

# HOUSE BILL 90

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CF SB 57

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By: **Chair, Judiciary Committee (By Request - Maryland Judicial Conference)**

Introduced and read first time: January 14, 2008

Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Child Welfare – Permanency Planning and Interstate Placement**  
3 **of Foster Children**

4 FOR the purpose of altering the factors a juvenile court is required to consider in  
5 making certain findings in certain hearings; altering the number of days' notice  
6 a local department of social services is required to give to certain persons before  
7 certain hearings; specifying the contents of the notice; requiring the notice to be  
8 in writing, unless waived for good cause; clarifying that certain persons have  
9 the right to be heard at certain hearings; requiring the court to consult with a  
10 child in a certain manner at certain hearings; requiring a local department to  
11 consider certain placements for certain children; correcting an obsolete  
12 reference; and generally relating to children in out-of-home placement.

13 BY repealing and reenacting, with amendments,  
14 Article – Courts and Judicial Proceedings  
15 Section 3–816.1(c)(3) and 3–823(i) and (j)  
16 Annotated Code of Maryland  
17 (2006 Replacement Volume and 2007 Supplement)

18 BY adding to  
19 Article – Courts and Judicial Proceedings  
20 Section 3–823(k)  
21 Annotated Code of Maryland  
22 (2006 Replacement Volume and 2007 Supplement)

23 BY repealing and reenacting, with amendments,  
24 Article – Family Law  
25 Section 5–525(d) and (e)  
26 Annotated Code of Maryland  
27 (2006 Replacement Volume and 2007 Supplement)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **Article – Courts and Judicial Proceedings**

4 3–816.1.

5 (c) In making its findings in accordance with subsection (b) of this section,  
6 the court shall consider:

7 (3) For a hearing under § 3–823 of this subtitle, whether a local  
8 department has provided appropriate services that facilitate the achievement of a  
9 permanency plan for the child, **INCLUDING CONSIDERATION OF IN-STATE AND**  
10 **OUT-OF-STATE PLACEMENT OPTIONS;**

11 3–823.

12 (i) (1) In this subsection, “preadoptive parent” means an individual whom  
13 a child placement agency, as defined in § 5–101 of the Family Law Article, approves to  
14 adopt a child who has been placed in the individual’s home for adoption before the  
15 order of adoption.

16 (2) (I) If practicable, **BEFORE ANY HEARING CONDUCTED**  
17 **UNDER THIS SECTION**, the local department shall give at least [7] **10** days’ notice  
18 [before any hearing conducted under this section] to the child’s foster parent,  
19 preadoptive parent, or relative providing care for the child **OF THE DATE, TIME, AND**  
20 **PLACE OF THE HEARING AND OF THE RIGHT TO BE HEARD.**

21 (II) **UNLESS WAIVED FOR GOOD CAUSE, THE NOTICE SHALL**  
22 **BE IN WRITING.**

23 (3) The foster parent, preadoptive parent, relative, or an attorney for  
24 the foster parent, preadoptive parent, or relative shall be given [an opportunity] **THE**  
25 **RIGHT** to be heard at the hearing.

26 (4) The foster parent, preadoptive parent, relative, or attorney may  
27 not be considered to be a party solely on the basis of the right to notice and  
28 [opportunity] **THE RIGHT** to be heard provided under this subsection.

29 (j) At a review hearing under this section, the court shall consider any  
30 written report of a local out-of-home [placement] **CARE** review board required under  
31 § 5–545 of the Family Law Article.



1 (iii) the child's emotional attachment to the child's current  
2 caregiver and the caregiver's family;

3 (iv) the length of time the child has resided with the current  
4 caregiver;

5 (v) the potential emotional, developmental, and educational  
6 harm to the child if moved from the child's current placement; and

7 (vi) the potential harm to the child by remaining in State  
8 custody for an excessive period of time.

9 (2) To the extent consistent with the best interests of the child in an  
10 out-of-home placement, the local department shall consider the following permanency  
11 plans, in descending order of priority:

12 (i) returning the child to the child's parent or guardian, unless  
13 the local department is the guardian;

14 (ii) placing the child with relatives to whom adoption, custody  
15 and guardianship, or care and custody, in descending order of priority, are planned to  
16 be granted;

17 (iii) adoption in the following descending order of priority:

18 1. by a current foster parent with whom the child has  
19 resided continually for at least the 12 months prior to developing the permanency plan  
20 or for a sufficient length of time to have established positive relationships and family  
21 ties; or

22 2. by another approved adoptive family; or

23 (iv) another planned permanent living arrangement that:

24 1. addresses the individualized needs of the child,  
25 including the child's educational plan, emotional stability, physical placement, and  
26 socialization needs; and

27 2. includes goals that promote the continuity of relations  
28 with individuals who will fill a lasting and significant role in the child's life.

29 (3) Subject to paragraphs (1) and (2) of this subsection and to the  
30 extent consistent with the best interests of a child in an out-of-home placement, in  
31 determining a permanency plan, the local department shall consider the following in  
32 descending order of priority:

33 (i) placement of the child in the local jurisdiction where the  
34 child's parent or guardian resides; or

1                   (ii) if the local department finds, based on a compelling reason,  
2 that placement of the child as described in item (i) of this paragraph is not in the best  
3 interest of the child, placement of the child in another jurisdiction in the State after  
4 considering:

- 5                                   1. the availability of resources to provide necessary  
6 services to the child;
- 7                                   2. the accessibility to family treatment, if appropriate;  
8 and
- 9                                   3. the effect on the local school system.

10                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
11 October 1, 2008.