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

Introduced and read first time: February 10, 2005

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 24, 2005

CHAPTER _____

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 ~~that a local county department of social services to~~
 8 ~~give a~~ certain notice of a certain hearing be given to relatives of a child alleged
 9 to be in need of assistance; requiring a court to give priority to a child's relatives
 10 over 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~~ an individual
 13 other than the parent of the child under certain circumstances; requiring a court
 14 to consider the best interests of the child in determining the child's permanency
 15 plan; requiring a court to consider certain permanency plans in descending
 16 order of priority; requiring a court to ~~give priority to a child's relatives over~~
 17 ~~nonrelatives~~ consider certain factors when determining the child's permanency
 18 plan under certain circumstances; defining a certain term; and generally
 19 relating to children in need of assistance.

20 BY repealing and reenacting, without amendments,
 21 Article - Courts and Judicial Proceedings
 22 Section 3-801(a) and (f), 3-815(a), (d), and (e), 3-819(a), and 3-823(a), (b), (c),
 23 and (d)
 24 Annotated Code of Maryland
 25 (2002 Replacement Volume and 2004 Supplement)

26 BY repealing and reenacting, with amendments,

1 Article - Courts and Judicial Proceedings
 2 Section 3-801(v), (w), (x), (y), (z), and (aa), 3-815(b) and (c), 3-819(b), and
 3 3-823(e)
 4 Annotated Code of Maryland
 5 (2002 Replacement Volume and 2004 Supplement)

6 BY adding to
 7 Article - Courts and Judicial Proceedings
 8 Section 3-801(v)
 9 Annotated Code of Maryland
 10 (2002 Replacement Volume and 2004 Supplement)

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

13 **Article - Courts and Judicial Proceedings**

14 3-801.

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

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

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

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

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

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

25 (2) (I) AT LEAST ~~18~~ 21 YEARS OLD; OR

26 (II) 1. AT LEAST 18 YEARS OLD; AND

27 2. LIVES WITH A SPOUSE WHO IS AT LEAST 21 YEARS OLD.

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

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

32 (ii) A household or family member.

1 (2) "Sexual abuse" includes:
2 (i) Incest;
3 (ii) Rape;
4 (iii) Sexual offense in any degree;
5 (iv) Sodomy; and
6 (v) Unnatural or perverted sexual practices.
7 [(w)] (X) "Shelter care" means a temporary placement of a child outside of the
8 home at any time before disposition.

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

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

13 [(z)] (AA) "Voluntary placement" means a placement in accordance with §
14 5-525(a)(1)(i) or (iii) of the Family Law Article.

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

18 3-815.

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

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

24 (1) Placement is required to protect the child from serious immediate
25 danger;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 3-819.

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

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

11 (3) If the court delays a disposition hearing, it shall be held no later than
12 30 days after the conclusion of the adjudicatory hearing unless good cause is shown.

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

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

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

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

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

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

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

26 (2) UNLESS GOOD CAUSE IS SHOWN, A COURT SHALL GIVE PRIORITY TO
27 THE CHILD'S RELATIVES OVER NONRELATIVES WHEN COMMITTING THE CHILD TO
28 THE CUSTODY OF ~~SOMEONE~~ AN INDIVIDUAL OTHER THAN A PARENT.

29 3-823.

30 (a) In this section, "out-of-home placement" has the meaning stated in
31 § 5-501 of the Family Law Article.

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

1 (i) No later than 11 months after a child committed under § 3-819
 2 of this subtitle or continued in a voluntary placement under § 3-819.1(b) of this
 3 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) (1) At a permanency planning hearing, the court shall:

22 [(1)] (I) Determine the child's permanency plan, which, ~~SUBJECT TO~~
 23 ~~PARAGRAPH (2) OF THIS SUBSECTION, TO THE EXTENT CONSISTENT WITH THE BEST~~
 24 INTERESTS OF THE CHILD, may be, IN DESCENDING ORDER OF PRIORITY:

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

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

27 [1.] A. Adoption; or

28 [2.] B. Custody and guardianship;

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

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

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

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

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

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

5 (2) ~~UNLESS GOOD CAUSE IS SHOWN, A COURT SHALL GIVE PRIORITY TO~~
6 ~~THE CHILD'S RELATIVES OVER NONRELATIVES WHEN DETERMINING THE CHILD'S~~
7 ~~PERMANENCY PLAN~~ IN DETERMINING THE CHILD'S PERMANENCY PLAN, THE COURT
8 SHALL CONSIDER THE FACTORS SPECIFIED IN § 5-525(E)(1) OF THE FAMILY LAW
9 ARTICLE.

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