

HOUSE BILL 1226

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71r3098
CF SB 579

By: **Delegates Barnes, Dumais, Hubbard, Montgomery, O'Donnell, and Rosenberg**

Introduced and read first time: February 21, 2007

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Children with Disabilities – Voluntary Placement Agreements**

3 FOR the purpose of requiring the juvenile court to make a certain finding in certain
4 hearings involving a child with a developmental disability or mental illness;
5 authorizing the juvenile court, in making a disposition on a child in need of
6 assistance petition involving a child with a developmental disability or mental
7 illness, to make a certain finding and require a local department of social
8 services to take certain actions; requiring each local department of social
9 services to designate a certain staff person to administer requests for voluntary
10 placement agreements for children with developmental disabilities or mental
11 illnesses; requiring each local department of social services to make a certain
12 annual report to the Social Services Administration; requiring a local
13 department of social services to take certain actions on receipt of a request for a
14 voluntary placement agreement for a child with a developmental disability or
15 mental illness; requiring the Social Services Administration to provide certain
16 training for certain staff who administer requests for voluntary placement
17 agreements; and generally relating to children with disabilities or mental
18 illnesses and voluntary placement agreements.

19 BY repealing and reenacting, without amendments,
20 Article – Courts and Judicial Proceedings
21 Section 3–816.1(a)
22 Annotated Code of Maryland
23 (2006 Replacement Volume)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing and reenacting, with amendments,
2 Article – Courts and Judicial Proceedings
3 Section 3–816.1(b) and 3–819(b)
4 Annotated Code of Maryland
5 (2006 Replacement Volume)

6 BY repealing and reenacting, with amendments,
7 Article – Family Law
8 Section 5–525(a) and (b)
9 Annotated Code of Maryland
10 (2006 Replacement Volume)

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 3–816.1.

15 (a) The provisions of this section apply to a hearing conducted in accordance
16 with § 3–815, § 3–817, § 3–819, or § 3–823 of this subtitle or a review hearing
17 conducted in accordance with § 5–326 of the Family Law Article in which a child is
18 placed under an order of guardianship, commitment, or shelter care.

19 (b) (1) In a hearing conducted in accordance with § 3–815, § 3–817, §
20 3–819, or § 3–823 of this subtitle, the court shall make a finding whether the local
21 department made reasonable efforts to prevent placement of the child into the local
22 department's custody.

23 (2) In a review hearing conducted in accordance with § 3–823 of this
24 subtitle or § 5–326 of the Family Law Article, the court shall make a finding whether a
25 local department made reasonable efforts to:

26 (i) Finalize the permanency plan in effect for the child; and

27 (ii) Meet the needs of the child, including the child's health,
28 education, safety, and preparation for independence.

29 **(3) IN A HEARING CONDUCTED IN ACCORDANCE WITH § 3–815,**
30 **§ 3–817, OR § 3–819 OF THIS SUBTITLE, BEFORE DETERMINING WHETHER A**
31 **CHILD WITH A DEVELOPMENTAL DISABILITY OR A MENTAL ILLNESS IS A CHILD**
32 **IN NEED OF ASSISTANCE, THE COURT SHALL MAKE A FINDING WHETHER THE**

1 **LOCAL DEPARTMENT MADE REASONABLE EFFORTS TO PREVENT PLACEMENT OF**
2 **THE CHILD INTO THE LOCAL DEPARTMENT'S CUSTODY BY DETERMINING**
3 **WHETHER THE LOCAL DEPARTMENT COULD HAVE PLACED THE CHILD IN**
4 **ACCORDANCE WITH A VOLUNTARY PLACEMENT AGREEMENT UNDER**
5 **§ 5-525(A)(1)(I) OR (III) OF THE FAMILY LAW ARTICLE.**

6 [(3)] (4) The court shall require a local department to provide
7 evidence of its efforts before the court makes a finding required under this subsection.

8 [(4)] (5) The court's finding under this subsection shall assess the
9 efforts made since the last adjudication of reasonable efforts and may not rely on
10 findings from prior hearings.

11 3-819.

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

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

16 (II) **FIND THAT THE CHILD IS NOT IN NEED OF ASSISTANCE**
17 **AND ORDER THE LOCAL DEPARTMENT TO OFFER A VOLUNTARY PLACEMENT**
18 **AGREEMENT TO A CHILD WITH A DEVELOPMENTAL DISABILITY OR MENTAL**
19 **ILLNESS UNDER § 5-525(A)(1)(I) OR (III) OF THE FAMILY LAW ARTICLE; OR**

20 [(ii)] (III) Subject to paragraph (2) of this subsection, find that
21 the child is in need of assistance and:

- 22 1. Not change the child's custody status; or
- 23 2. Commit the child on terms the court considers
24 appropriate to the custody of:
- 25 A. A parent;
- 26 B. Subject to § 3-819.2 of this subtitle, a relative, or
27 other individual; or

1 C. A local department, the Department of Health and
2 Mental Hygiene, or both, including designation of the type of facility where the child is
3 to be placed.

4 (2) Unless good cause is shown, a court shall give priority to the child's
5 relatives over nonrelatives when committing the child to the custody of an individual
6 other than a parent.

7 Article – Family Law

8 5–525.

9 (a) (1) The Administration shall establish a program of out-of-home
10 placement for minor children:

11 (i) who are placed in the custody of a local department, for a
12 period of not more than 180 days, by a parent or legal guardian under a voluntary
13 placement agreement;

14 (ii) who are abused, abandoned, neglected, or dependent, if a
15 juvenile court:

16 1. has determined that continued residence in the child's
17 home is contrary to the child's welfare; and

18 2. has committed the child to the custody or
19 guardianship of a local department; or

20 (iii) who, with the approval of the Administration, are placed in
21 an out-of-home placement by a local department under a voluntary placement
22 agreement subject to paragraph (2) of this subsection.

23 (2) (i) A local department may not seek legal custody of a child
24 under a voluntary placement agreement if the child has a developmental disability or
25 a mental illness and the purpose of the voluntary placement agreement is to obtain
26 treatment or care related to the child's disability that the parent is unable to provide.

27 (ii) A child described in subparagraph (i) of this paragraph may
28 remain in an out-of-home placement under a voluntary placement agreement for
29 more than 180 days if the child's disability necessitates care or treatment in the
30 out-of-home placement and a juvenile court makes a finding that continuation of the
31 placement is in the best interests of the child.

1 (III) EACH LOCAL DEPARTMENT SHALL DESIGNATE, FROM
2 EXISTING STAFF, A STAFF PERSON WHO DOES NOT INVESTIGATE CHILD ABUSE
3 AND NEGLECT ALLEGATIONS TO ADMINISTER REQUESTS FOR VOLUNTARY
4 PLACEMENT AGREEMENTS FOR CHILDREN WITH DEVELOPMENTAL
5 DISABILITIES OR MENTAL ILLNESSES.

6 (IV) EACH LOCAL DEPARTMENT SHALL REPORT ANNUALLY
7 TO THE ADMINISTRATION ON THE NUMBER OF REQUESTS FOR VOLUNTARY
8 PLACEMENT AGREEMENTS FOR CHILDREN WITH DEVELOPMENTAL
9 DISABILITIES OR MENTAL ILLNESSES THAT HAVE BEEN RECEIVED, THE
10 OUTCOME OF EACH REQUEST, AND THE REASON FOR EACH DENIAL.

11 (V) ON RECEIPT OF A REQUEST FOR A VOLUNTARY
12 PLACEMENT AGREEMENT FOR A CHILD WITH A DEVELOPMENTAL DISABILITY OR
13 A MENTAL ILLNESS, A LOCAL DEPARTMENT SHALL DISCUSS THE CHILD'S CASE
14 AT THE NEXT MEETING OF THE LOCAL COORDINATING COUNCIL FOR THE
15 PURPOSE OF DETERMINING WHETHER ANY ALTERNATIVE OR INTERIM
16 SERVICES FOR THE CHILD AND FAMILY MAY BE PROVIDED BY ANY AGENCY.

17 (b) In establishing the out-of-home placement program the Administration
18 shall:

19 (1) provide time-limited family reunification services to a child placed
20 in an out-of-home placement and to the parents or guardian of the child, in order to
21 facilitate the child's safe and appropriate reunification within a timely manner; [and]

22 (2) concurrently develop and implement a permanency plan that is in
23 the best interests of the child; AND

24 (3) PROVIDE TRAINING ON AN ANNUAL BASIS FOR THE STAFF AT
25 EACH LOCAL DEPARTMENT WHO ADMINISTER REQUESTS FOR VOLUNTARY
26 PLACEMENT AGREEMENTS FOR CHILDREN WITH DEVELOPMENTAL
27 DISABILITIES OR MENTAL ILLNESSES UNDER SUBSECTION (A) OF THIS SECTION.

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
29 October 1, 2007.