

SENATE BILL 560

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1998 Regular Session
8r1865
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By: **Senator Baker**

Introduced and read first time: February 6, 1998

Assigned to: Judicial Proceedings

A BILL ENTITLED

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; adding to the continuing or serious conditions or acts a
5 court is required to consider in determining whether it is in the best interest of
6 a certain child to terminate the natural parent's rights; requiring a court to
7 waive certain obligations of a child placement agency under certain
8 circumstances; requiring that notice of a certain petition for guardianship be
9 given in a certain manner; prohibiting an adoption subsidy from being denied to
10 a certain child whose adoption has been dissolved or whose adoptive parents
11 have died under certain circumstances; requiring the Social Services
12 Administration, in establishing an out-of-home placement program, to provide
13 certain reunification services and concurrently develop and implement a certain
14 permanency plan; requiring certain reasonable efforts to preserve and reunify
15 families under certain circumstances; adding to the factors a local department of
16 social services is required to consider in determining the permanency plan that
17 is in the best interests of a child; requiring a local department of social services
18 to file a petition for termination of parental rights or join a termination of
19 parental rights action that has been filed under certain circumstances;
20 requiring a local department of social services to request a court to find that
21 reasonable efforts to reunify the child with the child's parent are not required
22 under certain circumstances; requiring a court to waive the requirement that
23 reasonable efforts be made under certain circumstances; requiring the local
24 department to take certain actions if the court finds that reasonable efforts are
25 not required; altering the time period within which a court is required to hold a
26 permanency planning hearing; prohibiting a court from continuing certain
27 children in placement unless it makes a certain finding; requiring the court to
28 order a certain party to file a certain petition within a certain time period;
29 providing that the court is not required to hold certain review hearings under
30 certain circumstances; requiring a local department of social services to give
31 notice of certain hearings to certain persons; altering certain definitions;
32 defining certain terms; requiring the State to comply with certain provisions of
33 this Act for a certain number of children by a certain date; providing for the
34 application of a certain provision of this Act; and generally relating to certain
35 children in out-of-home placements.

1 BY repealing and reenacting, with amendments,
2 Article - Family Law
3 Section 5-313, 5-322(b), 5-408, 5-501, 5-525, and 5-525.1
4 Annotated Code of Maryland
5 (1991 Replacement Volume and 1997 Supplement)

6 BY repealing and reenacting, without amendments,
7 Article - Family Law
8 Section 5-322(a)
9 Annotated Code of Maryland
10 (1991 Replacement Volume and 1997 Supplement)

11 BY adding to
12 Article - Courts and Judicial Proceedings
13 Section 3-812.1
14 Annotated Code of Maryland
15 (1995 Replacement Volume and 1997 Supplement)

16 BY repealing and reenacting, with amendments,
17 Article - Courts and Judicial Proceedings
18 Section 3-826.1
19 Annotated Code of Maryland
20 (1995 Replacement Volume and 1997 Supplement)

21 Preamble

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

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

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

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

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

1

Article - Family Law

2 5-313.

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

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

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

10 (3) the following set of circumstances exists:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 (5) the effort the natural parent has made to adjust the natural parent's
20 circumstances, conduct, or conditions to make it in the best interest of the child to be
21 returned to the natural parent's home, including:

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

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

28 (iii) the maintenance of regular communication by the natural
29 parent with the custodian of the child; and

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

35 (6) all services offered to the natural parent before the placement of the
36 child, whether offered by the agency to which the child is committed or by other
37 agencies or professionals.

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

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

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

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

15 (iv) 1. the child was born:

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

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

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

23 (V) THE NATURAL PARENT HAS:

24 1. SUBJECTED THE CHILD TO ABUSE OR NEGLECT THAT IS
25 SIGNIFICANT, LIFE-THREATENING, OR CHRONIC;

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

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

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

33 5. COMMITTED A FELONY ASSAULT THAT RESULTS IN
34 SERIOUS BODILY INJURY TO THE CHILD OR ANOTHER CHILD OF THE NATURAL
35 PARENT; OR

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

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

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

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

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

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

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

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

22 5-408.

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

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

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

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

36 [(d)] (E) A subsidy may continue to be provided for an eligible child to an adult
37 who is qualified to assume responsibility and who assumes responsibility for the care

1 and welfare of the child upon the death or incapacitation of the child's adoptive
2 parent.

3 5-501.

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

5 (b) "Administration" means the Social Services Administration of the
6 Department.

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

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

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

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

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

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

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

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

28 (2) "License" includes:

29 (i) a child placement agency license;

30 (ii) a child care home license; and

31 (iii) a child care institution license.

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

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

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

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

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

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

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

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

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

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

19 5-525.

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

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

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

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

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

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

33 (1) PROVIDE TIME-LIMITED FAMILY REUNIFICATION SERVICES TO A
34 CHILD PLACED IN AN OUT-OF-HOME PLACEMENT AND TO THE PARENTS OR

1 GUARDIAN OF THE CHILD, IN ORDER TO FACILITATE THE CHILD'S SAFE AND
2 APPROPRIATE REUNIFICATION WITHIN A TIMELY MANNER; AND

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

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

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

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

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

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

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

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

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

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

37 [(c)] (E) (1) In developing a permanency plan for a child [under foster care]
38 IN AN OUT-OF-HOME PLACEMENT, the local department of social services shall give
39 primary consideration to the best interests of the child. The local department shall

1 consider the following factors in determining the permanency plan that is in the best
2 interests of the child:

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

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

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

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

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

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

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

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

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

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

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

28 2. by another approved adoptive family;

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

31 (v) an independent living arrangement; or

32 (vi) long-term foster care.

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

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

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

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

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

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

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

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

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

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

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

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

31 5-525.1.

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

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

5 (I) THE CHILD HAS BEEN IN AN OUT-OF-HOME PLACEMENT FOR
6 15 OF THE MOST RECENT 22 MONTHS;

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

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

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

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

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

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

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

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

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

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

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

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

1 3-826.1.

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

3 (I) No later than [10] 12 months after [disposition made] A CHILD
4 ENTERS AN OUT-OF-HOME PLACEMENT, AS DEFINED IN § 5-501 OF THE FAMILY LAW
5 ARTICLE, in the case of a child alleged to be in need of assistance, [the court shall hold
6 a hearing to review the implementation of a] TO DETERMINE THE permanency plan
7 for each child committed under § 3-820(c)(1)(ii) of this subtitle; OR

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

12 (2) ENTRY INTO AN OUT-OF-HOME PLACEMENT OCCURS ON THE DAY
13 THE CHILD IS PLACED INTO AN OUT-OF-HOME PLACEMENT.

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

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

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

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

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

26 (i) Returned to the parent or guardian;

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

29 (iii) Placed for adoption;

30 (iv) Emancipated;

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

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

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

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

6 (1) The court shall:

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

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

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

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

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

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

23 (1) RETURN HOME;

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

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

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

30 (1) The court shall order [that the petition for termination of parental
31 rights shall be filed] A PARTY SUPPORTING A PLAN OF ADOPTION, WHO IS
32 OTHERWISE PERMITTED TO FILE A PETITION FOR GUARDIANSHIP IN ACCORDANCE
33 WITH TITLE 5, SUBTITLE 3 OF THE FAMILY LAW ARTICLE, TO FILE A PETITION within
34 30 days; and

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

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

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

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

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

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

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

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

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

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

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

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

29 (V) CHANGE THE PERMANENCY PLAN IF A CHANGE IN THE
30 PERMANENCY PLAN WOULD BE IN THE CHILD'S BEST INTEREST.

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

34 (G) (1) IN THIS SUBSECTION, "PREADOPTIVE PARENT" MEANS AN
35 INDIVIDUAL APPROVED AS AN ADOPTIVE PARENT BY A CHILD PLACEMENT AGENCY,
36 AS DEFINED IN § 5-301 OF THE FAMILY LAW ARTICLE, TO ADOPT A CHILD WHO HAS

1 BEEN PLACED IN THE INDIVIDUAL'S HOME FOR ADOPTION BEFORE THE GRANTING
2 OF A FINAL DECREE OF ADOPTION.

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

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

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

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

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

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

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

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

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