

SENATE BILL 560

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1998 Regular Session
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By: **Senator Baker, Senator Ruben (Montgomery County Administration),
Senator Collins (Baltimore County Administration) and Senators
Forehand, Kelley, Hoffman, Hogan, Roesser, Hollinger, Van Hollen,
Dorman, Teitelbaum, Boozer, Bromwell, Della, Stone, Sfikas, McCabe,
and Colburn**

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Committee Report: Favorable with amendments
Senate action: Adopted with floor amendments
Read second time: March 19, 1998

CHAPTER _____

1 AN ACT concerning

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

3 FOR the purpose of altering the purpose of certain provisions of law governing
4 adoption and guardianship; authorizing a court to find a certain child to be
5 abandoned under certain circumstances; 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 a court to waive certain obligations of a child placement agency
11 under certain circumstances; requiring a court to make a specific finding as to
12 whether or not the return of a child to the custody of the natural parent poses an
13 unacceptable risk to the future safety of the child under certain circumstances;
14 requiring that notice of a certain petition for guardianship be given in a certain
15 manner; prohibiting an adoption subsidy from being denied to a certain child
16 whose adoption has been dissolved or whose adoptive parents have died under
17 certain circumstances; requiring the Social Services Administration, in
18 establishing an out-of-home placement program, to provide certain
19 reunification services and concurrently develop and implement a certain
20 permanency plan; requiring certain reasonable efforts to preserve and reunify
21 families under certain circumstances; adding to the factors a local department of
22 social services is required to consider in determining the permanency plan that
23 is in the best interests of a child; requiring a local department of social services
24 to file a petition for termination of parental rights or join a termination of

1 parental rights action that has been filed under certain circumstances;
2 requiring local foster care review boards to review children in out-of-home
3 placements in accordance with certain local plans; making certain conforming
4 changes in certain provisions of law relating to foster care review boards;
5 requiring a local department of social services to request a court to find that
6 reasonable efforts to reunify the child with the child's parent are not required
7 under certain circumstances; requiring a court to waive the requirement that
8 reasonable efforts be made under certain circumstances; requiring the local
9 department to take certain actions if the court finds that reasonable efforts are
10 not required; altering the time period within which a court is required to hold a
11 permanency planning hearing; prohibiting a court from continuing certain
12 children in placement unless it makes a certain finding; requiring the court to
13 order a certain party to file a certain petition within a certain time period;
14 providing that the court is not required to hold certain review hearings under
15 certain circumstances; requiring a local department of social services to give
16 notice of certain hearings to certain persons; altering certain definitions;
17 defining certain terms; requiring the State to comply with certain provisions of
18 this Act for a certain number of children by a certain date; providing for the
19 application of a certain provision of this Act; and generally relating to certain
20 children in out-of-home placements.

21 BY repealing and reenacting, with amendments,
22 Article - Family Law
23 Section 5-303, 5-313, 5-322(b), 5-408, 5-501, 5-525, and 5-525.1; and 5-539,
24 5-540, 5-541, 5-544, 5-545, 5-546, and 5-547, to be under the amended
25 part "Part IV. Out-of-Home Placement Review Boards"
26 Annotated Code of Maryland
27 (1991 Replacement Volume and 1997 Supplement)

28 BY repealing and reenacting, without amendments,
29 Article - Family Law
30 Section 5-322(a)
31 Annotated Code of Maryland
32 (1991 Replacement Volume and 1997 Supplement)

33 BY adding to
34 Article - Courts and Judicial Proceedings
35 Section 3-812.1
36 Annotated Code of Maryland
37 (1995 Replacement Volume and 1997 Supplement)

38 BY repealing and reenacting, with amendments,
39 Article - Courts and Judicial Proceedings
40 Section 3-826.1
41 Annotated Code of Maryland
42 (1995 Replacement Volume and 1997 Supplement)

Preamble

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

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

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

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

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

Article - Family Law

5-303.

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

(b) The purposes of this subtitle are to:

(1) PROVIDE CHILDREN WITH STABLE HOMES THAT PROTECT THEIR SAFETY AND THEIR EMOTIONAL, PSYCHOLOGICAL, AND PHYSICAL HEALTH;

(2) protect:

(1) children from:

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

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

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

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

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

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

1 5-313.

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

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

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

9 (3) the following set of circumstances exists:

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

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

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

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

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

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

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

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

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

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

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

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

9 (2) CONSIDERATION TO:

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

12 (2) any social service agreement between the natural parent and
 13 the 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
 16 natural parents, the child's siblings, and any other individuals who may significantly
 17 affect the child's best interest;

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

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

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

26 (ii) 2. 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) 3. the maintenance of regular communication by the natural
 29 parent with the custodian of the child; and

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

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

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

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;~~

33 1. SUBJECTED THE CHILD TO:

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

35 B. LIFE-THREATENING CIRCUMSTANCES; OR

1 NOT THE RETURN OF THE CHILD TO THE CUSTODY OF THE NATURAL PARENT POSES
2 AN UNACCEPTABLE RISK TO THE FUTURE SAFETY OF THE CHILD.

3 5-322.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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.

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

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

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

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

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

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

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

18 (2) "License" includes:

19 (i) a child placement agency license;

20 (ii) a child care home license; and

21 (iii) a child care institution license.

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

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

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

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

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

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

- 1 (1) has not obtained a certificate of registration from the Department;
- 2 (2) is not related by blood or marriage to each child in the provider's care;
- 3 (3) is not a friend of each child's parents or legal guardian and is
4 providing care on a regular basis; and
- 5 (4) has not received the care of the child from a child placement agency
6 licensed by the Administration or by a local department.

7 5-525.

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

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

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

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

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

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

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

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

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

32 (2) (i) A child may not be committed to the custody or guardianship of
33 a local department and placed in [foster care] AN OUT-OF-HOME PLACEMENT solely
34 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 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) 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:

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

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

10 5-540.

11 (a) Except as provided in subsection (b) of this section, there shall be at least
12 1 local board of review [of foster care] for minor children IN OUT-OF-HOME
13 PLACEMENT in each county.

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

16 5-541.

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

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

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

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

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

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

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

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

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

3 5-544.

4 The goals of each local board are:

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

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

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

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

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

20 5-545.

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

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

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

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

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

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

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

1 5-546.

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

6 5-547.

7 This Part IV of this subtitle [may]:

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

11 (2) IS RELATED TO AND SHOULD BE READ IN RELATION TO §§ 5-524,
12 5-525, 5-525.1, AND 5-534 OF THIS SUBTITLE.

13 **Article - Courts and Judicial Proceedings**

14 3-812.1.

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

20 ~~(1) SUBJECTED THE CHILD TO ABUSE OR NEGLECT THAT IS~~
21 ~~SIGNIFICANT, LIFE-THREATENING, OR CHRONIC;~~

22 (1) SUBJECTED THE CHILD TO:

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

24 (II) LIFE-THREATENING CIRCUMSTANCES; OR

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

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

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

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

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

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

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

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

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

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

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

22 3-826.1.

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

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

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

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

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

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

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

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

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

11 (i) Returned to the parent or guardian;

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

14 (iii) Placed for adoption;

15 (iv) Emancipated;

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

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

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

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

25 (1) The court shall:

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

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

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

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

33 (2) The court shall conduct a review hearing no less frequently than
34 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.