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By: **Delegates Weldon, Bobo, Marriott, and Nathan-Pulliam**

Introduced and read first time: February 10, 2005

Assigned to: Judiciary

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A BILL ENTITLED

1 AN ACT concerning

2 **Juvenile Causes - Child in Need of Assistance - Priority of Relatives as**  
3 **Caregivers**

4 FOR the purpose of requiring a local county department of social services to consider  
5 whether there is a relative who is able to provide supervision of a child alleged  
6 to be in need of assistance prior to placing the child in emergency shelter before  
7 a certain hearing; requiring a local county department of social services to give  
8 a certain notice of a certain hearing to relatives of a child alleged to be in need  
9 of assistance; requiring a court to give priority to a child's relatives over  
10 nonrelatives when ordering shelter care for the child under certain  
11 circumstances; requiring a court to give priority to a child's relatives over  
12 nonrelatives when committing a child to the custody of someone other than the  
13 parent of the child under certain circumstances; requiring a court to give  
14 priority to a child's relatives over nonrelatives when determining the child's  
15 permanency plan under certain circumstances; defining a certain term; and  
16 generally relating to children in need of assistance.

17 BY repealing and reenacting, without amendments,  
18 Article - Courts and Judicial Proceedings  
19 Section 3-801(a) and (f), 3-815(a), (d), and (e), 3-819(a), and 3-823(a), (b), (c),  
20 and (d)  
21 Annotated Code of Maryland  
22 (2002 Replacement Volume and 2004 Supplement)

23 BY repealing and reenacting, with amendments,  
24 Article - Courts and Judicial Proceedings  
25 Section 3-801(v), (w), (x), (y), (z), and (aa), 3-815(b) and (c), 3-819(b), and  
26 3-823(e)  
27 Annotated Code of Maryland  
28 (2002 Replacement Volume and 2004 Supplement)

29 BY adding to  
30 Article - Courts and Judicial Proceedings  
31 Section 3-801(v)

1 Annotated Code of Maryland  
2 (2002 Replacement Volume and 2004 Supplement)

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

5 **Article - Courts and Judicial Proceedings**

6 3-801.

7 (a) In this subtitle the following words have the meanings indicated.

8 (f) "Child in need of assistance" means a child who requires court intervention  
9 because:

10 (1) The child has been abused, has been neglected, has a developmental  
11 disability, or has a mental disorder; and

12 (2) The child's parents, guardian, or custodian are unable or unwilling to  
13 give proper care and attention to the child and the child's needs.

14 (V) "RELATIVE" MEANS AN INDIVIDUAL WHO IS:

15 (1) RELATED TO THE CHILD BY BLOOD OR MARRIAGE WITHIN FIVE  
16 DEGREES OF CONSANGUINITY OR AFFINITY UNDER THE CIVIL LAW; AND

17 (2) AT LEAST 18 YEARS OLD.

18 [(v)] (W) (1) "Sexual abuse" means an act that involves sexual molestation  
19 or sexual exploitation of a child by:

20 (i) A parent or other individual who has permanent or temporary  
21 care or custody or responsibility for supervision of the child; or

22 (ii) A household or family member.

23 (2) "Sexual abuse" includes:

24 (i) Incest;

25 (ii) Rape;

26 (iii) Sexual offense in any degree;

27 (iv) Sodomy; and

28 (v) Unnatural or perverted sexual practices.

29 [(w)] (X) "Shelter care" means a temporary placement of a child outside of the  
30 home at any time before disposition.

1 [(x)] (Y) "Shelter care hearing" means a hearing held before disposition to  
2 determine whether the temporary placement of the child outside of the home is  
3 warranted.

4 [(y)] (Z) "TPR proceeding" means a proceeding to terminate parental rights.

5 [(z)] (AA) "Voluntary placement" means a placement in accordance with §  
6 5-525(a)(1)(i) or (iii) of the Family Law Article.

7 [(aa)] (BB) "Voluntary placement hearing" means a hearing to obtain a  
8 judicial determination as to whether continuing a voluntary placement is in the best  
9 interests of the child.

10 3-815.

11 (a) In accordance with regulations adopted by the Department of Human  
12 Resources, a local department may authorize shelter care for a child who may be in  
13 need of assistance and has been taken into custody under this subtitle.

14 (b) A local department may place a child in emergency shelter care before a  
15 hearing if:

16 (1) Placement is required to protect the child from serious immediate  
17 danger;

18 (2) There is no parent, guardian, custodian, RELATIVE, or other person  
19 able to provide supervision; and

20 (3) (i) 1. The child's continued placement in the child's home is  
21 contrary to the welfare of the child; and

22 2. Because of an alleged emergency situation, removal from  
23 the home is reasonable under the circumstances to provide for the safety of the child;  
24 or

25 (ii) 1. Reasonable but unsuccessful efforts have been made to  
26 prevent or eliminate the need for removal from the child's home; and

27 2. As appropriate, reasonable efforts are being made to  
28 return the child to the child's home.

29 (c) (1) Whenever a child is not returned to the child's parent, guardian, or  
30 custodian, the local department shall immediately file a petition to authorize  
31 continued shelter care.

32 (2) (i) The court shall hold a shelter care hearing on the petition before  
33 disposition to determine whether the temporary placement of the child outside of the  
34 home is warranted.

35 (ii) Unless extended on good cause shown, a shelter care hearing  
36 shall be held not later than the next day on which the circuit court is in session.

1 (3) If the child's parents, guardian, [or] custodian, OR RELATIVES can be  
2 located, reasonable notice, oral or written, stating the time, place, and purpose of the  
3 shelter care hearing shall be given.

4 (4) A court may not order shelter care for more than 30 days except that  
5 shelter care may be extended for up to an additional 30 days if the court finds after a  
6 hearing held as part of an adjudication that continued shelter care is needed to  
7 provide for the safety of the child.

8 (5) UNLESS GOOD CAUSE IS SHOWN, A COURT SHALL GIVE PRIORITY TO  
9 THE CHILD'S RELATIVES OVER NONRELATIVES WHEN ORDERING SHELTER CARE FOR  
10 A CHILD.

11 (d) A court may continue shelter care beyond emergency shelter care only if  
12 the court finds that:

13 (1) Return of the child to the child's home is contrary to the safety and  
14 welfare of the child; and

15 (2) (i) Removal of the child from the child's home is necessary due to  
16 an alleged emergency situation and in order to provide for the safety of the child; or

17 (ii) Reasonable but unsuccessful efforts were made to prevent or  
18 eliminate the need for removal of the child from the home.

19 (e) (1) If the court continues shelter care on the basis of an alleged  
20 emergency, the court shall assess whether the absence of efforts to prevent removal  
21 was reasonable.

22 (2) If the court finds that the absence of efforts to prevent removal was  
23 not reasonable, the court shall make a written determination so stating.

24 (3) The court shall make a written determination as to whether  
25 reasonable efforts are being made to make it possible to return the child to the child's  
26 home or whether the absence of such efforts is reasonable.

27 3-819.

28 (a) (1) Unless a CINA petition under this subtitle is dismissed, the court  
29 shall hold a separate disposition hearing after an adjudicatory hearing to determine  
30 whether the child is a CINA.

31 (2) The disposition hearing shall be held on the same day as the  
32 adjudicatory hearing unless on its own motion or motion of a party, the court finds  
33 that there is good cause to delay the disposition hearing to a later day.

34 (3) If the court delays a disposition hearing, it shall be held no later than  
35 30 days after the conclusion of the adjudicatory hearing unless good cause is shown.

1 (b) (1) In making a disposition on a CINA petition under this subtitle, the  
2 court shall:

3 [(1)] (I) Find that the child is not in need of assistance and, except as  
4 provided in subsection (e) of this section, dismiss the case; or

5 [(2)] (II) [Find] SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, FIND  
6 that the child is in need of assistance and:

7 [(i)] 1. Not change the child's custody status; or

8 [(ii)] 2. Commit the child to the custody of:

9 [1.] A. A parent, relative, or other individual on terms the  
10 court considers appropriate; or

11 [2.] B. A local department, the Department of Health and  
12 Mental Hygiene, or both, on terms that the court considers appropriate, including  
13 designation of the type of facility where the child is to be placed.

14 (2) UNLESS GOOD CAUSE IS SHOWN, A COURT SHALL GIVE PRIORITY TO  
15 THE CHILD'S RELATIVES OVER NONRELATIVES WHEN COMMITTING THE CHILD TO  
16 THE CUSTODY OF SOMEONE OTHER THAN A PARENT.

17 3-823.

18 (a) In this section, "out-of-home placement" has the meaning stated in  
19 § 5-501 of the Family Law Article.

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

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

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

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

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

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

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

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

6     (e)     (1)     At a permanency planning hearing, the court shall:

7           [(1)]    (I)     Determine the child's permanency plan, which, SUBJECT TO  
8 PARAGRAPH (2) OF THIS SUBSECTION, may be:

9                   [(i)]    1.     Reunification with the parent or guardian;

10                   [(ii)]   2.     Placement with a relative for:

11                           [1.]   A.     Adoption; or

12                           [2.]   B.     Custody and guardianship;

13                   [(iii)]   3.     Adoption by a nonrelative;

14                   [(iv)]   4.     Guardianship by a nonrelative;

15                   [(v)]    5.     Continuation in a specified placement on a permanent  
16 basis because of the child's special needs or circumstances;

17                   [(vi)]   6.     Continuation in placement for a specified period because  
18 of the child's special needs or circumstances; or

19                   [(vii)]   7.     Independent living; and

20           [(2)]    (II)    For a child who has attained the age of 16, determine the  
21 services needed to assist the child to make the transition from placement to  
22 independent living.

23           (2)     UNLESS GOOD CAUSE IS SHOWN, A COURT SHALL GIVE PRIORITY TO  
24 THE CHILD'S RELATIVES OVER NONRELATIVES WHEN DETERMINING THE CHILD'S  
25 PERMANENCY PLAN.

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