

---

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

Introduced and read first time: February 9, 2005

Assigned to: Judiciary

---

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 21, 2005

---

CHAPTER \_\_\_\_\_

1 AN ACT concerning

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

1 (2004 Replacement Volume)

2 BY repealing and reenacting, with amendments,

3 Article - Family Law

4 Section 5-525(e)(2)

5 Annotated Code of Maryland

6 (2004 Replacement Volume)

7 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

8 MARYLAND, That the Laws of Maryland read as follows:

9 **Article - Courts and Judicial Proceedings**

10 3-823.

11 (a) In this section, "out-of-home placement" has the meaning stated in §  
12 5-501 of the Family Law Article.

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

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

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

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

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

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

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

28 (i) Reunification with the parent or guardian;

29 (ii) Placement with a relative for:

30 1. Adoption; or

31 2. Custody and guardianship;

32 (iii) Adoption by a nonrelative;

- 1 (iv) Guardianship by a nonrelative; OR
- 2 [(v) Continuation in a specified placement on a permanent basis
- 3 because of the child's special needs or circumstances;
- 4 (vi) Continuation in placement for a specified period because of the
- 5 child's special needs or circumstances; or
- 6 (vii) Independent living; and]
- 7 (V) ANOTHER PLANNED PERMANENT LIVING ARRANGEMENT

8 THAT:

9 1. ADDRESSES THE INDIVIDUALIZED NEEDS OF THE CHILD,

10 INCLUDING THE CHILD'S EDUCATIONAL PLAN, EMOTIONAL STABILITY, PHYSICAL

11 PLACEMENT, AND SOCIALIZATION NEEDS; AND

12 2. INCLUDES GOALS THAT PROMOTE THE CONTINUITY OF

13 RELATIONS WITH INDIVIDUALS WHO WILL FILL A LASTING AND SIGNIFICANT ROLE

14 IN THE CHILD'S LIFE; AND

15 (2) For a child who has attained the age of 16, determine the services

16 needed to assist the child to make the transition from placement to independent

17 living.

18 (f) The court may not order a child to be continued in a placement under

19 subsection (e) (1) (v) [or (vi)] of this section unless the court finds that the person or

20 agency to which the child is committed has documented a compelling reason for

21 determining that it would not be in the best interest of the child to:

- 22 (1) Return home;
- 23 (2) Be referred for termination of parental rights; or
- 24 (3) Be placed for adoption or guardianship with a specified and
- 25 appropriate relative or legal guardian willing to care for the child.

26 **Article - Family Law**

27 5-525.

28 (a) (1) The Administration shall establish a program of out-of-home

29 placement for minor children:

- 30 (i) who are placed in the custody of a local department, for a period
- 31 of not more than 180 days, by a parent or legal guardian under a voluntary placement
- 32 agreement;
- 33 (ii) who are abused, abandoned, neglected, or dependent, if a
- 34 juvenile court:

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

3                                   2.           has committed the child to the custody or guardianship of  
4 a local department; or

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

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

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

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

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

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

25                                  (iii)       the child's emotional attachment to the child's current caregiver  
26 and the caregiver's family;

27                                  (iv)       the length of time the child has resided with the current  
28 caregiver;

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

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

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

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

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

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

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

9 2. by another approved adoptive family; OR

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

12 (v) an independent living arrangement; or

13 (vi) long-term foster care]

14 (IV) ANOTHER PLANNED PERMANENT LIVING ARRANGEMENT

15 THAT:

16 1. ADDRESSES THE INDIVIDUALIZED NEEDS OF THE CHILD,  
17 INCLUDING THE CHILD'S EDUCATIONAL PLAN, EMOTIONAL STABILITY, PHYSICAL  
18 PLACEMENT, AND SOCIALIZATION NEEDS; AND

19 2. INCLUDES GOALS THAT PROMOTE THE CONTINUITY OF  
20 RELATIONS WITH INDIVIDUALS WHO WILL FILL A LASTING AND SIGNIFICANT ROLE  
21 IN THE CHILD'S LIFE.

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