

SENATE BILL 711

Unofficial Copy  
D4

2004 Regular Session  
4r2820  
CF 4r1479

---

By: **Senators Jacobs and Giannetti**  
Introduced and read first time: February 6, 2004  
Assigned to: Judicial Proceedings

---

A BILL ENTITLED

1 AN ACT concerning

2 **Child Welfare Services - Children in Out-of-Home Placement**

3 FOR the purpose of declaring the intent of the General Assembly that certain funds  
4 be available for certain services when a parent relinquishes care of the parent's  
5 minor child to others; prohibiting the Department of Human Resources from  
6 placing children committed to the Department in group homes or residential  
7 facilities that accept children from other State agencies after a certain date;  
8 requiring the Department to consider certain criteria before issuing certain  
9 licenses; requiring local departments of social services to consider certain  
10 criteria in developing a permanency plan for a child in an out-of-home  
11 placement; altering certain goals of a local board of review for minor children in  
12 out-of-home placement; altering certain recommendations that may be made by  
13 a local board; requiring the Social Services Administration to adopt certain  
14 regulations; defining certain terms; and generally relating to child welfare  
15 services and children in out-of-home placement.

16 BY repealing and reenacting, with amendments,  
17 Article - Family Law  
18 Section 5-502, 5-525, 5-544, and 5-545  
19 Annotated Code of Maryland  
20 (1999 Replacement Volume and 2003 Supplement)

21 BY adding to  
22 Article - Family Law  
23 Section 5-505 and 5-510.1  
24 Annotated Code of Maryland  
25 (1999 Replacement Volume and 2003 Supplement)

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

1 **Article - Family Law**

2 5-502.

3 (a) The General Assembly declares that:

4 (1) minor children are not capable of protecting themselves; [and]

5 (2) when a parent has relinquished the care of the parent's minor child to  
6 others, there is a possibility of certain risks to the child that require compensating  
7 measures; AND

8 (3) WHEN A PARENT HAS RELINQUISHED THE CARE OF THE PARENT'S  
9 MINOR CHILD TO OTHERS, THERE SHALL BE SUFFICIENT FUNDS AVAILABLE FROM  
10 THE APPROPRIATE GOVERNMENT AGENCY TO PROVIDE THE CHILD WITH ALL  
11 NECESSARY SERVICES.

12 (b) It is the policy of this State:

13 (1) to protect minor children whose care has been relinquished to others  
14 by the children's parent;

15 (2) to resolve doubts in favor of the child when there is a conflict between  
16 the interests of a minor child and the interests of an adult; and

17 (3) to encourage the development of day care services for minor children  
18 in a safe, healthy, and homelike environment.

19 5-505.

20 AFTER JANUARY 1, 2006, A CHILD COMMITTED TO THE DEPARTMENT MAY NOT  
21 BE PLACED IN A GROUP HOME OR RESIDENTIAL FACILITY THAT ALSO ACCEPTS  
22 CHILDREN FROM ANY OTHER UNIT OF STATE GOVERNMENT.

23 5-510.1.

24 PRIOR TO ISSUING A LICENSE FOR A CHILD CARE HOME OR A LICENSE FOR A  
25 CHILD CARE INSTITUTION, THE DEPARTMENT SHALL CONSIDER THE LOCATION OF  
26 THE CHILD CARE HOME OR CHILD CARE INSTITUTION TO AVOID OVERSATURATION  
27 OF CHILD CARE HOMES OR CHILD CARE INSTITUTIONS IN LOCAL JURISDICTIONS IN  
28 THE STATE.

29 5-525.

30 (a) (1) The Administration shall establish a program of out-of-home  
31 placement for minor children:

32 (i) who are placed in the custody of a local department, for a period  
33 of not more than 180 days, by a parent or legal guardian under a voluntary placement  
34 agreement;

1 (ii) who are abused, abandoned, neglected, or dependent, if a  
2 juvenile court:

3 1. has determined that continued residence in the child's  
4 home is contrary to the child's welfare; and

5 2. has committed the child to the custody or guardianship of  
6 a local department; or

7 (iii) who, with the approval of the Administration, are placed in an  
8 out-of-home placement by a local department under a voluntary placement  
9 agreement subject to paragraph (2) of this subsection.

10 (2) (i) A local department may not seek legal custody of a child under  
11 a voluntary placement agreement if the child has a developmental disability or a  
12 mental illness and the purpose of the voluntary placement agreement is to obtain  
13 treatment or care related to the child's disability that the parent is unable to provide.

14 (ii) A child described in subparagraph (i) of this paragraph may  
15 remain in an out-of-home placement under a voluntary placement agreement for  
16 more than 180 days if the child's disability necessitates care or treatment in the  
17 out-of-home placement and a juvenile court makes a finding that continuation of the  
18 placement is in the best interests of the child.

19 (b) In establishing the out-of-home placement program the Administration  
20 shall:

21 (1) provide time-limited family reunification services to a child placed in  
22 an out-of-home placement and to the parents or guardian of the child, in order to  
23 facilitate the child's safe and appropriate reunification within a timely manner; and

24 (2) concurrently develop and implement a permanency plan that is in the  
25 best interests of the child.

26 (c) (1) The local department shall provide 24-hour a day care and  
27 supportive services for a child who is committed to its custody or guardianship in an  
28 out-of-home placement on a short-term basis or placed in accordance with a  
29 voluntary placement agreement.

30 (2) (i) A child may not be committed to the custody or guardianship of  
31 a local department and placed in an out-of-home placement solely because the child's  
32 parent or guardian lacks shelter or solely because the child's parents are financially  
33 unable to provide treatment or care for a child with a developmental disability or  
34 mental illness.

35 (ii) The local department shall make appropriate referrals to  
36 emergency shelter services and other services for the homeless family with a child  
37 which lacks shelter.

1 (d) (1) Unless a court orders that reasonable efforts are not required under §  
2 3-812 of the Courts Article or § 5-313 of this title, reasonable efforts shall be made to  
3 preserve and reunify families:

4 (i) prior to the placement of a child in an out-of-home placement,  
5 to prevent or eliminate the need for removing the child from the child's home; and

6 (ii) to make it possible for a child to safely return to the child's  
7 home.

8 (2) In determining the reasonable efforts to be made and in making the  
9 reasonable efforts described under paragraph (1) of this subsection, the child's safety  
10 and health shall be the primary concern.

11 (3) Reasonable efforts to place a child for adoption or with a legal  
12 guardian may be made concurrently with the reasonable efforts described under  
13 paragraph (1) of this subsection.

14 (4) If continuation of reasonable efforts to reunify the child with the  
15 child's parents or guardian is determined to be inconsistent with the permanency  
16 plan for the child, reasonable efforts shall be made to place the child in a timely  
17 manner in accordance with the permanency plan and to complete the steps to finalize  
18 the permanent placement of the child.

19 (e) (1) In developing a permanency plan for a child in an out-of-home  
20 placement, the local department of social services shall give primary consideration to  
21 the best interests of the child. The local department shall consider the following  
22 factors in determining the permanency plan that is in the best interests of the child:

23 (i) the child's ability to be safe and healthy in the home of the  
24 child's parent;

25 (ii) the child's attachment and emotional ties to the child's natural  
26 parents and siblings;

27 (iii) the child's emotional attachment to the child's current caregiver  
28 and the caregiver's family;

29 (iv) the length of time the child has resided with the current  
30 caregiver;

31 (v) the potential emotional, developmental, and educational harm  
32 to the child if moved from the child's current placement; and

33 (vi) the potential harm to the child by remaining in State custody  
34 for an excessive period of time.

35 (2) To the extent consistent with the best interests of the child in an  
36 out-of-home placement, the local department shall consider the following  
37 permanency plans, in descending order of priority:

1 (i) returning the child to the child's parent or guardian, unless the  
2 department is the guardian;

3 (ii) placing the child with relatives to whom adoption,  
4 guardianship, or care and custody, in descending order of priority, are planned to be  
5 granted;

6 (iii) adoption in the following descending order of priority:

7 1. by a current foster parent with whom the child has resided  
8 continually for at least the 12 months prior to developing the permanency plan or for  
9 a sufficient length of time to have established positive relationships and family ties;  
10 or

11 2. by another approved adoptive family;

12 (iv) placing the child in a court approved permanent foster home  
13 with a specific caregiver;

14 (v) an independent living arrangement; or

15 (vi) long-term foster care.

16 (3) TO THE EXTENT CONSISTENT WITH THE BEST INTERESTS OF A  
17 CHILD IN AN OUT-OF-HOME PLACEMENT, IN DETERMINING A PERMANENCY PLAN,  
18 THE LOCAL DEPARTMENT SHALL CONSIDER THE FOLLOWING IN DESCENDING  
19 ORDER OF PRIORITY:

20 (I) PLACEMENT OF THE CHILD IN THE LOCAL JURISDICTION  
21 WHERE THE CHILD'S PARENT OR GUARDIAN RESIDES; OR

22 (II) IF THE LOCAL DEPARTMENT FINDS, BASED ON A COMPELLING  
23 REASON, THAT PLACEMENT OF THE CHILD AS DESCRIBED IN ITEM (I) OF THIS  
24 PARAGRAPH IS NOT IN THE BEST INTEREST OF THE CHILD, PLACEMENT OF THE  
25 CHILD IN ANOTHER JURISDICTION IN THE STATE AFTER CONSIDERING:

26 1. THE NUMBER OF OTHER CHILDREN IN OUT-OF-HOME  
27 PLACEMENTS IN PROXIMITY TO THE CURRENT OR PROPOSED OUT-OF-HOME  
28 PLACEMENT;

29 2. THE EFFECT ON THE LOCAL SCHOOL SYSTEM;

30 3. THE AVAILABILITY OF RESOURCES TO PROVIDE  
31 NECESSARY SERVICES TO THE CHILD; AND

32 4. THE ACCESSIBILITY TO FAMILY TREATMENT, IF  
33 APPROPRIATE.

34 (f) (1) The local department shall:

1 (i) prepare the permanency plan in writing within 60 days of the  
2 date the child comes into care;

3 (ii) if the child is under the jurisdiction of the juvenile court,  
4 furnish the plan to the child's parents, the child or the child's counsel, and to the  
5 juvenile court; and

6 (iii) maintain the plan in the agency's case record.

7 (2) The local department shall amend the plan promptly as necessary in  
8 light of the child's situation and any court orders which affect the child.

9 (g) Unless a child has received a review from the local board of review of foster  
10 care under § 5-544 of Part IV of this subtitle, the local department shall perform an  
11 administrative review every 6 months to determine the success of the efforts to meet  
12 the goals set out in the permanency plan or the agreement with the parents or  
13 guardians in voluntary placements.

14 (h) (1) Foster parents who wish to adopt a foster child in their care and who  
15 wish to contest the agency's decision to place the child with another adoptive family  
16 may, within 30 days from the removal of the child, file with the agency a request for  
17 a hearing.

18 (2) Within 10 days after receipt of a request for a hearing under  
19 paragraph (1) of this subsection, the agency shall notify the Office of Administrative  
20 Hearings, which shall hold the hearing and issue a decision within 45 days of the  
21 receipt of the request.

22 (i) The Administration shall adopt regulations that:

23 (1) for the 12-month period beginning on October 1, 1983, and for each  
24 subsequent 12-month period, establish specific goals as to the maximum number of  
25 children who will remain in foster care for more than 2 years;

26 (2) prohibit a local department from seeking the custody or guardianship  
27 of a child for placement in foster care solely because the child's parent or guardian  
28 lacks shelter or solely because the child's parents are financially unable to provide  
29 treatment or care for a child with a developmental disability or mental illness; [and]

30 (3) SPECIFY THE COMPELLING REASONS FOR PLACING A CHILD IN A  
31 LOCAL JURISDICTION OTHER THAN THE LOCAL JURISDICTION WHERE THE CHILD'S  
32 PARENT OR GUARDIAN RESIDES, UNDER SUBSECTION (E)(3)(II) OF THIS SECTION; AND

33 [(3)] (4) require the local department to make appropriate referrals to  
34 emergency shelter and other services for families with children who lack shelter.

1 5-544.

2 The goals of each local board are:

3 (1) subject to § 5-545 of this subtitle, as to minor children who have  
4 resided in out-of-home placement under the jurisdiction of the local department for  
5 more than 6 months:

6 (i) to review the cases every 6 months to determine what efforts  
7 have been made to acquire permanent and stable placement for these children; [and]

8 (ii) to encourage and facilitate the return of each of these children  
9 to the child's parent or, on determining that return of a child to the child's parent is  
10 not in the best interests of the child, to encourage placement of the child with the  
11 child's relatives, provided the placement has legal status, or if neither measure is in  
12 the best interests of the child, to encourage efforts at adoption of the child; AND

13 (III) IF THE CHILD RESIDES IN AN OUT-OF-HOME PLACEMENT IN A  
14 LOCAL JURISDICTION WHERE THE CHILD'S PARENT OR GUARDIAN DOES NOT  
15 RESIDE, ON DETERMINING THAT THE RETURN OF THE CHILD TO THE CHILD'S  
16 PARENT OR GUARDIAN IS NOT IN THE BEST INTERESTS OF THE CHILD, TO  
17 ENCOURAGE AND FACILITATE THE PLACEMENT OF THE CHILD IN AN OUT-OF-HOME  
18 PLACEMENT IN THE CHILD'S LOCAL JURISDICTION OF ORIGIN, WHEN APPROPRIATE;

19 (2) to encourage all possible efforts for permanent foster care or kinship  
20 care or guardianship for minor children for whom return to a parent or adoption is not  
21 feasible; and

22 (3) to report to the juvenile court on the status of efforts to secure  
23 permanent homes for minor children.

24 5-545.

25 (a) Each local board shall review children in out-of-home placement in  
26 accordance with local plans approved by the State Board and the Secretary of Human  
27 Resources.

28 (b) Each local board shall report in writing to the juvenile court and the local  
29 department on each minor child whose case is reviewed by the local board.

30 (c) In the report, the local board may recommend, as being in the best interest  
31 of the minor child:

32 (1) that the child be returned to the parent or legal guardian;

33 (2) that the child continue to be placed outside the home and that the  
34 present placement plan is appropriate to the child's needs;

35 (3) that the child continue to be placed outside the home, but that the  
36 present placement plan is inappropriate to the child's needs; [or]

1           (4)     THAT THE CHILD CONTINUE TO BE PLACED OUTSIDE THE HOME,  
2 BUT THAT THE CHILD BE PLACED OUTSIDE THE HOME IN THE LOCAL JURISDICTION  
3 OF ORIGIN, IF APPROPRIATE;

4           (5)     THAT IT IS IN THE BEST INTEREST OF A CHILD TO CONTINUE TO BE  
5 PLACED IN ANOTHER LOCAL JURISDICTION IN THE STATE, AFTER CONSIDERING:

6                           1.     THE NUMBER OF OTHER CHILDREN IN OUT-OF-HOME  
7 PLACEMENTS IN PROXIMITY TO THE CURRENT OR PROPOSED OUT-OF-HOME  
8 PLACEMENT;

9                           2.     THE EFFECT ON THE LOCAL SCHOOL SYSTEM;

10                          3.     THE AVAILABILITY OF RESOURCES TO PROVIDE  
11 NECESSARY SERVICES TO THE CHILD; AND

12                          4.     THE ACCESSIBILITY TO FAMILY TREATMENT, IF  
13 APPROPRIATE; OR

14           [(4)]   (6)     that proceedings be initiated to terminate the rights of the  
15 parent as to the child so that the child may be eligible for adoption.

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