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By: **Delegates Boteler, McComas, Smigiel, and Cluster**

Introduced and read first time: February 15, 2006

Assigned to: Rules and Executive Nominations

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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 and 2005 Supplement)

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

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

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

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

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

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

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

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

19 (2) "License" includes:

20 (i) a child placement agency license;

21 (ii) a child care home license;

22 (iii) a child care institution license; and

23 (iv) a residential educational facility license.

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

26 (m) "Out-of-home placement" means placement of a child into foster care,  
27 kinship care, group care, or residential treatment care.

28 (n) "Residential educational facility" means:

29 (1) a facility that:

30 (i) provides special education and related services for students  
31 with disabilities;

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

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

1 (2) one of the following schools:

2 (i) the Benedictine School;

3 (ii) the Linwood School;

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

5 (iv) the Maryland School for the Deaf.

6 (o) "Residential treatment care" means continuous 24-hour care and  
7 supportive services for a minor child placed in a facility that provides formal  
8 programs of basic care, social work, and health care services.

9 (p) "State Board" means the State Citizen Board of Review of Foster Care for  
10 Children.

11 (q) "Unregistered family day care home" means a residence in which family  
12 day care is provided and in which the day care provider:

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

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

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

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

19 (r) "Voluntary placement agreement" means a binding, written agreement  
20 voluntarily entered into between a local department and the parent or legal guardian  
21 of a minor child that specifies, at a minimum, the legal status of the child and the  
22 rights and obligations of the parent or legal guardian, the child, and the local  
23 department while the child is in placement.

24 5-504.

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

26 (1) the right, at the initial placement, at any time during the placement  
27 of a child in foster care, and as soon as practicable after new information becomes  
28 available, to receive full information from the caseworker, except for information  
29 about the family members that may be privileged or confidential, on the physical,  
30 social, emotional, educational, and mental history of a child which would possibly  
31 affect the care provided by a foster parent;

32 (2) with regard to the local department case planning, the right to:

33 (i) except for meetings covered by the attorney-client privilege or  
34 meetings in which confidential information about the natural parents is discussed, be

1 notified of, and when applicable, be heard at scheduled meetings and staffings  
2 concerning a child in order to actively participate, without superseding the rights of  
3 the natural parents to participate and make appropriate decisions regarding the  
4 child, in the case planning, administrative case reviews, interdisciplinary staffings,  
5 and individual educational planning and mental health team meetings;

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

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

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

13 (4) THE RIGHT TO PRIMARY CONSIDERATION AS AN ADOPTIVE PARENT  
14 WHEN:

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

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

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

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
23 October 1, 2006.