

# HOUSE BILL 1226

D4

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CF SB 579

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

Introduced and read first time: February 21, 2007

Assigned to: Rules and Executive Nominations

Re-referred to: Judiciary, March 12, 2007

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 20, 2007

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## CHAPTER \_\_\_\_\_

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~~ hold a certain finding in abeyance, require  
8 a local department of social services to take certain actions, and hold a certain  
9 hearing; requiring each local department of social services to designate a certain  
10 staff person to administer requests for voluntary placement agreements for  
11 children with developmental disabilities or mental illnesses; requiring each  
12 local department of social services to make a certain annual report to the Social  
13 Services Administration; requiring a local department of social services to take  
14 certain actions on receipt of a request for a voluntary placement agreement for a  
15 child with a developmental disability or mental illness; requiring the Social  
16 Services Administration to provide certain training for certain staff who  
17 administer requests for voluntary placement agreements; and generally relating  
18 to children with disabilities or mental illnesses and voluntary placement  
19 agreements.

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**EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.**

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 BY repealing and reenacting, without amendments,  
2 Article – Courts and Judicial Proceedings  
3 Section 3–816.1(a)  
4 Annotated Code of Maryland  
5 (2006 Replacement Volume)

6 BY repealing and reenacting, with amendments,  
7 Article – Courts and Judicial Proceedings  
8 Section 3–816.1(b) and 3–819(b)  
9 Annotated Code of Maryland  
10 (2006 Replacement Volume)

11 BY repealing and reenacting, with amendments,  
12 Article – Family Law  
13 Section 5–525(a) and (b)  
14 Annotated Code of Maryland  
15 (2006 Replacement Volume)

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

18 **Article – Courts and Judicial Proceedings**

19 3–816.1.

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

24 (b) (1) In a hearing conducted in accordance with § 3–815, § 3–817, §  
25 3–819, or § 3–823 of this subtitle, the court shall make a finding whether the local  
26 department made reasonable efforts to prevent placement of the child into the local  
27 department's custody.

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

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

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

**(3) IN A HEARING CONDUCTED IN ACCORDANCE WITH § 3-815, § 3-817, OR § 3-819 OF THIS SUBTITLE, BEFORE DETERMINING WHETHER A CHILD WITH A DEVELOPMENTAL DISABILITY OR A MENTAL ILLNESS IS A CHILD IN NEED OF ASSISTANCE, THE COURT SHALL MAKE A FINDING WHETHER THE LOCAL DEPARTMENT MADE REASONABLE EFFORTS TO PREVENT PLACEMENT OF THE CHILD INTO THE LOCAL DEPARTMENT'S CUSTODY BY DETERMINING WHETHER THE LOCAL DEPARTMENT COULD HAVE PLACED THE CHILD IN ACCORDANCE WITH A VOLUNTARY PLACEMENT AGREEMENT UNDER § 5-525(A)(1)(I) OR (III) OF THE FAMILY LAW ARTICLE.**

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

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

3-819.

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

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

**~~(II) FIND THAT THE CHILD IS NOT IN NEED OF ASSISTANCE AND ORDER THE LOCAL DEPARTMENT TO OFFER A VOLUNTARY PLACEMENT AGREEMENT TO A CHILD WITH A DEVELOPMENTAL DISABILITY OR MENTAL ILLNESS UNDER § 5-525(A)(1)(I) OR (III) OF THE FAMILY LAW ARTICLE HOLD IN ABEYANCE A FINDING ON WHETHER A CHILD WITH A DEVELOPMENTAL DISABILITY OR A MENTAL ILLNESS IS A CHILD IN NEED OF ASSISTANCE AND:~~**

**1. ORDER THE LOCAL DEPARTMENT TO ASSESS OR REASSESS THE FAMILY AND CHILD'S ELIGIBILITY FOR PLACEMENT OF THE CHILD IN ACCORDANCE WITH A VOLUNTARY PLACEMENT AGREEMENT UNDER § 5-525(A)(1)(I) OF THE FAMILY LAW ARTICLE;**

1                               **2. ORDER THE LOCAL DEPARTMENT TO REPORT**  
2 **BACK TO THE COURT IN WRITING WITHIN 30 DAYS UNLESS THE COURT EXTENDS**  
3 **THE TIME PERIOD FOR GOOD CAUSE SHOWN;**

4                               **3. IF THE LOCAL DEPARTMENT DOES NOT FIND THE**  
5 **CHILD ELIGIBLE FOR PLACEMENT IN ACCORDANCE WITH A VOLUNTARY**  
6 **PLACEMENT AGREEMENT, HOLD A HEARING TO DETERMINE WHETHER THE**  
7 **FAMILY AND CHILD ARE ELIGIBLE FOR PLACEMENT OF THE CHILD IN**  
8 **ACCORDANCE WITH A VOLUNTARY PLACEMENT AGREEMENT; AND**

9                               **4. AFTER THE HEARING:**

10                              **A. FIND THAT THE CHILD IS NOT IN NEED OF**  
11 **ASSISTANCE AND ORDER THE LOCAL DEPARTMENT TO OFFER TO PLACE THE**  
12 **CHILD IN ACCORDANCE WITH A VOLUNTARY PLACEMENT AGREEMENT UNDER §**  
13 **5-525(A)(1)(I) OF THE FAMILY LAW ARTICLE;**

14                              **B. FIND THAT THE CHILD IS IN NEED OF**  
15 **ASSISTANCE; OR**

16                              **C. DISMISS THE CASE; OR**

17                              [(ii)] (iii) Subject to paragraph (2) of this subsection, find that  
18 the child is in need of assistance and:

19                              1. Not change the child's custody status; or  
20                              2. Commit the child on terms the court considers  
21 appropriate to the custody of:

22                              A. A parent;

23                              B. Subject to § 3-819.2 of this subtitle, a relative, or  
24 other individual; or

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

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

#### 4                                   **Article – Family Law**

5     5–525.

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

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

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

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

15                                       2.     has committed the child to the custody or  
16 guardianship of a local department; or

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

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

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

29                                       (III) **EACH LOCAL DEPARTMENT SHALL DESIGNATE, FROM**  
30 **EXISTING STAFF, A STAFF PERSON WHO DOES NOT INVESTIGATE CHILD ABUSE**  
31 **AND NEGLECT ALLEGATIONS TO ADMINISTER REQUESTS FOR VOLUNTARY**

1 **PLACEMENT AGREEMENTS FOR CHILDREN WITH DEVELOPMENTAL**  
2 **DISABILITIES OR MENTAL ILLNESSES.**

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

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

14 (b) In establishing the out-of-home placement program the Administration  
15 shall:

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

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

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

25 **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect**  
26 **October 1, 2007.**