
By: **Chairman, Judiciary Committee (By Request - Departmental - Human Resources)**

Introduced and read first time: February 9, 2005

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Children in Need of Assistance - Out-of-Home Placement - Permanency**
3 **Plans**

4 FOR the purpose of altering certain options that may be included in a child's
5 court-ordered permanency plan; altering certain options to be considered by a
6 local department of social services in developing a permanency plan; and
7 generally relating to permanency plans for certain children in need of assistance
8 who are in out-of-home placements.

9 BY repealing and reenacting, without amendments,
10 Article - Courts and Judicial Proceedings
11 Section 3-823(a) and (b)
12 Annotated Code of Maryland
13 (2002 Replacement Volume and 2004 Supplement)

14 BY repealing and reenacting, with amendments,
15 Article - Courts and Judicial Proceedings
16 Section 3-823(e) and (f)
17 Annotated Code of Maryland
18 (2002 Replacement Volume and 2004 Supplement)

19 BY repealing and reenacting, without amendments,
20 Article - Family Law
21 Section 5-525(a) and (e)(1)
22 Annotated Code of Maryland
23 (2004 Replacement Volume)

24 BY repealing and reenacting, with amendments,
25 Article - Family Law
26 Section 5-525(e)(2)
27 Annotated Code of Maryland
28 (2004 Replacement Volume)

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

3 **Article - Courts and Judicial Proceedings**

4 3-823.

5 (a) In this section, "out-of-home placement" has the meaning stated in §
6 5-501 of the Family Law Article.

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

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

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

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

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

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

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

22 (i) Reunification with the parent or guardian;

23 (ii) Placement with a relative for:

24 1. Adoption; or

25 2. Custody and guardianship;

26 (iii) Adoption by a nonrelative;

27 (iv) Guardianship by a nonrelative; OR

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

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

32 (vii) Independent living; and]

1 (V) ANOTHER PLANNED PERMANENT LIVING ARRANGEMENT; AND

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

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

9 (1) Return home;

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

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

13 **Article - Family Law**

14 5-525.

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

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

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

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

24 2. has committed the child to the custody or guardianship of
25 a local department; or

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

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

33 (ii) A child described in subparagraph (i) of this paragraph may
34 remain in an out-of-home placement under a voluntary placement agreement for
35 more than 180 days if the child's disability necessitates care or treatment in the

1 out-of-home placement and a juvenile court makes a finding that continuation of the
2 placement is in the best interests of the child.

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

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

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

11 (iii) the child's emotional attachment to the child's current caregiver
12 and the caregiver's family;

13 (iv) the length of time the child has resided with the current
14 caregiver;

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

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

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

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

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

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

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

32 2. by another approved adoptive family; OR

33 [(iv) placing the child in a court approved permanent foster home
34 with a specific caregiver;

35 (v) an independent living arrangement; or

1 (vi) long-term foster care]

2 (IV) ANOTHER PLANNED PERMANENT LIVING ARRANGEMENT.

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 October 1, 2005.