

# SENATE BILL 70

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By: **Senator Kelley**

Introduced and read first time: January 16, 2012

Assigned to: Judicial Proceedings

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 20, 2012

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Family Law – Permanency Planning and Guardianship Review Hearings –**  
3 **Court Procedures**

4 FOR the purpose of establishing certain methods by which the juvenile court, in  
5 certain permanency planning and guardianship review hearings, may satisfy  
6 the requirement that the court consult on the record with the child under  
7 certain circumstances; specifying the purpose of the consultation; and generally  
8 relating to permanency planning and guardianship review hearings.

9 BY repealing and reenacting, without amendments,  
10 Article – Courts and Judicial Proceedings  
11 Section 3–823(b), (c), and (h)(1)  
12 Annotated Code of Maryland  
13 (2006 Replacement Volume and 2011 Supplement)

14 BY repealing and reenacting, with amendments,  
15 Article – Courts and Judicial Proceedings  
16 Section 3–823(k)  
17 Annotated Code of Maryland  
18 (2006 Replacement Volume and 2011 Supplement)

19 BY repealing and reenacting, without amendments,  
20 Article – Family Law  
21 Section 5–326(a)(1) and (2)  
22 Annotated Code of Maryland

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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.



(2006 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,  
Article – Family Law  
Section 5–326(c)  
Annotated Code of Maryland  
(2006 Replacement Volume and 2011 Supplement)

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

**Article – Courts and Judicial Proceedings**

3–823.

(b) (1) The court shall hold a permanency planning hearing to determine  
the permanency plan for a child:

(i) No later than 11 months after a child committed under  
§ 3–819 of this subtitle or continued in a voluntary placement under § 3–819.1(b) of  
this subtitle enters an out-of-home placement; or

(ii) Within 30 days after the court finds that reasonable efforts  
to reunify a child with the child's parent or guardian are not required based on a  
finding that a circumstance enumerated in § 3–812 of this subtitle has occurred.

(2) For purposes of this section, a child shall be considered to have  
entered an out-of-home placement 30 days after the child is placed into an  
out-of-home placement.

(3) If all parties agree, a permanency planning hearing may be held on  
the same day as the reasonable efforts hearing.

(c) (1) On the written request of a party or on its own motion, the court  
may schedule a hearing at any earlier time to determine a permanency plan or to  
review the implementation of a permanency plan for any child committed under  
§ 3–819 of this subtitle.

(2) A written request for review shall state the reason for the request  
and each issue to be raised.

(h) (1) (i) Except as provided in subparagraphs (ii) and (iii) of this  
paragraph, the court shall conduct a hearing to review the permanency plan at least  
every 6 months until commitment is rescinded or a voluntary placement is terminated.

(ii) The court shall conduct a review hearing every 12 months after the court determines that the child shall be continued in out-of-home placement with a specific caregiver who agrees to care for the child on a permanent basis.

(iii) 1. Unless the court finds good cause, a case shall be terminated after the court grants custody and guardianship of the child to a relative or other individual.

2. If the court finds good cause not to terminate a case, the court shall conduct a review hearing every 12 months until the case is terminated.

3. The court may not conclude a review hearing under subparagraph 2 of this subparagraph unless the court has seen the child in person.

(k) (1) At least every 12 months at a hearing under this section, the court shall consult on the record with the child in an age-appropriate manner TO OBTAIN THE CHILD'S VIEWS ON PERMANENCY.

(2) (I) IF, AFTER A HEARING OR WITH THE AGREEMENT OF ALL PARTIES, THE COURT DETERMINES THAT THE CHILD IS MEDICALLY FRAGILE AND THAT IT IS DETRIMENTAL TO THE CHILD'S PHYSICAL OR MENTAL HEALTH TO BE TRANSPORTED TO THE COURTHOUSE, THE COURT MAY, SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH:

1. VISIT THE CHILD AT THE CHILD'S PLACEMENT AND USE APPROPRIATE TECHNOLOGY TO DOCUMENT THE CONSULTATION FOR THE RECORD; OR

2. ~~SUBJECT TO THE PROVISIONS OF SUBPARAGRAPH (II) OF THIS PARAGRAPH, USE~~ USE VIDEO CONFERENCING TO CONSULT WITH THE CHILD ON THE RECORD DURING THE HEARING.

(II) IF THE COURT VISITS THE CHILD AT THE CHILD'S PLACEMENT UNDER SUBPARAGRAPH (I)1 OF THIS PARAGRAPH OR USES VIDEO CONFERENCING UNDER SUBPARAGRAPH (I)2 OF THIS PARAGRAPH, THE COURT SHALL GIVE EACH PARTY NOTICE AND AN OPPORTUNITY TO ATTEND THE VISIT OR THE VIDEO CONFERENCING, UNLESS THE COURT DETERMINES THAT IT IS NOT IN THE BEST INTEREST OF THE CHILD FOR A PARTY TO ATTEND THE VISIT OR THE VIDEO CONFERENCING.

(3) SUBJECT TO THE PROVISIONS OF PARAGRAPH (2)(II) OF THIS SUBSECTION, IF THE CHILD'S PLACEMENT IS OUTSIDE THE STATE AND, AFTER A HEARING OR WITH THE AGREEMENT OF ALL PARTIES, THE COURT DETERMINES THAT IT IS NOT IN THE BEST INTEREST OF THE CHILD TO BE TRANSPORTED TO

1 THE COURT, THE COURT MAY USE VIDEO CONFERENCING TO CONSULT WITH  
2 THE CHILD ON THE RECORD DURING THE HEARING.

3 Article – Family Law

4 5–326.

5 (a) (1) A juvenile court shall hold:

6 (i) an initial guardianship review hearing as scheduled under §  
7 5–324(b)(1)(vi) of this subtitle to establish a permanency plan for the child; and

8 (ii) at least once each year after the initial guardianship review  
9 hearing until the juvenile court’s jurisdiction terminates, a guardianship review  
10 hearing.

11 (2) At each guardianship review hearing, a juvenile court shall  
12 determine whether:

13 (i) the child’s current circumstances and placement are in the  
14 child’s best interests;

15 (ii) the permanency plan that is in effect is in the child’s best  
16 interests; and

17 (iii) reasonable efforts have been made to finalize the  
18 permanency plan that is in effect.

19 (c) (1) At least every 12 months at a hearing under this section, the court  
20 shall consult on the record with the child in an age-appropriate manner TO OBTAIN  
21 THE CHILD’S VIEWS ON PERMANENCY.

22 (2) (I) IF, AFTER A HEARING OR WITH THE AGREEMENT OF ALL  
23 PARTIES, THE COURT DETERMINES THAT THE CHILD IS MEDICALLY FRAGILE  
24 AND THAT IT IS DETRIMENTAL TO THE CHILD’S PHYSICAL OR MENTAL HEALTH  
25 TO BE TRANSPORTED TO THE COURTHOUSE, THE COURT MAY, SUBJECT TO  
26 SUBPARAGRAPH (II) OF THIS PARAGRAPH:

27 1. VISIT THE CHILD AT THE CHILD’S PLACEMENT  
28 AND USE APPROPRIATE TECHNOLOGY TO DOCUMENT THE CONSULTATION FOR  
29 THE RECORD; OR

30 2. ~~SUBJECT TO THE PROVISIONS OF SUBPARAGRAPH~~  
31 ~~(II) OF THIS PARAGRAPH,~~ USE VIDEO CONFERENCING TO CONSULT WITH THE  
32 CHILD ON THE RECORD DURING THE HEARING.

1                   (II) IF THE COURT VISITS THE CHILD AT THE CHILD'S  
2 PLACEMENT UNDER SUBPARAGRAPH (I)1 OF THIS PARAGRAPH OR USES VIDEO  
3 CONFERENCING UNDER SUBPARAGRAPH (I)2 OF THIS PARAGRAPH, THE COURT  
4 SHALL GIVE EACH PARTY NOTICE AND AN OPPORTUNITY TO ATTEND THE VISIT  
5 OR THE VIDEO CONFERENCING, UNLESS THE COURT DETERMINES THAT IT IS  
6 NOT IN THE BEST INTEREST OF THE CHILD FOR A PARTY TO ATTEND THE VISIT  
7 OR THE VIDEO CONFERENCING.

8                   (3) SUBJECT TO THE PROVISIONS OF PARAGRAPH (2)(II) OF THIS  
9 SUBSECTION, IF THE CHILD'S PLACEMENT IS OUTSIDE THE STATE AND, AFTER A  
10 HEARING OR WITH THE AGREEMENT OF ALL PARTIES, THE COURT DETERMINES  
11 THAT IT IS NOT IN THE BEST INTEREST OF THE CHILD TO BE TRANSPORTED TO  
12 THE COURT, THE COURT MAY USE VIDEO CONFERENCING TO CONSULT WITH  
13 THE CHILD ON THE RECORD DURING THE HEARING.

14               SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
15 October 1, 2012.

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.