

SENATE BILL 285
EMERGENCY BILL

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2004 Regular Session
4r1480
CF 4r2848

By: **Senator Jacobs**

Introduced and read first time: January 30, 2004

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 24, 2004

CHAPTER _____

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; making this Act
6 an emergency measure; and generally relating to child in need of assistance
7 proceedings.

8 BY repealing and reenacting, with amendments,
9 Article - Courts and Judicial Proceedings
10 Section 3-823
11 Annotated Code of Maryland
12 (2002 Replacement Volume and 2003 Supplement)

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

15 **Article - Courts and Judicial Proceedings**

16 3-823.

17 (a) In this section, "out-of-home placement" has the meaning stated in §
18 5-501 of the Family Law Article.

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

1 (i) No later than 11 months after a child committed under [§
2 3-819.1(b)] § 3-819 of this subtitle or continued in a voluntary placement under §
3 3-819.1(b) of this subtitle enters an out-of-home placement; or

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

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

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

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

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

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

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

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

23 (i) Reunification with the parent or guardian;

24 (ii) Placement with a relative for:

25 1. Adoption; or

26 2. Custody and guardianship;

27 (iii) Adoption by a nonrelative;

28 (iv) Guardianship by a nonrelative;

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

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

33 (vii) Independent living; and

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

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

8 (1) Return home;

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

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

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

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

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

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

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

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

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

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

31 (i) Determine the continuing necessity for and appropriateness of
32 the commitment;

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

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

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

3 (v) Evaluate the safety of the child and take necessary measures to
4 protect the child; and

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

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

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

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

16 (3) The foster parent, preadoptive parent, relative, or an attorney for the
17 foster parent, preadoptive parent, or relative shall be given an opportunity to be
18 heard at the hearing.

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

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

25 ~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect~~
26 ~~October 1, 2004.~~

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an
28 emergency measure, is necessary for the immediate preservation of the public health
29 or safety, has been passed by a ye and nay vote supported by three-fifths of all the
30 members elected to each of the two Houses of the General Assembly, and shall take
31 effect from the date it is enacted.

