Unofficial Copy D4 1998 Regular Session (8lr1654)

ENROLLED BILL

-- Judicial Proceedings/Judiciary --

Introduced by Senators Van Hollen, Ruben, Teitelbaum, Forehand, and Kelley Kelley, and Middlebrooks

	Read and Examined by Proofreaders:	
		Proofreader.
Sealed	d with the Great Seal and presented to the Governor, for his approval thisday of at o'clock,M.	Proofreader.
		President.
	CHAPTER	
1 A	AN ACT concerning	
2	Child Protection Act	
3 F 4 5 6 7 8 9 10 11 12 13	FOR the purpose of modifying the eriteria findings a court must consider is required to make when determining whether it should grant a decree of adoption under certain circumstances; establishing a rebuttable presumption that a natural parent is unfit to care for a child under certain circumstances; requiring the court to make a specific finding as to whether or not the return of a child to the custody of the natural parent poses an unacceptable risk to the future safety of the child under certain circumstances; requiring the court to terminate a natural parent's right to a child under certain circumstances give paramount primary consideration to the safety and health of the child in making a certain determination; and generally relating to independent adoption without parental consent.	
14 E 15	BY repealing and reenacting, with amendments, Article - Family Law	

1 2 3	Section 5-312 Annotated Code of Maryland (1991 Replacement Volume and 1997 Supplement)							
4 5	SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:							
6	Article - Family Law							
7	5-312.							
8 9	(a) (1) This section applies only to independent adoptions in which a natural parent affirmatively withholds consent by filing a notice of objection.							
	(2) This section does not permit a licensed or approved foster parent to petition a court for adoption of a child who was placed with the foster parent by a child placement agency unless the child placement agency consents.							
15	(b) Without the consent of the child's natural parent, a court may grant a decree of adoption to a stepparent, relative, or other individual who has exercised physical care, custody, or control of a child for at least 6 months, if by clear and convincing evidence the court finds that:							
17 18	(1) it is in the best interest of the child to terminate the natural parent's 3 rights as to the child;							
19 20	(2) the child has been out of the custody of the natural parent for at least 1 year;							
21 22	(3) the child has developed significant feelings toward and emotional ties with the petitioner; and							
23	(4) the natural parent:							
24 25	(i) has not maintained meaningful contact with the child during the time the petitioner has had custody despite the opportunity to do so;							
26 27	(ii) has repeatedly failed to contribute to the physical care and support of the child although financially able to do so;							
28 29	(iii) has [been convicted of] COMMITTED child abuse [of the child] OR ANOTHER CHILD OF THE NATURAL PARENT; or							
30	(iv) has been[:							
	1.] convicted of a crime of violence, as defined in Article 27, 643B of the Code, against [the other natural parent of the child;] AN INDIVIDUAL RESIDING IN THE NATURAL PARENT'S HOUSEHOLD [and							

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1	2.	sentenced to a term of imprisonment for at least 10 years
2	and, if any portion of the sentence is sus	pended, the unsuspended portion of which is
3	at least 10 years.]	
4		EAR AND CONVINCING EVIDENCE OF EITHER THE
		N (B)(4)(III) OR (IV) OF THIS SECTION THAT A
6	NATURAL PARENT HAS COMMITT	ED CHILD ABUSE OR BEEN CONVICTED OF A CRIME
7	OF VIOLENCE AGAINST AN INDIVI	IDUAL RESIDING IN THE NATURAL PARENT'S
8	HOUSEHOLD, THERE IS A REBUTT	ABLE PRESUMPTION THAT THE NATURAL PARENT
9	IS UNFIT TO CARE FOR THE CHILD	AND THAT THE FUTURE SAFETY OF THE CHILD
10	WILL BE AT RISK. THE COURT SH	ALL TERMINATE THE NATURAL PARENT'S RIGHTS
11	UNLESS IT MAKES A SPECIFIC FIN	IDING OF PARENTAL FITNESS AND THAT THE
12	CHILD SHALL BE SAFE BY CLEAR	AND CONVINCING EVIDENCE IF THE CHILD IS
13	RETURNED TO THE CUSTODY OF	THE NATURAL PARENT.
14	<u>1.</u>	<u>SUBJECTED THE CHILD TO:</u>
15	<u>A.</u>	TORTURE, CHRONIC ABUSE, OR SEXUAL ABUSE; OR
16	<u>B.</u>	<u>CHRONIC AND LIFE-THREATENING NEGLECT;</u>
17	<u>2.</u>	<u>BEEN CONVICTED:</u>
18		IN THIS STATE OF A CRIME OF VIOLENCE, AS DEFINED IN
		AGAINST THE CHILD, THE OTHER NATURAL
20	PARENT OF THE CHILD, ANOTHER	CHILD OF THE NATURAL PARENT, OR ANY PERSON
21	WHO RESIDES IN THE HOUSEHOLD	O OF THE NATURAL PARENT;
22		IN ANY STATE OR IN ANY COURT OF THE UNITED STATES
		IME OF VIOLENCE, AS DEFINED IN ARTICLE 27, §
		D IN THIS STATE AGAINST THE CHILD, THE OTHER
	•	ANOTHER CHILD OF THE NATURAL PARENT, OR
26	ANY PERSON WHO RESIDES IN THE	HOUSEHOLD OF THE NATURAL PARENT; OR
27		OF AIDING OR ABETTING, CONSPIRING, OR SOLICITING TO
28	COMMIT A CRIME DESCRIBED IN IT	TEM A OR B OF THIS ITEM; OR
29	_	<u>INVOLUNTARILY LOST PARENTAL RIGHTS OF A SIBLING</u>
30	OF THE CHILD.	
31		FINDS THAT ANY OF THE CIRCUMSTANCES
		4)(III) OR (IV) OF THIS SECTION EXISTS, THE
		INDING, BASED ON FACTS IN THE RECORD, AS TO
		F THE CHILD TO THE CUSTODY OF THE NATURAL
35	PARENT POSES AN UNACCEPTABLE	E RISK TO THE FUTURE SAFETY OF THE CHILD.
36		hether it is in the best interest of the child to
		the child under this section, the court shall
38	[request]:	

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			YCHOLO	ARAMOUNT <u>PRIMARY</u> CONSIDERATION TO THE SAFETY , OGICAL, AND PHYSICAL HEALTH OF THE CHILD , AND ON TO ALL OTHER FACTORS; AND			
4	[(1)]	(II)	REQUE	ST an investigation by an appropriate agency[;] and			
5	[(2)]	a report of the investigation that includes summaries of:					
		[(i)] 1. the child's feelings toward and emotional ties with the the child's siblings, the petitioner, and any other individual affect the child's best interest;					
9 10	and	[(ii)]	2.	the child's adjustment to home, school, and community;			
11 12	petitioner's attempts	[(iii)] to locate	3. the absen	if the natural parent is absent, an evaluation of the t natural parent.			
13 14	(d) A court may not grant a decree of adoption under this section solely because a natural parent:						
15 16	(1) separation; or	does not have legal custody of the child by reason of divorce or legal					
17 18	(2) natural parent.	has been	n deprived	d of custody of the child by the act of the other			
	9 (e) After the adoption, if it is in the child's best interest, the adoptive parent 0 and a nonconsenting natural parent may agree to visitation privileges between the child and the natural parent or siblings.						
22 23	SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 1998.						