
By: **Delegate Petzold**

Introduced and read first time: February 11, 1999

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Family Law - Adoption and Guardianship - Appointment of Counsel for**
3 **Child**

4 FOR the purpose of requiring a court to appoint counsel for a child under a certain
5 age in a proceeding for an adoption or guardianship; and generally relating to
6 the appointment of counsel in adoption and guardianship proceedings.

7 BY repealing and reenacting, with amendments,
8 Article - Family Law
9 Section 5-323
10 Annotated Code of Maryland
11 (1999 Replacement Volume)

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

14 **Article - Family Law**

15 5-323.

16 (a) (1) Subject to paragraph (2) of this subsection, in a proceeding for an
17 adoption or guardianship, unless the public defender is required to provide
18 representation, the court shall appoint separate counsel to represent:

19 (i) the individual to be adopted, if the consent of the individual to
20 be adopted is required and the individual has a disability that renders the individual
21 incapable of consenting and otherwise effectively participating in the proceedings;

22 (II) THE CHILD TO BE ADOPTED OR PLACED UNDER
23 GUARDIANSHIP, IF THE CHILD IS UNDER THE AGE OF 16 YEARS;

24 [(ii)] (III) a natural parent who has a disability that renders the
25 natural parent incapable of consenting and effectively participating in the
26 proceedings;

27 [(iii)] (IV) a minor parent; and

1 [(iv)] (V) in an involuntary termination of parental rights, an
2 individual who is the subject of the proceeding.

3 (2) In any action in which payment for the services of a court-appointed
4 attorney for a child is the responsibility of the local department of social services,
5 unless the court finds that it would not be in the best interests of the child, the court
6 shall:

7 (i) appoint an attorney who has contracted with the Department of
8 Human Resources to provide those services; and

9 (ii) in an action in which an attorney has previously been
10 appointed, strike the appearance of the attorney previously appointed and appoint
11 the attorney who is currently under contract with the Department of Human
12 Resources.

13 (b) The public defender shall represent:

14 (1) in an involuntary termination of parental rights, an indigent parent;
15 and

16 (2) in a hearing under § 5-319 of this subtitle, an indigent natural
17 parent who has not waived the right to receive notice of the child's status.

18 (c) To determine whether an individual whose consent is required has a
19 disability that renders the individual incapable of consenting and otherwise
20 effectively participating in the proceedings, the court, on its own motion or on motion
21 of a party, may order an examination of the individual.

22 (d) Counsel appointed under this section may be compensated for reasonable
23 fees, as approved by the court. The court may assign the costs among the parties as
24 the court considers appropriate.

25 (e) (1) An attorney or firm representing the adoptive parent or child
26 placement agency may not represent the natural parent in the same adoption
27 proceeding.

28 (2) An attorney or firm representing the natural parent may not
29 represent the adoptive parent or child placement agency in the same adoption
30 proceeding.

31 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
32 October 1, 1999.