

HOUSE BILL 90

D4

8lr1142
CF SB 57

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

Introduced and read first time: January 14, 2008

Assigned to: Judiciary

Committee Report: Favorable

House action: Adopted

Read second time: February 19, 2008

CHAPTER _____

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)

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, with amendments,
2 Article – Family Law
3 Section 5–525(d) and (e)
4 Annotated Code of Maryland
5 (2006 Replacement Volume and 2007 Supplement)

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

8 **Article – Courts and Judicial Proceedings**

9 3–816.1.

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

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

16 3–823.

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

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

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

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

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

1 (j) At a review hearing under this section, the court shall consider any
2 written report of a local out-of-home [placement] CARE review board required under
3 § 5-545 of the Family Law Article.

4 (K) **AT LEAST EVERY 12 MONTHS AT A HEARING UNDER THIS SECTION,**
5 **THE COURT SHALL CONSULT ON THE RECORD WITH THE CHILD IN AN AGE**
6 **APPROPRIATE MANNER.**

7 **Article - Family Law**

8 5-525.

9 (d) (1) Unless a court orders that reasonable efforts are not required
10 under § 3-812 of the Courts Article or § 5-323 of this title, reasonable efforts shall be
11 made to preserve and reunify families:

12 (i) prior to the placement of a child in an out-of-home
13 placement, to prevent or eliminate the need for removing the child from the child's
14 home; and

15 (ii) to make it possible for a child to safely return to the child's
16 home.

17 (2) In determining the reasonable efforts to be made and in making
18 the reasonable efforts described under paragraph (1) of this subsection, the child's
19 safety and health shall be the primary concern.

20 (3) Reasonable efforts to place a child for adoption or with a legal
21 guardian may be made concurrently with the reasonable efforts described under
22 paragraph (1) of this subsection.

23 (4) If continuation of reasonable efforts to reunify the child with the
24 child's parents or guardian is determined to be inconsistent with the permanency plan
25 for the child, reasonable efforts shall be made to place the child in a timely manner in
26 accordance with the permanency plan, **INCLUDING CONSIDERATION OF BOTH**
27 **IN-STATE AND OUT-OF-STATE PLACEMENTS**, and to complete the steps to finalize
28 the permanent placement of the child.

29 (e) (1) In developing a permanency plan for a child in an out-of-home
30 placement, the local department shall give primary consideration to the best interests
31 of the child, **INCLUDING CONSIDERATION OF BOTH IN-STATE AND**
32 **OUT-OF-STATE PLACEMENTS**. The local department shall consider the following
33 factors in determining the permanency plan that is in the best interests of the child:

34 (i) the child's ability to be safe and healthy in the home of the
35 child's parent;

1 (ii) the child's attachment and emotional ties to the child's
2 natural parents and siblings;

3 (iii) the child's emotional attachment to the child's current
4 caregiver and the caregiver's family;

5 (iv) the length of time the child has resided with the current
6 caregiver;

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

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

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

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

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

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

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

24 2. by another approved adoptive family; or

25 (iv) another planned permanent living arrangement that:

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

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

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

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

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

7 1. the availability of resources to provide necessary
8 services to the child;

9 2. the accessibility to family treatment, if appropriate;
10 and

11 3. the effect on the local school system.

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

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.