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By: **Senator Jacobs**

Introduced and read first time: January 30, 2004

Assigned to: Judicial Proceedings

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A BILL ENTITLED

1 AN ACT concerning

2 **Child in Need of Assistance - Permanency Planning Hearings**

3 FOR the purpose of restoring a requirement that all children in out-of-home  
4 placements committed under child in need of assistance proceedings have  
5 permanency planning hearings held by the appropriate court; and generally  
6 relating to child in need of assistance proceedings.

7 BY repealing and reenacting, with amendments,  
8 Article - Courts and Judicial Proceedings  
9 Section 3-823  
10 Annotated Code of Maryland  
11 (2002 Replacement Volume and 2003 Supplement)

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

14 **Article - Courts and Judicial Proceedings**

15 3-823.

16 (a) In this section, "out-of-home placement" has the meaning stated in §  
17 5-501 of the Family Law Article.

18 (b) (1) The court shall hold a permanency planning hearing to determine the  
19 permanency plan for a child:

20 (i) No later than 11 months after a child committed under [§  
21 3-819.1(b)] § 3-819 of this subtitle or continued in a voluntary placement under §  
22 3-819.1(b) of this subtitle enters an out-of-home placement; or

23 (ii) Within 30 days after the court finds that reasonable efforts to  
24 reunify a child with the child's parent or guardian are not required based on a finding  
25 that a circumstance enumerated in § 3-812 of this subtitle has occurred.

1           (2)     For purposes of this section, a child shall be considered to have  
2 entered an out-of-home placement 30 days after the child is placed into an  
3 out-of-home placement.

4           (3)     If all parties agree, a permanency planning hearing may be held on  
5 the same day as the reasonable efforts hearing.

6       (c)     (1)     On the written request of a party or on its own motion, the court may  
7 schedule a hearing at any earlier time to determine a permanency plan or to review  
8 the implementation of a permanency plan for any child committed under § 3-819 of  
9 this subtitle.

10           (2)     A written request for review shall state the reason for the request  
11 and each issue to be raised.

12       (d)     At least 10 days before the permanency planning hearing, the local  
13 department shall provide all parties and the court with a copy of the local  
14 department's permanency plan for the child.

15       (e)     At a permanency planning hearing, the court shall:

16           (1)     Determine the child's permanency plan, which may be:

17               (i)     Reunification with the parent or guardian;

18               (ii)    Placement with a relative for:

19                     1.     Adoption; or

20                     2.     Custody and guardianship;

21               (iii)   Adoption by a nonrelative;

22               (iv)    Guardianship by a nonrelative;

23               (v)     Continuation in a specified placement on a permanent basis  
24 because of the child's special needs or circumstances;

25               (vi)    Continuation in placement for a specified period because of the  
26 child's special needs or circumstances; or

27               (vii)   Independent living; and

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

31       (f)     The court may not order a child to be continued in a placement under  
32 subsection (e)(1)(v) or (vi) of this section unless the court finds that the person or  
33 agency to which the child is committed has documented a compelling reason for  
34 determining that it would not be in the best interest of the child to:

1 (1) Return home;

2 (2) Be referred for termination of parental rights; or

3 (3) Be placed for adoption or guardianship with a specified and  
4 appropriate relative or legal guardian willing to care for the child.

5 (g) In the case of a child for whom the court determines that the plan should  
6 be changed to adoption under subsection (e)(1)(iii) of this section, the court shall:

7 (1) Order the local department to file a petition for guardianship in  
8 accordance with Title 5, Subtitle 3 of the Family Law Article within 30 days or, if the  
9 local department does not support the plan, within 60 days; and

10 (2) Schedule a TPR hearing instead of the next 6-month review hearing.

11 (h) (1) (i) Except as provided in subparagraphs (ii) and (iii) of this  
12 paragraph, the court shall conduct a hearing to review the permanency plan at least  
13 every 6 months until commitment is rescinded or a voluntary placement is  
14 terminated.

15 (ii) The court shall conduct a review hearing every 12 months after  
16 the court determines that the child shall be continued in out-of-home placement with  
17 a specific caregiver who agrees to care for the child on a permanent basis.

18 (iii) 1. Unless the court finds good cause, a case shall be  
19 terminated after the court grants custody and guardianship of the child to a relative  
20 or other individual.

21 2. If the court finds good cause not to terminate a case, the  
22 court shall conduct a review hearing every 12 months until the case is terminated.

23 (2) At the review hearing, the court shall:

24 (i) Determine the continuing necessity for and appropriateness of  
25 the commitment;

26 (ii) Determine and document in its order whether reasonable  
27 efforts have been made to finalize the permanency plan that is in effect;

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

30 (iv) Project a reasonable date by which a child in placement may be  
31 returned home, placed in a preadoptive home, or placed under a legal guardianship;

32 (v) Evaluate the safety of the child and take necessary measures to  
33 protect the child; and

34 (vi) Change the permanency plan if a change in the permanency  
35 plan would be in the child's best interest.

1           (3)       Every reasonable effort shall be made to effectuate a permanent  
2 placement for the child within 24 months after the date of initial placement.

3       (i)       (1)       In this subsection, "preadoptive parent" means an individual whom a  
4 child placement agency, as defined in § 5-301 of the Family Law Article, approves to  
5 adopt a child who has been placed in the individual's home for adoption before the  
6 final decree of adoption.

7           (2)       If practicable, the local department shall give at least 7 days' notice  
8 before any hearing conducted under this section to the child's foster parent,  
9 preadoptive parent, or relative providing care for the child.

10          (3)       The foster parent, preadoptive parent, relative, or an attorney for the  
11 foster parent, preadoptive parent, or relative shall be given an opportunity to be  
12 heard at the hearing.

13          (4)       The foster parent, preadoptive parent, relative, or attorney may not  
14 be considered to be a party solely on the basis of the right to notice and opportunity to  
15 be heard provided under this subsection.

16       (j)       At a review hearing under this section, the court shall consider any written  
17 report of a local out-of-home placement review board required under § 5-545 of the  
18 Family Law Article.

19       SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
20 October 1, 2004.