

SENATE BILL 551

D4, E3

8lr1624

By: **Senator Gladden**

Introduced and read first time: February 1, 2008

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Family Law – CINA, Guardianship, Adoption, and Custody Proceedings –**
3 **Blindness of Parent, Guardian, or Custodian**

4 FOR the purpose of prohibiting a court, in a certain hearing concerning a child in need
5 of assistance (CINA), from considering the blindness of the child’s parent,
6 guardian, or custodian in making a certain finding; prohibiting a court, in
7 making a disposition on a CINA petition, from finding that a child is in need of
8 assistance for the sole reason that the parent, guardian, or custodian of the
9 child is blind; prohibiting a court, in determining whether to grant custody and
10 guardianship of a CINA to a relative or nonrelative, from considering whether
11 the relative or nonrelative is blind; defining “parental disability”, under certain
12 provisions of law relating to guardianship of a child, to exclude blindness;
13 prohibiting a local department of social services, a guardian, or a child
14 placement agency, in certain adoption proceedings, from withholding consent on
15 an adoption petition solely because a prospective adoptive parent is blind;
16 prohibiting a court, in ruling on a certain adoption petition, from denying the
17 petition solely because the petitioner is blind; prohibiting a child from being
18 committed to a local department of social services and placed in an out-of-home
19 placement solely because the child’s parent or guardian is blind; requiring the
20 Social Services Administration to adopt certain regulations prohibiting a local
21 department from taking certain actions solely because a child’s parent or
22 guardian is blind; prohibiting a court, in making a decision regarding custody or
23 visitation, from considering whether a party to the proceeding is blind; and
24 generally relating to the blindness of a child’s parent, guardian, custodian,
25 relative, nonrelative, or prospective adoptive parent in a CINA, guardianship,
26 adoption, custody, or visitation proceeding.

27 BY repealing and reenacting, with amendments,
28 Article – Courts and Judicial Proceedings
29 Section 3–816.1(d), 3–819(b), and 3–819.2(a)
30 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2006 Replacement Volume and 2007 Supplement)

2 BY repealing and reenacting, without amendments,
 3 Article – Courts and Judicial Proceedings
 4 Section 3–819.2(e)(1)
 5 Annotated Code of Maryland
 6 (2006 Replacement Volume and 2007 Supplement)

7 BY repealing and reenacting, with amendments,
 8 Article – Family Law
 9 Section 5–323(a), 5–338(b), 5–350(b), 5–3A–35(b), 5–3B–19(b), and 5–525(c)(2)(i)
 10 and (i)(2)
 11 Annotated Code of Maryland
 12 (2006 Replacement Volume and 2007 Supplement)

13 BY repealing and reenacting, without amendments,
 14 Article – Family Law
 15 Section 5–323 (d)(2)(iii)
 16 Annotated Code of Maryland
 17 (2006 Replacement Volume and 2007 Supplement)

18 BY adding to
 19 Article – Family Law
 20 Section 9–107
 21 Annotated Code of Maryland
 22 (2006 Replacement Volume and 2007 Supplement)

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

25 **Article – Courts and Judicial Proceedings**

26 3–816.1.

27 (d) In making a finding in accordance with subsection (b) of this section, a
 28 court may not consider [a]:

29 (1) A potential loss of federal funding for placement of a child that
 30 may result from a determination that reasonable efforts were not made; OR

31 (2) **THE BLINDNESS OF A CHILD’S PARENT, GUARDIAN, OR**
 32 **CUSTODIAN.**

33 3–819.

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

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

3 (ii) Hold in abeyance a finding on whether a child with a
4 developmental disability or a mental illness is a child in need of assistance and:

5 1. Order the local department to assess or reassess the
6 family and child's eligibility for placement of the child in accordance with a voluntary
7 placement agreement under § 5-525(a)(1)(i) of the Family Law Article;

8 2. Order the local department to report back to the court
9 in writing within 30 days unless the court extends the time period for good cause
10 shown;

11 3. If the local department does not find the child eligible
12 for placement in accordance with a voluntary placement agreement, hold a hearing to
13 determine whether the family and child are eligible for placement of the child in
14 accordance with a voluntary placement agreement; and

15 4. After the hearing:

16 A. Find that the child is not in need of assistance and
17 order the local department to offer to place the child in accordance with a voluntary
18 placement agreement under § 5-525(a)(1)(i) of the Family Law Article;

19 B. Find that the child is in need of assistance; or

20 C. Dismiss the case; or

21 (iii) Subject to paragraph (2) of this subsection, find that the
22 child is in need of assistance and:

23 1. Not change the child's custody status; or

24 2. Commit the child on terms the court considers
25 appropriate to the custody of:

26 A. A parent;

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

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

1 **(2) IN MAKING A DISPOSITION ON A CINA PETITION UNDER THIS**
2 **SUBTITLE, THE COURT MAY NOT FIND THAT A CHILD IS IN NEED OF ASSISTANCE**
3 **FOR THE SOLE REASON THAT THE PARENT, GUARDIAN, OR CUSTODIAN OF THE**
4 **CHILD IS BLIND.**

5 ~~[(2)]~~ **(3)** Unless good cause is shown, a court shall give priority to the
6 child's relatives over nonrelatives when committing the child to the custody of an
7 individual other than a parent.

8 3-819.2.

9 (a) **(1)** Subject to subsection (e) of this section, the court may grant
10 custody and guardianship to a relative or a nonrelative under this subtitle.

11 **(2) IN DETERMINING WHETHER TO GRANT CUSTODY AND**
12 **GUARDIANSHIP UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE COURT MAY**
13 **NOT CONSIDER WHETHER THE RELATIVE OR NONRELATIVE IS BLIND.**

14 (e) **(1)** Before granting custody and guardianship under this section, the
15 court shall consider:

16 (i) Any assurance by the local department that it will provide
17 funds for necessary support and maintenance for the child;

18 (ii) All factors necessary to determine the best interests of the
19 child; and

20 (iii) A report by a local department or a licensed child placement
21 agency, completed in compliance with regulations adopted by the Department of
22 Human Resources, on the suitability of the individual to be the guardian of the child.

23 **Article - Family Law**

24 5-323.

25 (a) **(1)** In this section[, "drug"] **THE FOLLOWING WORDS HAVE THE**
26 **MEANINGS INDICATED.**

27 **(2) "DRUG"** means cocaine, heroin, methamphetamine, or a
28 derivative of cocaine, heroin, or methamphetamine.

29 **(3) "PARENTAL DISABILITY" DOES NOT INCLUDE BLINDNESS.**

30 (d) Except as provided in subsection (c) of this section, in ruling on a petition
31 for guardianship of a child, a juvenile court shall give primary consideration to the
32 health and safety of the child and consideration to all other factors needed to

1 determine whether terminating a parent's rights is in the child's best interests,
2 including:

3 (2) the results of the parent's effort to adjust the parent's
4 circumstances, condition, or conduct to make it in the child's best interests for the
5 child to be returned to the parent's home, including:

6 (iii) the existence of a parental disability that makes the parent
7 consistently unable to care for the child's immediate and ongoing physical or
8 psychological needs for long periods of time; and

9 5-338.

10 (b) A local department may not withhold consent for the sole reason that:

11 (1) the race, religion, color, or national origin of a prospective adoptive
12 parent differs from that of the child or parent; **OR**

13 (2) **A PROSPECTIVE ADOPTIVE PARENT IS BLIND.**

14 5-350.

15 (b) A guardian may not withhold consent for the sole reason that:

16 (1) the race, religion, color, or national origin of a prospective adoptive
17 parent differs from that of the child or parent; **OR**

18 (2) **A PROSPECTIVE ADOPTIVE PARENT IS BLIND.**

19 5-3A-35.

20 (b) A child placement agency may not withhold consent for the sole reason
21 that:

22 (1) the race, religion, color, or national origin of a prospective adoptive
23 parent differs from that of the child or parent; **OR**

24 (2) **A PROSPECTIVE ADOPTIVE PARENT IS BLIND.**

25 5-3B-19.

26 (b) In ruling on an adoption petition under this subtitle, a court may not
27 deny the petition solely because the petitioner is:

28 (1) single or unmarried; **OR**

1 (2) **BLIND.**

2 5-525.

3 (c) (2) (i) A child may not be committed to the custody or
4 guardianship of a local department and placed in an out-of-home placement solely
5 because the child's parent or guardian lacks shelter **OR IS BLIND** or solely because the
6 child's parents are financially unable to provide treatment or care for a child with a
7 developmental disability or mental illness.

8 (i) The Administration shall adopt regulations that:

9 (2) prohibit a local department from seeking the custody or
10 guardianship of a child for placement in foster care solely because the child's parent or
11 guardian lacks shelter **OR IS BLIND** or solely because the child's parents are
12 financially unable to provide treatment or care for a child with a developmental
13 disability or mental illness;

14 **9-107.**

15 **IN MAKING A DECISION REGARDING CUSTODY OR VISITATION, THE COURT**
16 **MAY NOT CONSIDER WHETHER A PARTY TO THE PROCEEDING IS BLIND.**

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