

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE
Revised

House Bill 935

(Delegate Weldon, *et al.*)

Judiciary

Judicial Proceedings

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

This bill requires a local department of social services to give priority to relatives over nonrelatives when ordering shelter care for a child in need of assistance (CINA) and when committing the child to an individual other than a parent. In addition, the court must consider the best interests of the child in determining a permanency plan and consider the current list of permanency plans in the order required by the bill.

Fiscal Summary

State Effect: The bill's requirements could be met within existing resources.

Local Effect: The bill's requirements could be met within existing resources.

Small Business Effect: None.

Analysis

Bill Summary: The bill requires a local department of social services to consider whether there is a relative able to provide supervision of a child alleged to be a CINA prior to placing the child in emergency shelter care before a shelter care hearing. A local department of social services must give notice of a shelter care hearing to relatives of a child alleged to be a CINA. Unless good cause is shown, the bill requires the court to give priority to a child's relatives over nonrelatives when ordering shelter care and when committing the child to the custody of an individual other than a parent.

The court must consider the best interests of the child in determining a permanency plan for a CINA by considering the following factors: (1) the child's ability to be safe and

healthy in the home of the child's parent; (2) the child's attachment and emotional ties to the child's natural parents and siblings; (3) the child's emotional attachment to the child's current caregiver and the caregiver's family; (4) the length of time the child has resided with the current caregiver; (5) the potential emotional, developmental, and educational harm to the child if moved from the current placement; and (6) the potential harm to the child by remaining in State custody for an excessive period of time.

The court must also consider the types of permanency plans, as currently specified in statute, in descending order of priority. For purposes of this bill, "relative" means an individual who: (1) is at least 21 years old or is at least 18 years old and lives with a spouse who is at least 21 years old; and (2) is related to the child by blood or marriage within five degrees of consanguinity or affinity under the civil law.

Current Law: CINA provisions must be construed liberally to effectuate the enumerated purposes relating to the care, protection, safety, and mental and physical health of any child who is subject to being designated CINA.

A local department may authorize shelter care for a child who may be a CINA and is in a local department's custody. A local department may place a child in emergency shelter care before a hearing if specified conditions exist, including that there is no parent, guardian, custodian, or other person able to provide supervision. Whenever a child is not returned to the child's parent, guardian, or custodian, the local department must file a petition to authorize continued shelter care. If the child's parents, guardian, or custodian can be located, reasonable written and oral notice of the shelter care hearing must be provided. A court may continue shelter care beyond emergency shelter care only if the court finds that specified conditions exist.

After a CINA petition is filed, a court must hold an adjudicatory hearing. Unless the CINA petition is dismissed, the court must hold a separate disposition hearing after an adjudicatory hearing to determine whether a child is a CINA. If the child is a CINA, the court can refrain from changing the child's custody status or commit the child to the custody of a parent, relative, or other individual, as appropriate; or commit the child to a local department, the Department of Health and Mental Hygiene, or both, as appropriate, including designation of the type of facility where the child is to be placed. In addition, the court may take other actions relating to custody or guardianship of the child, as specified.

The court must hold a permanency planning hearing for a CINA who is committed or a child in voluntary placement who enters an out-of-home placement within specified time frames. At a permanency planning hearing, the court must determine the child's permanency plan, which may be, in order of priority: (1) reunification; (2) placement with a relative for adoption, or custody and guardianship; (3) adoption by a nonrelative;

(4) guardianship by a nonrelative; (5) continuation in a specified placement on a permanent basis due to the child's special needs or circumstances; (6) continuation in a placement for a specified period due to the child's special needs or circumstances; or (7) independent living. For a child who has attained the age of 16, the local department must determine the required services to assist the child with the transition from placement to independent living.

Background: According to the Department of Human Resources (DHR), placement of children with relatives is seen as the first alternative when reunification with the biological parent is not possible. From fiscal 1998 to 2003, the number of children in kinship care has decreased from 3,426 in fiscal 1998 to 1,803 in fiscal 2003. At the end of fiscal 2004, the number of children in kinship care was 1,829 and the number of kinship caregivers was 1,795. Throughout fiscal 2004, DHR provided services to, on average, 1,511 parents of children in kinship care. The jurisdiction with the largest number of children in kinship care was Baltimore City, which had 1,487 children at the end of fiscal 2004. The jurisdiction with the second largest number of kinship care children was Prince George's County, which had 101 at the end of fiscal 2004. On average, about 105 children entered kinship care each month during fiscal 2004. According to the Citizen's Review Board, tens of thousands more children are in the care of relatives through informal arrangements.

State and Local Fiscal Effect: DHR advises that the direction to local departments to provide consideration of and notification to relatives as required in the bill could be accomplished within existing resources. The Judiciary advises that because the bill directs the courts to prioritize its consideration of placement and permanency by giving consideration to relatives, no fiscal impact is anticipated.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Human Resources, Judiciary (Administrative Office of the Courts), Department of Legislative Services

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