrangement; or

22 (vi) long-term foster care.

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

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

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

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

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

32 [(e)] (G) Unless a child has received a review from the local board of review of
33 foster care under § 5-544 of Part IV of this subtitle, the local department shall
34 perform an administrative review every 6 months to determine the success of the

1 efforts to meet the goals set out in the permanency plan or the agreement with the
2 parents or guardians in voluntary placements.

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

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

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

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

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

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

20 5-525.1.

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

26 (B) (1) EXCEPT AS PROVIDED IN PARAGRAPH ~~(2)~~ (3) OF THIS SUBSECTION, A
27 LOCAL DEPARTMENT TO WHICH A CHILD IS COMMITTED UNDER § 5-525 OF THIS
28 SUBTITLE SHALL FILE A PETITION FOR TERMINATION OF PARENTAL RIGHTS OR JOIN
29 A TERMINATION OF PARENTAL RIGHTS ACTION THAT HAS BEEN FILED IF:

30 (I) THE CHILD HAS BEEN IN AN OUT-OF-HOME PLACEMENT FOR
31 15 OF THE MOST RECENT 22 MONTHS;

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

34 (III) A COURT FINDS THAT THE NATURAL PARENT HAS BEEN
35 CONVICTED:

36 1. ~~COMMITTED BEEN CONVICTED OF MURDER OF ANOTHER~~
37 ~~CHILD OF THE NATURAL PARENT;~~

1 (D) THIS SECTION MAY NOT BE CONSTRUED TO:

2 (1) PROHIBIT THE FILING OF A PETITION AT AN EARLIER DATE OR
3 UNDER OTHER APPROPRIATE CIRCUMSTANCES; OR

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

7 Part IV. [Foster Care] OUT-OF-HOME PLACEMENT Review Boards.
8 5-539.

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

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

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

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

16 (b) The State Board shall:

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

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

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

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

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

26 5-540.

27 (a) Except as provided in subsection (b) of this section, there shall be at least
28 1 local board of review [of foster care] for minor children IN OUT-OF-HOME
29 PLACEMENT in each county.

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

1 5-541.

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

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

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

11 (2) Each member of a local board shall:

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

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

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

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

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

21 5-544.

22 The goals of each local board are:

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

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

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

33 (2) to encourage all possible efforts for permanent ~~foster care~~
34 ~~OUT-OF-HOME PLACEMENT OR KINSHIP CARE~~ or guardianship for minor children for
35 whom return to a parent or adoption is not feasible; and

1 (3) to report to the juvenile ~~OR-FAMILY~~ court on the status of efforts to
 2 secure permanent homes for minor children.

3 5-545.

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

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

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

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

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

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

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

19 5-546.

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

24 5-547.

25 This Part IV of this subtitle [may]:

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

29 (2) IS RELATED TO AND SHOULD BE READ IN RELATION TO §§ 5-524,
 30 5-525, 5-525.1, AND 5-534 OF THIS SUBTITLE.

31 **Article - Courts and Judicial Proceedings**

32 3-812.1.

33 (A) IN A PETITION ALLEGING THAT A CHILD IS IN NEED OF ASSISTANCE, THE
 34 LOCAL DEPARTMENT ~~SHALL~~ MAY REQUEST THE COURT TO FIND THAT REASONABLE

1 EFFORTS TO REUNIFY THE CHILD WITH THE CHILD'S NATURAL PARENT OR
 2 GUARDIAN ARE NOT REQUIRED IF THE LOCAL DEPARTMENT DETERMINES THAT A
 3 NATURAL PARENT HAS:

4 (1) ~~SUBJECTED THE CHILD TO ABUSE OR NEGLECT THAT IS~~
 5 ~~SIGNIFICANT, LIFE THREATENING, OR CHRONIC ANY OF THE CONDITIONS~~
 6 ~~SPECIFIED IN § 5-313(D)(1)(D), (II), OR (III) OF THE FAMILY LAW ARTICLE THAT ARE~~
 7 ~~CHRONIC OR LIFE THREATENING TO THE CHILD;~~

8 (2) ~~COMMITTED BEEN CONVICTED OF MURDER OF ANOTHER CHILD OF~~
 9 ~~THE NATURAL PARENT;~~

10 (3) ~~COMMITTED BEEN CONVICTED OF VOLUNTARY MANSLAUGHTER OF~~
 11 ~~ANOTHER CHILD OF THE NATURAL PARENT;~~

12 (4) ~~AIDED OR ABETTED, ATTEMPTED, CONSPIRED, OR SOLICITED BEEN~~
 13 ~~CONVICTED OF AIDING OR ABETTING, ATTEMPTING, CONSPIRING, OR SOLICITING TO~~
 14 ~~COMMIT MURDER OR VOLUNTARY MANSLAUGHTER OF ANOTHER CHILD OF THE~~
 15 ~~NATURAL PARENT;~~

16 (5) ~~COMMITTED BEEN CONVICTED OF A FELONY ASSAULT THAT~~
 17 ~~RESULTS IN SERIOUS BODILY INJURY TO THE CHILD OR ANOTHER CHILD OF THE~~
 18 ~~NATURAL PARENT; OR~~

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

21 (1) SUBJECTED THE CHILD TO:

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

23 (II) CHRONIC AND LIFE-THREATENING NEGLECT;

24 (2) BEEN CONVICTED:

25 (I) IN THIS STATE OF A CRIME OF VIOLENCE, AS DEFINED IN
 26 ARTICLE 27, § 643B OF THE CODE, AGAINST THE CHILD, THE OTHER NATURAL
 27 PARENT OF THE CHILD, ANOTHER CHILD OF THE NATURAL PARENT, OR ANY PERSON
 28 WHO RESIDES IN THE HOUSEHOLD OF THE NATURAL PARENT;

29 (II) IN ANY STATE OR IN ANY COURT OF THE UNITED STATES OF A
 30 CRIME THAT WOULD BE A CRIME OF VIOLENCE, AS DEFINED IN ARTICLE 27, § 643B OF
 31 THE CODE, IF COMMITTED IN THIS STATE AGAINST THE CHILD, THE OTHER
 32 NATURAL PARENT OF THE CHILD, ANOTHER CHILD OF THE NATURAL PARENT, OR
 33 ANY PERSON WHO RESIDES IN THE HOUSEHOLD OF THE NATURAL PARENT; OR

34 (III) OF AIDING OR ABETTING, CONSPIRING, OR SOLICITING TO
 35 COMMIT A CRIME DESCRIBED IN ITEM A OR ITEM B OF THIS ITEM; OR

36 (3) INVOLUNTARILY LOST PARENTAL RIGHTS OF A SIBLING OF A CHILD.

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

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

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

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

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

19 3-826.1.

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

21 (I) No later than [10] ~~42~~ 11 months after [disposition made] A
 22 CHILD ENTERS AN OUT-OF-HOME PLACEMENT, AS DEFINED IN § 5-501 OF THE
 23 FAMILY LAW ARTICLE, in the case of a child alleged to be in need of assistance, [the
 24 court shall hold a hearing to review the implementation of a] TO DETERMINE THE
 25 permanency plan for each child committed under § 3-820(c)(1)(ii) of this subtitle; OR

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

30 (2) ~~ENTRY INTO AN OUT-OF-HOME PLACEMENT OCCURS ON THE DAY~~
 31 ~~THE CHILD IS PLACED INTO AN OUT-OF-HOME PLACEMENT FOR PURPOSES OF THIS~~
 32 SECTION, A CHILD SHALL BE CONSIDERED TO HAVE ENTERED AN OUT-OF-HOME
 33 PLACEMENT 30 DAYS AFTER THE CHILD IS PLACED INTO AN OUT-OF-HOME
 34 PLACEMENT.

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

37 (b) (1) Upon the written request of any party or on its own motion, the court
 38 may schedule a hearing at any earlier time to DETERMINE A PERMANENCY PLAN OR

1 TO review the implementation of a permanency plan for any child committed
2 pursuant to § 3-820 of this subtitle.

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

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

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

9 (i) Returned to the parent or guardian;

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

12 (iii) Placed for adoption;

13 (iv) Emancipated;

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

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

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

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

23 (1) The court shall:

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

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

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

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

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

1 (3) Every reasonable effort shall be made to effectuate a permanent
2 placement for the child within 24 months from the date of initial placement.] THE
3 COURT MAY NOT ORDER A CHILD TO BE CONTINUED IN PLACEMENT UNDER
4 SUBSECTION (C)(1)(V) OR (VI) OF THIS SECTION UNLESS IT FINDS THAT THE AGENCY
5 TO WHICH THE CHILD IS COMMITTED HAS DOCUMENTED A COMPELLING REASON
6 FOR DETERMINING THAT IT WOULD NOT BE IN THE BEST INTEREST OF THE CHILD
7 TO:

8 (1) RETURN HOME;

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

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

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

15 (1) The court shall order [that the petition for termination of parental
16 rights shall be filed] A PARTY SUPPORTING A PLAN OF ADOPTION, WHO IS
17 OTHERWISE PERMITTED TO FILE A PETITION FOR GUARDIANSHIP IN ACCORDANCE
18 WITH TITLE 5, SUBTITLE 3 OF THE FAMILY LAW ARTICLE, TO FILE A PETITION within
19 30 days; and

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

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

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

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

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

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

34 (II) THE COURT IS NOT REQUIRED TO HOLD A REVIEW HEARING
35 EVERY 6 MONTHS IF THE COURT, AT THE PERMANENCY PLANNING HEARING OR AT A
36 SUBSEQUENT REVIEW HEARING, GRANTS GUARDIANSHIP OF THE CHILD TO A
37 RELATIVE OR OTHER PERSON, OR DETERMINES THAT THE CHILD SHALL BE

1 CONTINUED IN PERMANENT FOSTER CARE OR KINSHIP CARE WITH A SPECIFIC
2 CAREGIVER WHO AGREES TO CARE FOR THE CHILD ON A PERMANENT BASIS.

3 (2) AT THE REVIEW HEARING, 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
7 PERMANENCY PLAN;

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

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

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

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

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

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

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

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

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

1 SECTION 2. AND BE IT FURTHER ENACTED, That with respect to children
2 in out-of-home placements on July 1, 1998, the State shall comply with § 5-525.1(b)
3 and (c) of the Family Law Article, as enacted by this Act for:

4 (1) one-third of the children effective October 1, 1998, giving priority to
5 children for whom the permanency plan is adoption and children who have been in
6 foster care for the greatest length of time;

7 (2) another third of the children effective April 1, 1999; and

8 (3) all remaining children effective October 1, 1999.

9 SECTION 3. AND BE IT FURTHER ENACTED, That, § 5-408(c) of the Family
10 Law Article, as enacted by this Act, shall apply only to children who are adopted on or
11 after October 1, 1997.

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

18 SECTION 4. 5. AND BE IT FURTHER ENACTED, That, subject to the
19 provisions of Section 2 of this Act, this Act shall take effect July 1, 1998.