

HOUSE BILL 1093

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1998 Regular Session
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House action: Adopted
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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 a court to waive certain obligations of a child~~
11 ~~placement agency under certain circumstances; requiring that notice of a certain~~
12 ~~petition for guardianship be given in a certain manner; requiring a court to~~
13 ~~make a specific finding as to whether or not the return of a child to the custody~~
14 ~~of the natural parent poses an unacceptable risk to the future safety of the child~~
15 ~~under certain circumstances; adding the Armed Forces of the United States to~~
16 ~~the list of agencies and persons that a local department of social services is~~
17 ~~required to contact before a court shall determine that a reasonable, good faith~~
18 ~~effort has been made to identify the address of a natural parent; prohibiting an~~
19 ~~adoption subsidy from being denied to a certain child whose adoption has been~~
20 ~~dissolved or whose adoptive parents have died under certain circumstances;~~
21 ~~requiring the Social Services Administration, in establishing an out-of-home~~

1 placement program, to provide certain reunification services and concurrently
 2 develop and implement a certain permanency plan; requiring certain reasonable
 3 efforts to preserve and reunify families under certain circumstances; adding to
 4 the factors a local department of social services is required to consider in
 5 determining the permanency plan that is in the best interests of a child;
 6 requiring a local department of social services to file a petition for termination of
 7 parental rights or join a termination of parental rights action that has been filed
 8 under certain circumstances; requiring local foster care review boards to review
 9 children in out-of-home placements in accordance with certain local plans;
 10 making certain conforming changes in certain provisions of law relating to foster
 11 care review boards; requiring authorizing a local department of social services to
 12 request a court to find that reasonable efforts to reunify the child with the
 13 child's parent are not required under certain circumstances; ~~requiring~~
 14 authorizing a court to waive the requirement that reasonable efforts be made
 15 under certain circumstances; requiring the local department to take certain
 16 actions if the court finds that reasonable efforts are not required; altering the
 17 time period within which a court is required to hold a permanency planning
 18 hearing; prohibiting a court from continuing certain children in placement
 19 unless it makes a certain finding; requiring the court to order a certain party to
 20 file a certain petition within a certain time period; providing that the court is
 21 not required to hold certain review hearings under certain circumstances;
 22 requiring a court to evaluate certain factors and take certain actions at a certain
 23 review hearing; requiring a local department of social services to give notice of
 24 certain hearings to certain persons; altering certain definitions; defining certain
 25 terms; requiring the State to comply with certain provisions of this Act for a
 26 certain number of children by a certain date; providing for the application of a
 27 certain provision of this Act; and generally relating to certain children in
 28 out-of-home placements.

29 BY repealing and reenacting, with amendments,
 30 Article - Family Law
 31 Section ~~5-303, 5-313, 5-322(b)~~ 5-322, 5-408, 5-501, 5-525, and 5-525.1; and
 32 5-539, 5-540, 5-541, 5-544, 5-545, 5-546, and 5-547, to be under the
 33 amended part "Part IV. Out-of-Home Placement Review Boards"
 34 Annotated Code of Maryland
 35 (1991 Replacement Volume and 1997 Supplement)

36 ~~BY repealing and reenacting, without amendments,~~
 37 ~~Article - Family Law~~
 38 ~~Section 5-322(a)~~
 39 ~~Annotated Code of Maryland~~
 40 ~~(1991 Replacement Volume and 1997 Supplement)~~

41 BY adding to
 42 Article - Courts and Judicial Proceedings
 43 Section 3-812.1

1 Annotated Code of Maryland
2 (1995 Replacement Volume and 1997 Supplement)

3 BY repealing and reenacting, with amendments,
4 Article - Courts and Judicial Proceedings
5 Section 3-826.1
6 Annotated Code of Maryland
7 (1995 Replacement Volume and 1997 Supplement)

8 **Preamble**

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

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

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

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

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

19 **Article - Family Law**

20 5-303.

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

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

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

26 (2) protect:

27 (1)] children from:

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

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

31 [(2)] (4) PROTECT natural parents from MAKING a hurried or
32 ill-considered decision to give up a child; and

~~1 WITHIN 6 CONSECUTIVE MONTHS BEFORE THE FILING OF THE PETITION, DESPITE
2 THE OPPORTUNITY TO DO SO.~~

~~3 (II) THE COURT MAY NOT FIND THAT THE NATURAL PARENT
4 LACKED THE OPPORTUNITY TO CONTACT THE CHILD PLACEMENT AGENCY OR THE
5 CHILD SOLELY ON THE BASIS OF THE INCARCERATION OF THE PARENT.~~

~~6 (III) THE COURT MAY NOT FIND THAT A CHILD IS ABANDONED BY
7 ONE NATURAL PARENT SOLELY ON THE BASIS OF THE TESTIMONY OF THE OTHER
8 PARENT.~~

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

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

14 (2) CONSIDERATION TO:

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

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

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

23 (4) the child's adjustment to home, school, and community;

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

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

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

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

35 (iv) 4. whether additional services would be likely to bring about
36 a lasting parental adjustment so that the child could be returned to the natural

1 parent within an ascertainable time, not exceeding 18 months from the time of
 2 placement, but the court may not consider whether the maintenance of the
 3 parent-child relationship may serve as an inducement for the natural parent's
 4 rehabilitation; and

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

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

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

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

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

22 (iv) 1. the child was born:

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

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

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

30 (V) THE NATURAL PARENT HAS:

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

35 2. ~~COMMITTED~~ BEEN CONVICTED OF MURDER OF ANOTHER
 36 CHILD OF THE NATURAL PARENT;

1 cannot learn the identity or location of a natural parent, the court may waive the
2 requirement of notice to the natural parent.

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

7 (i) order notice by publication; or

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

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

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

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

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

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

28 (i) the State Motor Vehicle Administration;

29 (ii) the local department of social services;

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

32 (iv) the State Division of Parole and Probation;

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

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

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

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

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

9 1. the other parent of the child;

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

11 3. the parent's current or last known employer.

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

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

17 5-408.

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

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

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

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

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

35 5-501.

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

1 (b) "Administration" means the Social Services Administration of the
2 Department.

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

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

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

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

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

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

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

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

24 (2) "License" includes:

25 (i) a child placement agency license;

26 (ii) a child care home license; and

27 (iii) a child care institution license.

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

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

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

34 (N) "RESIDENTIAL TREATMENT CARE" MEANS CONTINUOUS 24-HOUR CARE
35 AND SUPPORTIVE SERVICES FOR A MINOR CHILD PLACED IN A FACILITY THAT

1 PROVIDES FORMAL PROGRAMS OF BASIC CARE, SOCIAL WORK, AND HEALTH CARE
2 SERVICES.

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

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

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

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

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

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

13 5-525.

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

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

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

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

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

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

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

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

33 [(b)] (C) (1) The local department shall provide 24-hour a day care and
34 supportive services for a child who is committed to its custody or guardianship in [a
35 licensed or approved foster family home, group home, or child care institution] AN

1 OUT-OF-HOME PLACEMENT on a short-term basis[, while the local department
2 develops and implements a permanency plan that is in the best interests of the child].

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 2. by another approved adoptive family;

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

25 (v) an independent living arrangement; or

26 (vi) long-term foster care.

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

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

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

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

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

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

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

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

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

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

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

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

25 5-525.1.

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

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

35 (I) THE CHILD HAS BEEN IN AN OUT-OF-HOME PLACEMENT FOR
36 15 OF THE MOST RECENT 22 MONTHS;

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

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

2 1. ~~COMMITTED~~ BEEN CONVICTED OF MURDER OF ANOTHER
3 CHILD OF THE NATURAL PARENT;

4 2. ~~COMMITTED~~ BEEN CONVICTED OF VOLUNTARY
5 MANSLAUGHTER OF ANOTHER CHILD OF THE NATURAL PARENT;

6 3. ~~AIDED OR ABETTED, ATTEMPTED, CONSPIRED, OR~~
7 ~~SOLICITED~~ BEEN CONVICTED OF AIDING OR ABETTING, ATTEMPTING, CONSPIRING,
8 OR SOLICITING TO COMMIT MURDER OR VOLUNTARY MANSLAUGHTER OF ANOTHER
9 CHILD OF THE NATURAL PARENT; OR

10 4. ~~COMMITTED~~ BEEN CONVICTED OF A FELONY ASSAULT
11 THAT RESULTS IN SERIOUS BODILY INJURY TO THE CHILD OR ANOTHER CHILD OF
12 THE NATURAL PARENT.

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

16 (⇒) (3) A LOCAL DEPARTMENT IS NOT REQUIRED TO FILE A PETITION
17 OR JOIN AN ACTION IF:

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

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

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

27 (C) IF A PETITION IS FILED UNDER SUBSECTION (B) OF THIS SECTION, THE
28 LOCAL DEPARTMENT SHALL IDENTIFY, RECRUIT, PROCESS, AND SEEK TO APPROVE A
29 QUALIFIED FAMILY FOR ADOPTION, GUARDIANSHIP, OR OTHER PERMANENT
30 PLACEMENT.

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

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

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

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

2 5-539.

- 3 (a) (1) The State Board may adopt policies and procedures that:
4 (i) relate to the functions of the local boards; and
5 (ii) are consistent with the goals set forth in § 5-544 of this subtitle.
- 6 (2) If the Administration concurs, the State Board may establish
7 categories of [foster care] children IN OUT-OF-HOME PLACEMENT for whom a
8 satisfactory permanent placement has been made and who may be exempt from
9 review by the local boards.

10 (b) The State Board shall:

- 11 (1) provide a training program for members of the local boards;
12 (2) review and coordinate the activities of the local boards;
13 (3) adopt policies and procedures that relate to reports and any other
14 information that is required for any public or private agency or institution;
15 (4) make recommendations to the General Assembly that relate to
16 [foster care] OUT-OF-HOME PLACEMENT policies and procedures; and
17 (5) subject to § 2-1246 of the State Government Article, report to the
18 General Assembly on the first day of each year on the status of [foster care] children
19 IN OUT-OF-HOME PLACEMENT in this State.

20 5-540.

21 (a) Except as provided in subsection (b) of this section, there shall be at least
22 1 local board of review [of foster care] for minor children IN OUT-OF-HOME
23 PLACEMENT in each county.

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

26 5-541.

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

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

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

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

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

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

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

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

13 5-544.

14 The goals of each local board are:

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

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

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

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

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

30 5-545.

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

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

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

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

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

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

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

13 5-546.

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

18 5-547.

19 This Part IV of this subtitle [may]:

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

23 (2) IS RELATED TO AND SHOULD BE READ IN RELATION TO §§ 5-524,
 24 5-525, 5-525.1, AND 5-534 OF THIS SUBTITLE.

25 **Article - Courts and Judicial Proceedings**

26 3-812.1.

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

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

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

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

5 (4) ~~AIDED OR ABETTED, ATTEMPTED, CONSPIRED, OR SOLICITED~~ BEEN
6 CONVICTED OF AIDING OR ABETTING, ATTEMPTING, CONSPIRING, OR SOLICITING TO
7 COMMIT MURDER OR VOLUNTARY MANSLAUGHTER OF ANOTHER CHILD OF THE
8 NATURAL PARENT;

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

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

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

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

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

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

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

31 3-826.1.

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

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

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

5 (2) ~~ENTRY INTO AN OUT-OF-HOME PLACEMENT OCCURS ON THE DAY~~
6 ~~THE CHILD IS PLACED INTO AN OUT-OF-HOME PLACEMENT FOR PURPOSES OF THIS~~
7 SECTION, A CHILD SHALL BE CONSIDERED TO HAVE ENTERED AN OUT-OF-HOME
8 PLACEMENT 30 DAYS AFTER THE CHILD IS PLACED INTO AN OUT-OF-HOME
9 PLACEMENT.

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

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

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

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

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

22 (i) Returned to the parent or guardian;

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

25 (iii) Placed for adoption;

26 (iv) Emancipated;

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

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

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

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

36 (1) The court shall:

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

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

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

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

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

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

17 (1) RETURN HOME;

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

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

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

24 (1) The court shall order [that the petition for termination of parental
25 rights shall be filed] A PARTY SUPPORTING A PLAN OF ADOPTION, WHO IS
26 OTHERWISE PERMITTED TO FILE A PETITION FOR GUARDIANSHIP IN ACCORDANCE
27 WITH TITLE 5, SUBTITLE 3 OF THE FAMILY LAW ARTICLE, TO FILE A PETITION within
28 30 days; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 (2) THE LOCAL DEPARTMENT SHALL GIVE NOTICE OF ANY HEARING
37 CONDUCTED UNDER THIS SECTION TO THE CHILD'S FOSTER PARENT OR A
38 PREADOPTIVE PARENT OR RELATIVE PROVIDING CARE FOR THE CHILD.

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

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

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

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

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

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

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

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

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