

**Department of Legislative Services**  
Maryland General Assembly  
2008 Session

**FISCAL AND POLICY NOTE**

House Bill 593 (Chair, Judiciary Committee) (By Request – Departmental – Juvenile Services)  
Judiciary

---

**Juvenile Law - Child in Need of Supervision and Delinquency Proceedings -  
Permanency Plans**

---

This departmental bill requires a juvenile court in a child in need of supervision (CINS) or delinquency proceeding to include specific information in any order that removes a child from his or her home. The bill requires the court to hold permanency plan review hearings for children in out-of-home placements and sets forth the specific procedures that must be followed.

---

**Fiscal Summary**

**State Effect:** Enactment of the bill may help prevent the loss of federal foster care matching funds by providing additional assurance that Maryland is in compliance with federal guidelines. Operational difficulties may occur for the Judiciary.

**Local Effect:** Circuit courts may experience operational difficulties and could require additional personnel.

**Small Business Effect:** The Department of Juvenile Services has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment.

---

**Analysis**

**Bill Summary:** The bill requires that in a CINS or delinquency case a juvenile court order must contain specified information if the disposition removes a child from the child's home. In such cases, the order must:

- set forth in writing the specific findings of fact that caused the need for removal and specify whether the Department of Juvenile Services made reasonable efforts to prevent placement of the child into the department's custody;
- inform any parent, custodian, or guardian that the person or agency to which the child is committed may change the permanency plan of reunification to another permanency plan, which may include the filing of a petition for termination of parental rights if the parents have not made significant progress to remedy the circumstances that originally caused the need for removal and are unwilling or unable to give the child proper care and attention within a reasonable period of time; and
- if appropriate, refer a parent or putative parent to the appropriate support enforcement agency to establish paternity and support.

The bill requires a court to hold a permanency planning hearing no later than 11 months after a child has entered an out-of-home placement or within 30 days after the court finds that reasonable efforts to reunify a child with the child's parents or guardian are not required based on the abuse or neglect of the child, certain criminal convictions of the parent or guardian, or the involuntary loss of parental rights of a sibling of the child. On the agreement of all parties, a permanency planning hearing may be held on the same day as a reasonable efforts hearing or, on the request of a party or the court's own motion, at an earlier time.

At least 10 days before the hearing, the department or agency to which the child has been committed must provide each party and the court with a copy of the permanency plan for the child. To the extent consistent with the child's best interests, the court must consider the following permanency plans, in descending order of priority:

- reunification with the parent or guardian;
- placement with a relative for adoption or custody and guardianship;
- adoption by a nonrelative; or
- custody and guardianship by a nonrelative.

The court may also consider another planned permanent living arrangement that (1) addresses the individual needs of the child, including the child's educational plan, emotional stability, physical placement, and socialization needs; and (2) includes goals that promote the continuity of relations with individuals who will fill a lasting and significant role in the child's life. A court may not order a child to be continued in such a placement unless the court finds that the person or agency to which the child is committed has documented a compelling reason for determining that it would not be in

the best interest of the child to (1) return home; (2) be referred for termination of parental rights; or (3) be placed for adoption or guardianship with an appropriate relative or legal guardian.

The court must determine any services needed to assist a child age 16 or older make the transition from placement to independent living.

In determining the child's permanency plan, the court must give primary consideration to the child's best interests. The court must consider (1) the child's safety and health in the parent's home; (2) the child's attachment and emotional ties to natural parents and siblings; (3) the child's emotional attachment to the current caregiver; (4) the potential harm if the child is moved from the current placement; and (5) the potential harm if the child remains in State custody for an excessive period of time.

If the court finds at a permanency planning hearing that the plan should be changed to adoption by a nonrelative, the court must (1) order the local Department of Social Services, after consultation with DJS, to file a petition for guardianship within 30 days if DSS supports the plan, or 60 days if DSS does not support the plan; and (2) schedule a termination of parental rights hearing instead of the next six-month review hearing.

Subject to specified exceptions, the court has to conduct a hearing to review the permanency plan at least every six months until commitment is rescinded. At the review hearing, the court shall:

- determine the continuing necessity for and appropriateness of the commitment;
- determine and document whether reasonable efforts have been made to finalize the permanency plan;
- determine the extent of progress that has been made toward alleviating or mitigating the factors necessitating commitment;
- project a reasonable date by which a child in placement may be returned home, placed in a preadoptive home, or placed under a legal guardianship;
- evaluate the safety of the child and take any necessary measures to protect the child; and
- change the permanency plan if such a change would be in the child's best interest.

The court must also consider any written report of a local out-of-home placement review board. Every reasonable effort to effectuate a permanent placement for the child within 24 months after the date of initial placement shall be made.

The bill requires that at least seven days notice of a review or permanency planning hearing be given to a foster parent, preadoptive parent, or relative providing care, if practicable, and that these individuals or their attorneys are given an opportunity to be heard at any hearing. These individuals may not be considered to be a party solely on the basis of the right to notice and opportunity to be heard.

**Current Law:** A child in need of supervision is a child who requires guidance, treatment, or rehabilitation and (1) is required by law to attend school and is habitually truant; (2) is habitually disobedient, ungovernable, and beyond the control of the person having custody of the child; (3) deports himself/herself so as to injure or endanger himself/herself or others; or (4) has committed an offense applicable only to children.

Once a child has been adjudicated to be in need of supervision or delinquent, a court must hold a separate disposition hearing, unless the original petition or citation is dismissed or the hearing is waived in writing by all of the parties. In making a disposition, the court may:

- place the child on probation or under supervision in the child's own home or in the care of a relative or other fit person upon terms the court deems appropriate;
- commit the child to the custody or under the guardianship of the Department of Juvenile Services, the Department of Health and Mental Hygiene, or a public or licensed private agency on terms that the court considers are appropriate and consistent with the purposes of the Juvenile Justice System; or
- order the child, parents, guardian, or custodian to participate in rehabilitative services that are in the best interest of the child and the family.

**Background:** Foster care is a federally based program, which must adhere to federal laws and conditions. DJS participates in the U.S. Department of Health and Human Services Title IV-E Foster Care Program through a Memorandum of Agreement with the Maryland Department of Human Resources. Under the federal law regarding reimbursement for foster care placements, certain procedures must be followed and certain findings must be made when a juvenile court orders a child to be placed in an out-of-home placement. Although the juvenile law regarding Child in Need of Assistance (CINA) cases has included some of these requirements for some time, the statute regarding CINS and delinquent youth does not have such a provision. This departmental bill is intended to better insure that the State obtain reimbursement for the care of these youth. DJS advises in fiscal 2007, there were 62 youth who stayed one year or more in committed out-of-home placement.

**State Revenues:** DHR and DJS both anticipate this bill would lead to increased federal matching funds for the State. A 2007 report by the Maryland Office of Legislative

Audits identified \$114,000 in potential federal revenues which could not be claimed because judicial determinations regarding permanency plans were not obtained for certain youth in foster care.

**State and Local Fiscal Effect:** The Judiciary anticipates potential operational difficulties due to the increased juvenile dockets that will be necessary in jurisdictions that are not already holding these hearings. Reliable information as to the number of jurisdictions that currently are not holding these hearings is unavailable from the Judiciary. Jurisdictions that presently have a few days scheduled for juvenile delinquency hearings a month and share masters with other counties would be particularly impacted. It is possible that additional expenditures for new court personnel, including additional masters in some counties, would be necessary, depending on the magnitude of any scheduling problems that occur. These expenditures cannot be reliably estimated at this time.

Any increase in the workload for the Department of Juvenile Services could be met with existing resources.

---

### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Department of Juvenile Services, Department of Human Resources, Judiciary (Administrative Office of the Courts), Department of Legislative Services

**Fiscal Note History:** First Reader - February 13, 2008  
ncs/hlb

---

Analysis by: Jennifer K. Botts

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510