

## CHAPTER 461

(House Bill 1226)

AN ACT concerning

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

FOR the purpose of requiring the juvenile court to make a certain finding in certain hearings involving a child with a developmental disability or mental illness; authorizing the juvenile court, in making a disposition on a child in need of assistance petition involving a child with a developmental disability or mental illness, to ~~make a certain finding and~~ hold a certain finding in abeyance, require a local department of social services to take certain actions, and hold a certain hearing; requiring each local department of social services to designate a certain staff person to administer requests for voluntary placement agreements for children with developmental disabilities or mental illnesses; requiring each local department of social services to make a certain annual report to the Social Services Administration; requiring a local department of social services to take certain actions on receipt of a request for a voluntary placement agreement for a child with a developmental disability or mental illness; requiring the Social Services Administration to provide certain training for certain staff who administer requests for voluntary placement agreements; and generally relating to children with disabilities or mental illnesses and voluntary placement agreements.

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

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

BY repealing and reenacting, with amendments,  
Article – Family Law  
Section 5–525(a) and (b)

Annotated Code of Maryland  
(2006 Replacement Volume)

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

**Article – Courts and Judicial Proceedings**

3–816.1.

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

(b) (1) In a hearing conducted in accordance with § 3–815, § 3–817, § 3–819, or § 3–823 of this subtitle, 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.

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

- (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 (II) 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;

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

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

4. AFTER THE HEARING:

A. FIND THAT THE CHILD IS NOT IN NEED OF ASSISTANCE AND ORDER THE LOCAL DEPARTMENT TO OFFER TO PLACE THE

**CHILD IN ACCORDANCE WITH A VOLUNTARY PLACEMENT AGREEMENT UNDER § 5-525(A)(1)(I) OF THE FAMILY LAW ARTICLE;**

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

**C. DISMISS THE CASE; OR**

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

1. Not change the child's custody status; or
2. Commit the child on terms the court considers appropriate to the custody of:
  - A. A parent;
  - B. Subject to § 3-819.2 of this subtitle, a relative, or other individual; or
  - C. A local department, the Department of Health and Mental Hygiene, or both, including designation of the type of facility where the child is to be placed.

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

**Article – Family Law**

5-525.

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

- (i) who are placed in the custody of a local department, for a period of not more than 180 days, by a parent or legal guardian under a voluntary placement agreement;
- (ii) who are abused, abandoned, neglected, or dependent, if a juvenile court:

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

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

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

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

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

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

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

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

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

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

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

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

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

**Approved by the Governor, May 8, 2007.**