
By: **Delegates Boteler, Cluster, Bates, Frank, Impallaria, Krebs, Kullen,
McDonough, Taylor, Trueschler, V. Turner, and Weir**

Introduced and read first time: February 11, 2005

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Family Law - Rights of Foster Parents**

3 FOR the purpose of expanding the rights of foster parents to include the right to
4 primary consideration as an adoptive parent when certain conditions are met;
5 clarifying the definition of kinship care; defining a certain term; and generally
6 relating to the rights of foster parents.

7 BY repealing and reenacting, with amendments,
8 Article - Family Law
9 Section 5-501 and 5-504
10 Annotated Code of Maryland
11 (2004 Replacement Volume)

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

14 **Article - Family Law**

15 5-501.

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

17 (b) "Administration" means the Social Services Administration of the
18 Department.

19 (c) "Child placement agency" has the meaning stated in § 5-301 of this title.

20 (d) "Day care provider" means the adult who has primary responsibility for
21 the operation of a family day care home.

22 (e) "Family day care" means the care given to a child under the age of 13 years
23 or to any developmentally disabled person under the age of 21 years, in place of
24 parental care for less than 24 hours a day, in a residence other than the child's
25 residence, for which the day care provider is paid.

1 (f) "Family day care home" means a residence in which family day care is
2 provided.

3 (g) "Foster care" means continuous 24-hour care and supportive services
4 provided for a minor child placed by a child placement agency in an approved family
5 home.

6 (h) "Group care" means continuous 24-hour care and supportive services
7 provided for a minor child placed in a licensed group facility.

8 (i) "Kinship care" means continuous 24-hour care and supportive services
9 provided for a minor child placed by a child placement agency in the home of a
10 relative related by blood or marriage within the 5th degree of consanguinity or
11 affinity under the civil law rule OR A CHILD IN THE HOME OF A PERSON WHO MAKES
12 UP THE FAMILY SUPPORT SYSTEM, SUCH AS A GODPARENT, WHO HAS A STRONG
13 KINSHIP BOND WITH THE CHILD, AND WHO IS APPROVED BY A CHILD PLACEMENT
14 AGENCY TO CARE FOR THE CHILD.

15 (J) "KINSHIP CAREGIVER" MEANS AN INDIVIDUAL WHOSE RELATIONSHIP TO
16 A CHILD IS BEYOND THE 5TH DEGREE OF CONSANGUINITY OR AFFINITY, SUCH AS A
17 GODPARENT, WHO HAS A STRONG KINSHIP BOND WITH THE CHILD AND WHO IS
18 APPROVED BY A CHILD PLACEMENT AGENCY TO CARE FOR THE CHILD.

19 [(j)] (K) (1) "License" means a license issued by the Administration under
20 this subtitle.

21 (2) "License" includes:

22 (i) a child placement agency license;

23 (ii) a child care home license;

24 (iii) a child care institution license; and

25 (iv) a residential educational facility license.

26 [(k)] (L) "Local board" means a local citizen board of review of foster care for
27 children.

28 [(l)] (M) "Local department" means a local department of social services for a
29 county.

30 [(m)] (N) "Out-of-home placement" means placement of a child into foster
31 care, kinship care, group care, or residential treatment care.

32 [(n)] (O) "Residential educational facility" means:

33 (1) a facility that:

34 (i) provides special education and related services for students
35 with disabilities;

1 (ii) holds a certificate of approval issued by the State Board of
2 Education; and

3 (iii) provides continuous 24-hour care and supportive services to
4 children in a residential setting; or

5 (2) one of the following schools:

6 (i) the Benedictine School;

7 (ii) the Linwood School;

8 (iii) the Maryland School for the Blind; or

9 (iv) the Maryland School for the Deaf.

10 [(o)] (P) "Residential treatment care" means continuous 24-hour care and
11 supportive services for a minor child placed in a facility that provides formal
12 programs of basic care, social work, and health care services.

13 [(p)] (Q) "State Board" means the State Citizen Board of Review of Foster
14 Care for Children.

15 [(q)] (R) "Unregistered family day care home" means a residence in which
16 family day care is provided and in which the day care provider:

17 (1) has not obtained a certificate of registration from the Department;

18 (2) is not related by blood or marriage to each child in the provider's care;

19 (3) is not a friend of each child's parents or legal guardian and is
20 providing care on a regular basis; and

21 (4) has not received the care of the child from a child placement agency
22 licensed by the Administration or by a local department.

23 [(r)] (S) "Voluntary placement agreement" means a binding, written
24 agreement voluntarily entered into between a local department and the parent or
25 legal guardian of a minor child that specifies, at a minimum, the legal status of the
26 child and the rights and obligations of the parent or legal guardian, the child, and the
27 local department while the child is in placement.

28 5-504.

29 (a) Foster parents in this State have the following rights:

30 (1) the right, at the initial placement, at any time during the placement
31 of a child in foster care, and as soon as practicable after new information becomes
32 available, to receive full information from the caseworker, except for information
33 about the family members that may be privileged or confidential, on the physical,

1 social, emotional, educational, and mental history of a child which would possibly
2 affect the care provided by a foster parent;

3 (2) with regard to the local department of social services case planning,
4 the right to:

5 (i) except for meetings covered by the attorney-client privilege or
6 meetings in which confidential information about the natural parents is discussed, be
7 notified of, and when applicable, be heard at scheduled meetings and staffings
8 concerning a child in order to actively participate, without superseding the rights of
9 the natural parents to participate and make appropriate decisions regarding the
10 child, in the case planning, administrative case reviews, interdisciplinary staffings,
11 and individual educational planning and mental health team meetings;

12 (ii) be informed of decisions made by the courts or a child welfare
13 agency concerning a child; and

14 (iii) provide input concerning the plan of services for a child and to
15 have that input given full consideration by the local department of social services;
16 [and]

17 (3) the right to be given reasonable written notice, waived only in cases
18 of a court order or when a child is determined to be at imminent risk of harm, of plans
19 to terminate the placement of a child with a foster parent; AND

20 (4) THE RIGHT TO PRIMARY CONSIDERATION AS AN ADOPTIVE PARENT
21 WHEN:

22 (I) THE OPTIONS OF RETURNING THE CHILD HOME OR
23 PLACEMENT WITH A RELATIVE, KINSHIP CARE PARENT, OR KINSHIP CAREGIVER
24 HAVE BEEN CONSIDERED AND RULED OUT; AND

25 (II) THE CHILD HAS BEEN PLACED IN THE FOSTER PARENT'S HOME
26 FOR AT LEAST 1 CONTINUOUS YEAR.

27 (b) This section does not create, and may not be construed to create, a cause of
28 action for foster parents.

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