

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE
Revised

House Bill 1325

(Delegate Rosenberg, *et al.*)

Judiciary

Judicial Proceedings

Children in Need of Assistance - Custody Determinations - Prohibition Against
Consideration of Disabilities

This bill prohibits a court from considering a “disability” of a relative or a nonrelative, in determining whether to grant custody and guardianship of a Child In Need of Assistance (CINA), unless the court finds that the disability causes a condition that is detrimental to the best interests of the child. Under the bill, disability is defined as a physical impairment that substantially limits one or more of the major life activities of an individual. Disability does not include illegal use of or addiction to a controlled dangerous substance.

Fiscal Summary

State Effect: None. The bill’s requirements could be handled with existing resources.

Local Effect: None. The bill’s requirements could be handled with existing resources.

Small Business Effect: None.

Analysis

Current Law: A CINA is a child who requires court intervention because the child was abused or neglected or has a developmental disability or a mental disorder, and the child’s parents, guardian, or custodian are unable or unwilling to give the proper care and attention to the child and the child’s needs.

Unless good cause is shown, a court must give priority to the child's relatives over nonrelatives when committing the child to the custody of an individual other than a parent.

A court may grant custody and guardianship to a relative or nonrelative; however, the court must consider any assurance by the local department of social services (LDSS) that it will provide the necessary funds for support and maintenance of the child, all factors necessary to determine the best interests of the child, and a report by an LDSS or licensed child placement agency on the suitability of the individual to be the guardian of the child.

Additional Information

Prior Introductions: None.

Cross File: SB 551 (Senator Gladden) – Judicial Proceedings.

Information Source(s): Department of Human Resources, Judiciary (Administrative Office of the Courts), Governor's Office for Children, Department of Disabilities, Department of Legislative Services

Fiscal Note History: First Reader - February 29, 2008
ncs/hlb Revised - House Third Reader - April 5, 2008

Analysis by: Karen D. Morgan

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