

# HOUSE BILL 593

E3

8lr0026

---

By: **Chair, Judiciary Committee (By Request – Departmental – Juvenile Services)**

Introduced and read first time: January 31, 2008

Assigned to: Judiciary

---

## A BILL ENTITLED

1 AN ACT concerning

2 **Juvenile Law – Child in Need of Supervision and Delinquency Proceedings –**  
3 **Permanency Plans**

4 FOR the purpose of requiring that a juvenile court order in a child in need of  
5 supervision or delinquency case to contain certain information, under certain  
6 circumstances; requiring the juvenile court to hold a permanency planning  
7 hearing to determine a permanency plan for a certain child; establishing  
8 procedures for the permanency planning hearing; requiring the juvenile court to  
9 take certain actions at a permanency planning hearing; prohibiting the juvenile  
10 court from taking certain actions at a permanency planning or review hearing;  
11 requiring the juvenile court to hold a certain review hearing under certain  
12 circumstances; establishing certain procedures for certain review hearings;  
13 requiring that certain individuals be given certain notice and an opportunity to  
14 be heard at certain hearings; defining a certain term; and generally relating to  
15 child in need of supervision and delinquency proceedings and permanency  
16 plans.

17 BY repealing and reenacting, with amendments,  
18 Article – Courts and Judicial Proceedings  
19 Section 3–8A–19(d)  
20 Annotated Code of Maryland  
21 (2006 Replacement Volume and 2007 Supplement)

22 BY adding to  
23 Article – Courts and Judicial Proceedings  
24 Section 3–8A–35  
25 Annotated Code of Maryland  
26 (2006 Replacement Volume and 2007 Supplement)

---

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 3–8A–19.

5 (d) (1) In making a disposition on a petition under this subtitle, the court  
6 may:

7 (i) Place the child on probation or under supervision in his own  
8 home or in the custody or under the guardianship of a relative or other fit person,  
9 upon terms the court deems appropriate, including community detention;

10 (ii) Subject to the provisions of paragraph (2) of this subsection,  
11 commit the child to the custody or under the guardianship of the Department of  
12 Juvenile Services, the Department of Health and Mental Hygiene, or a public or  
13 licensed private agency on terms that the court considers appropriate to meet the  
14 priorities set forth in § 3–8A–02 of this subtitle, including designation of the type of  
15 facility where the child is to be accommodated, until custody or guardianship is  
16 terminated with approval of the court or as required under § 3–8A–24 of this subtitle;  
17 or

18 (iii) Order the child, parents, guardian, or custodian of the child  
19 to participate in rehabilitative services that are in the best interest of the child and  
20 the family.

21 (2) In addition to the provisions of paragraph (1) of this subsection, in  
22 making a disposition on a petition, the court may adopt a treatment service plan, as  
23 defined in § 3–8A–20.1 of this subtitle.

24 (3) A child committed under paragraph (1)(ii) of this subsection may  
25 not be accommodated in a facility that has reached budgeted capacity if a bed is  
26 available in another comparable facility in the State, unless the placement to the  
27 facility that has reached budgeted capacity has been recommended by the Department  
28 of Juvenile Services.

29 (4) The court shall consider any oral address made in accordance with  
30 § 11–403 of the Criminal Procedure Article or any victim impact statement, as  
31 described in § 11–402 of the Criminal Procedure Article, in determining an  
32 appropriate disposition on a petition.

33 (5) (i) If the court finds that a child is in need of supervision and  
34 commits the child to the custody or under the guardianship of the Department of  
35 Juvenile Services, the court may notify the county superintendent, the supervisor of  
36 pupil personnel, or any other official designated by the county superintendent of the  
37 fact that the child has been found to be in need of supervision and has been committed  
38 to the custody or under the guardianship of the Department of Juvenile Services.

1 (ii) The notice may not include any order or pleading related to  
2 the child in need of supervision case.

3 (6) IF THE DISPOSITION REMOVES A CHILD FROM THE CHILD'S  
4 HOME, THE ORDER SHALL:

5 (I) SET FORTH, IN WRITING, SPECIFIC FINDINGS OF FACT  
6 AS TO THE CIRCUMSTANCES THAT CAUSED THE NEED FOR THE REMOVAL AND  
7 WHETHER THE DEPARTMENT OF JUVENILE SERVICES MADE REASONABLE  
8 EFFORTS TO PREVENT PLACEMENT OF THE CHILD INTO THE DEPARTMENT'S  
9 CUSTODY;

10 (II) INFORM THE PARENTS, CUSTODIAN, OR GUARDIAN, IF  
11 ANY, THAT THE PERSON OR AGENCY TO WHICH THE CHILD IS COMMITTED MAY  
12 CHANGE THE PERMANENCY PLAN OF REUNIFICATION TO ANOTHER  
13 PERMANENCY PLAN, WHICH MAY INCLUDE THE FILING OF A PETITION FOR  
14 TERMINATION OF PARENTAL RIGHTS IF THE PARENTS:

15 1. HAVE NOT MADE SIGNIFICANT PROGRESS TO  
16 REMEDY THE CIRCUMSTANCES THAT CAUSED THE NEED FOR THE REMOVAL AS  
17 SPECIFIED IN THE COURT ORDER; AND

18 2. ARE UNWILLING OR UNABLE TO GIVE THE CHILD  
19 PROPER CARE AND ATTENTION WITHIN A REASONABLE PERIOD OF TIME; AND

20 (III) IF APPROPRIATE, REFER A PARENT OR PUTATIVE  
21 PARENT TO THE APPROPRIATE SUPPORT ENFORCEMENT AGENCY TO ESTABLISH  
22 PATERNITY AND SUPPORT.

23 **3-8A-35.**

24 (A) IN THIS SECTION, "OUT-OF-HOME PLACEMENT" HAS THE MEANING  
25 STATED IN § 5-501 OF THE FAMILY LAW ARTICLE.

26 (B) (1) THE COURT SHALL HOLD A PERMANENCY PLANNING HEARING  
27 TO DETERMINE THE PERMANENCY PLAN FOR A CHILD:

28 (I) NO LATER THAN 11 MONTHS AFTER A CHILD  
29 COMMITTED UNDER § 3-8A-19(D) OF THIS SUBTITLE ENTERS AN OUT-OF-HOME  
30 PLACEMENT; OR

31 (II) WITHIN 30 DAYS AFTER THE COURT FINDS THAT  
32 REASONABLE EFFORTS TO REUNIFY A CHILD WITH THE CHILD'S PARENT OR

1 GUARDIAN ARE NOT REQUIRED BASED ON A FINDING THAT A CIRCUMSTANCE  
2 ENUMERATED IN § 3-812 OF THIS TITLE HAS OCCURRED.

3 (2) FOR PURPOSES OF THIS SECTION, A CHILD SHALL BE  
4 CONSIDERED TO HAVE ENTERED AN OUT-OF-HOME PLACEMENT 30 DAYS AFTER  
5 THE CHILD IS PLACED INTO AN OUT-OF-HOME PLACEMENT.

6 (3) IF ALL PARTIES AGREE, A PERMANENCY PLANNING HEARING  
7 MAY BE HELD ON THE SAME DAY AS THE REASONABLE EFFORTS HEARING.

8 (C) (1) ON THE WRITTEN REQUEST OF A PARTY OR ON ITS OWN  
9 MOTION, THE COURT MAY SCHEDULE A HEARING AT ANY EARLIER TIME TO  
10 DETERMINE A PERMANENCY PLAN OR TO REVIEW THE IMPLEMENTATION OF A  
11 PERMANENCY PLAN FOR ANY CHILD COMMITTED UNDER § 3-8A-19(D) OF THIS  
12 SUBTITLE.

13 (2) A WRITTEN REQUEST FOR REVIEW SHALL STATE THE REASON  
14 FOR THE REQUEST AND EACH ISSUE TO BE RAISED.

15 (D) AT LEAST 10 DAYS BEFORE THE PERMANENCY PLANNING HEARING,  
16 THE DEPARTMENT OR AGENCY TO WHICH THE CHILD HAS BEEN COMMITTED  
17 SHALL PROVIDE EACH PARTY AND THE COURT WITH A COPY OF THE  
18 DEPARTMENT'S OR AGENCY'S PERMANENCY PLAN FOR THE CHILD.

19 (E) (1) AT A PERMANENCY PLANNING HEARING, THE COURT SHALL:

20 (I) DETERMINE THE CHILD'S PERMANENCY PLAN, WHICH,  
21 TO THE EXTENT CONSISTENT WITH THE BEST INTERESTS OF THE CHILD, MAY  
22 BE, IN DESCENDING ORDER OF PRIORITY:

23 1. REUNIFICATION WITH THE PARENT OR  
24 GUARDIAN;

25 2. PLACEMENT WITH A RELATIVE FOR:

26 A. ADOPTION; OR

27 B. CUSTODY AND GUARDIANSHIP;

28 3. ADOPTION BY A NONRELATIVE;

29 4. CUSTODY AND GUARDIANSHIP BY A  
30 NONRELATIVE; OR

1                   **5. ANOTHER PLANNED PERMANENT LIVING**  
2 **ARRANGEMENT THAT:**

3                   **A. ADDRESSES THE INDIVIDUALIZED NEEDS OF THE**  
4 **CHILD, INCLUDING THE CHILD'S EDUCATIONAL PLAN, EMOTIONAL STABILITY,**  
5 **PHYSICAL PLACEMENT, AND SOCIALIZATION NEEDS; AND**

6                   **B. INCLUDES GOALS THAT PROMOTE THE**  
7 **CONTINUITY OF RELATIONS WITH INDIVIDUALS WHO WILL FILL A LASTING AND**  
8 **SIGNIFICANT ROLE IN THE CHILD'S LIFE; AND**

9                   **(II) FOR A CHILD WHO HAS ATTAINED THE AGE OF 16,**  
10 **DETERMINE THE SERVICES NEEDED TO ASSIST THE CHILD TO MAKE THE**  
11 **TRANSITION FROM PLACEMENT TO INDEPENDENT LIVING.**

12                   **(2) IN DETERMINING THE CHILD'S PERMANENCY PLAN, THE**  
13 **COURT SHALL CONSIDER THE FACTORS SPECIFIED IN § 5-525(E)(1) OF THE**  
14 **FAMILY LAW ARTICLE.**

15                   **(3) THIS SECTION MAY NOT BE CONSTRUED TO PROHIBIT THE**  
16 **DEPARTMENT OR AGENCY TO WHICH THE CHILD IS COMMITTED FROM**  
17 **RECOMMENDING, AND THE COURT FROM ORDERING, CONCURRENT**  
18 **PERMANENCY PLANS.**

19                   **(F) THE COURT MAY NOT ORDER A CHILD TO BE CONTINUED IN A**  
20 **PLACEMENT UNDER SUBSECTION (E)(1)(I)5 OF THIS SECTION UNLESS THE**  
21 **COURT FINDS THAT THE PERSON OR AGENCY TO WHICH THE CHILD IS**  
22 **COMMITTED HAS DOCUMENTED A COMPELLING REASON FOR DETERMINING**  
23 **THAT IT WOULD NOT BE IN THE BEST INTEREST OF THE CHILD TO:**

24                   **(1) RETURN HOME;**

25                   **(2) BE REFERRED FOR TERMINATION OF PARENTAL RIGHTS; OR**

26                   **(3) BE PLACED FOR ADOPTION OR GUARDIANSHIP WITH A**  
27 **SPECIFIED AND APPROPRIATE RELATIVE OR LEGAL GUARDIAN WILLING TO**  
28 **CARE FOR THE CHILD.**

29                   **(G) IN THE CASE OF A CHILD FOR WHOM THE COURT DETERMINES THAT**  
30 **THE PLAN SHOULD BE CHANGED TO ADOPTION UNDER SUBSECTION (E)(1)(I)3**  
31 **OF THIS SECTION, THE COURT SHALL:**

32                   **(1) ORDER THE LOCAL DEPARTMENT OF SOCIAL SERVICES,**  
33 **AFTER CONSULTATION WITH THE DEPARTMENT OF JUVENILE SERVICES, TO**

1 FILE A PETITION FOR GUARDIANSHIP IN ACCORDANCE WITH TITLE 5, SUBTITLE  
2 3 OF THE FAMILY LAW ARTICLE WITHIN 30 DAYS OR, IF THE LOCAL  
3 DEPARTMENT OF SOCIAL SERVICES DOES NOT SUPPORT THE PLAN, WITHIN 60  
4 DAYS; AND

5 (2) SCHEDULE A TERMINATION OF PARENTAL RIGHTS HEARING  
6 INSTEAD OF THE NEXT 6-MONTH REVIEW HEARING.

7 (H) (1) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPHS (II) AND (III)  
8 OF THIS PARAGRAPH, THE COURT SHALL CONDUCT A HEARING TO REVIEW THE  
9 PERMANENCY PLAN AT LEAST EVERY 6 MONTHS UNTIL COMMITMENT IS  
10 RESCINDED.

11 (II) THE COURT SHALL CONDUCT A REVIEW HEARING  
12 EVERY 12 MONTHS AFTER THE COURT DETERMINES THAT THE CHILD SHALL BE  
13 CONTINUED IN OUT-OF-HOME PLACEMENT WITH A SPECIFIC CAREGIVER WHO  
14 AGREES TO CARE FOR THE CHILD ON A PERMANENT BASIS.

15 (III) 1. UNLESS THE COURT FINDS GOOD CAUSE, A CASE  
16 SHALL BE TERMINATED AFTER THE COURT GRANTS CUSTODY AND  
17 GUARDIANSHIP OF THE CHILD TO A RELATIVE OR OTHER INDIVIDUAL.

18 2. IF THE COURT FINDS GOOD CAUSE NOT TO  
19 TERMINATE A CASE, THE COURT SHALL CONDUCT A REVIEW HEARING EVERY 12  
20 MONTHS UNTIL THE CASE IS TERMINATED.

21 (2) AT THE REVIEW HEARING, THE COURT SHALL:

22 (I) DETERMINE THE CONTINUING NECESSITY FOR AND  
23 APPROPRIATENESS OF THE COMMITMENT;

24 (II) DETERMINE AND DOCUMENT IN ITS ORDER WHETHER  
25 REASONABLE EFFORTS HAVE BEEN MADE TO FINALIZE THE PERMANENCY PLAN  
26 THAT IS IN EFFECT;

27 (III) DETERMINE THE EXTENT OF PROGRESS THAT HAS BEEN  
28 MADE TOWARD ALLEVIATING OR MITIGATING THE CAUSES NECESSITATING  
29 COMMITMENT;

30 (IV) PROJECT A REASONABLE DATE BY WHICH A CHILD IN  
31 PLACEMENT MAY BE RETURNED HOME, PLACED IN A PREADOPTIVE HOME, OR  
32 PLACED UNDER A LEGAL GUARDIANSHIP;

33 (V) EVALUATE THE SAFETY OF THE CHILD AND TAKE

1 NECESSARY MEASURES TO PROTECT THE CHILD; AND

2 (VI) CHANGE THE PERMANENCY PLAN IF A CHANGE IN THE  
3 PERMANENCY PLAN WOULD BE IN THE CHILD'S BEST INTEREST.

4 (3) EVERY REASONABLE EFFORT SHALL BE MADE TO  
5 EFFECTUATE A PERMANENT PLACEMENT FOR THE CHILD WITHIN 24 MONTHS  
6 AFTER THE DATE OF INITIAL PLACEMENT.

7 (I) (1) IN THIS SUBSECTION, "PREADOPTIVE PARENT" MEANS AN  
8 INDIVIDUAL WHOM A CHILD PLACEMENT AGENCY, AS DEFINED IN § 5-101 OF  
9 THE FAMILY LAW ARTICLE, APPROVES TO ADOPT A CHILD WHO HAS BEEN  
10 PLACED IN THE INDIVIDUAL'S HOME FOR ADOPTION BEFORE THE FINAL  
11 DECREE OF ADOPTION.

12 (2) IF PRACTICABLE, THE DEPARTMENT OF JUVENILE SERVICES  
13 OR THE LOCAL DEPARTMENT OF SOCIAL SERVICES SHALL GIVE AT LEAST 7  
14 DAYS' NOTICE BEFORE ANY HEARING CONDUCTED UNDER THIS SECTION TO THE  
15 CHILD'S FOSTER PARENT, PREADOPTIVE PARENT, OR RELATIVE PROVIDING  
16 CARE FOR THE CHILD.

17 (3) THE FOSTER PARENT, PREADOPTIVE PARENT, RELATIVE, OR  
18 AN ATTORNEY FOR THE FOSTER PARENT, PREADOPTIVE PARENT, OR RELATIVE  
19 SHALL BE GIVEN AN OPPORTUNITY TO BE HEARD AT THE HEARING.

20 (4) THE FOSTER PARENT, PREADOPTIVE PARENT, RELATIVE, OR  
21 ATTORNEY MAY NOT BE CONSIDERED TO BE A PARTY SOLELY ON THE BASIS OF  
22 THE RIGHT TO NOTICE AND OPPORTUNITY TO BE HEARD PROVIDED UNDER THIS  
23 SUBSECTION.

24 (J) AT A REVIEW HEARING UNDER THIS SECTION, THE COURT SHALL  
25 CONSIDER ANY WRITTEN REPORT OF A LOCAL OUT-OF-HOME PLACEMENT  
26 REVIEW BOARD REQUIRED UNDER § 5-545 OF THE FAMILY LAW ARTICLE.

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