

---

By: **Senators Van Hollen, Ruben, Teitelbaum, Forehand, and Kelley**  
Introduced and read first time: February 6, 1998  
Assigned to: Judicial Proceedings

---

A BILL ENTITLED

1 AN ACT concerning

2 **Child Protection Act**

3 FOR the purpose of modifying the criteria a court must consider when determining  
4 whether it should grant a decree of adoption under certain circumstances;  
5 establishing a rebuttable presumption that a natural parent is unfit to care for  
6 a child under certain circumstances; requiring the court to terminate a natural  
7 parent's right to a child under certain circumstances; and generally relating to  
8 independent adoption without parental consent.

9 BY repealing and reenacting, with amendments,  
10 Article - Family Law  
11 Section 5-312  
12 Annotated Code of Maryland  
13 (1991 Replacement Volume and 1997 Supplement)

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

16 **Article - Family Law**

17 5-312.

18 (a) (1) This section applies only to independent adoptions in which a natural  
19 parent affirmatively withholds consent by filing a notice of objection.

20 (2) This section does not permit a licensed or approved foster parent to  
21 petition a court for adoption of a child who was placed with the foster parent by a  
22 child placement agency unless the child placement agency consents.

23 (b) Without the consent of the child's natural parent, a court may grant a  
24 decree of adoption to a stepparent, relative, or other individual who has exercised  
25 physical care, custody, or control of a child for at least 6 months, if by clear and  
26 convincing evidence the court finds that:

27 (1) it is in the best interest of the child to terminate the natural parent's  
28 rights as to the child;

1 (2) the child has been out of the custody of the natural parent for at least  
2 1 year;

3 (3) the child has developed significant feelings toward and emotional ties  
4 with the petitioner; and

5 (4) the natural parent:

6 (i) has not maintained meaningful contact with the child during  
7 the time the petitioner has had custody despite the opportunity to do so;

8 (ii) has repeatedly failed to contribute to the physical care and  
9 support of the child although financially able to do so;

10 (iii) has [been convicted of] COMMITTED child abuse [of the child];  
11 or

12 (iv) has been[:

13 1.] convicted of a crime of violence, as defined in Article 27, §  
14 643B of the Code, against [the other natural parent of the child;] AN INDIVIDUAL  
15 RESIDING IN THE NATURAL PARENT'S HOUSEHOLD [and

16 2. sentenced to a term of imprisonment for at least 10 years  
17 and, if any portion of the sentence is suspended, the unsuspended portion of which is  
18 at least 10 years.]

19 (C) (1) IF THERE IS CLEAR AND CONVINCING EVIDENCE OF EITHER  
20 SUBSECTION (B)(4)(III) OR (IV) OF THIS SECTION, THERE IS A REBUTTABLE  
21 PRESUMPTION THAT THE NATURAL PARENT IS UNFIT TO CARE FOR THE CHILD AND  
22 THAT THE FUTURE SAFETY OF THE CHILD WILL BE AT RISK. THE COURT SHALL  
23 TERMINATE THE NATURAL PARENT'S RIGHTS UNLESS IT MAKES A SPECIFIC FINDING  
24 OF PARENTAL FITNESS AND THAT THE CHILD SHALL BE SAFE BY CLEAR AND  
25 CONVINCING EVIDENCE.

26 [(c)] (2) In determining whether it is in the best interest of the child to  
27 terminate a natural parent's rights as to the child under this section, the court shall  
28 [request]:

29 (I) GIVE PARAMOUNT CONSIDERATION TO THE SAFETY,  
30 EMOTIONAL, PSYCHOLOGICAL, AND PHYSICAL HEALTH OF THE CHILD, AND GIVE  
31 SECONDARY CONSIDERATION TO ALL OTHER FACTORS; AND

32 [(1)] (II) REQUEST an investigation by an appropriate agency[;] and

33 [(2)] a report of the investigation that includes summaries of:

34 [(i)] 1. the child's feelings toward and emotional ties with the  
35 child's natural parents, the child's siblings, the petitioner, and any other individual  
36 who may significantly affect the child's best interest;

1                                [(ii)]    2.            the child's adjustment to home, school, and community;  
2 and

3                                [(iii)]    3.            if the natural parent is absent, an evaluation of the  
4 petitioner's attempts to locate the absent natural parent.

5        (d)            A court may not grant a decree of adoption under this section solely  
6 because a natural parent:

7                                (1)            does not have legal custody of the child by reason of divorce or legal  
8 separation; or

9                                (2)            has been deprived of custody of the child by the act of the other  
10 natural parent.

11        (e)            After the adoption, if it is in the child's best interest, the adoptive parent  
12 and a nonconsenting natural parent may agree to visitation privileges between the  
13 child and the natural parent or siblings.

14        SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
15 October 1, 1998.