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By: **Senators Van Hollen, Ruben, Teitelbaum, Forehand, and ~~Kelley Kelley,~~  
and Middlebrooks**

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Assigned to: Judicial Proceedings

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Committee Report: Favorable with amendments

Senate action: Adopted

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2

**Child Protection Act**

3 FOR the purpose of modifying the ~~criteria~~ findings a court ~~must consider~~ is required  
4 to make when determining whether it should grant a decree of adoption under  
5 certain circumstances; establishing a rebuttable presumption that a natural  
6 parent is unfit to care for a child under certain circumstances; requiring the  
7 court to ~~terminate a natural parent's right to a child under certain~~  
8 circumstances give paramount consideration to the safety and health of the  
9 child in making a certain determination; and generally relating to independent  
10 adoption without parental consent.

11 BY repealing and reenacting, with amendments,  
12 Article - Family Law  
13 Section 5-312  
14 Annotated Code of Maryland  
15 (1991 Replacement Volume and 1997 Supplement)

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

18 **Article - Family Law**

19 5-312.

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

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

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

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

10 (2) the child has been out of the custody of the natural parent for at least  
 11 1 year;

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

14 (4) the natural parent:

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

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

19 (iii) has [been convicted of] COMMITTED child abuse [of the child];  
 20 or

21 (iv) has been[:

22 1.] convicted of a crime of violence, as defined in Article 27, §  
 23 643B of the Code, against [the other natural parent of the child;] AN INDIVIDUAL  
 24 RESIDING IN THE NATURAL PARENT'S HOUSEHOLD [and

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

28 (C) (1) ~~IF THERE IS CLEAR AND CONVINCING EVIDENCE OF EITHER THE~~  
 29 ~~COURT FINDS UNDER SUBSECTION (B)(4)(III) OR (IV) OF THIS SECTION THAT A~~  
 30 ~~NATURAL PARENT HAS COMMITTED CHILD ABUSE OR BEEN CONVICTED OF A CRIME~~  
 31 ~~OF VIOLENCE AGAINST AN INDIVIDUAL RESIDING IN THE NATURAL PARENT'S~~  
 32 ~~HOUSEHOLD, THERE IS A REBUTTABLE PRESUMPTION THAT THE NATURAL PARENT~~  
 33 ~~IS UNFIT TO CARE FOR THE CHILD AND THAT THE FUTURE SAFETY OF THE CHILD~~  
 34 ~~WILL BE AT RISK. THE COURT SHALL TERMINATE THE NATURAL PARENT'S RIGHTS~~  
 35 ~~UNLESS IT MAKES A SPECIFIC FINDING OF PARENTAL FITNESS AND THAT THE~~  
 36 ~~CHILD SHALL BE SAFE BY CLEAR AND CONVINCING EVIDENCE IF THE CHILD IS~~  
 37 ~~RETURNED TO THE CUSTODY OF THE NATURAL PARENT.~~

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

4 (I) GIVE PARAMOUNT CONSIDERATION TO THE SAFETY, AND THE  
 5 EMOTIONAL, PSYCHOLOGICAL, AND PHYSICAL HEALTH OF THE CHILD, AND GIVE  
 6 SECONDARY CONSIDERATION TO ALL OTHER FACTORS; AND

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

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

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

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

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

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

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

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

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

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