

**Department of Legislative Services**  
Maryland General Assembly  
2012 Session

**FISCAL AND POLICY NOTE**  
**Revised**

Senate Bill 70

(Senator Kelley)

Judicial Proceedings

Judiciary

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**Family Law - Permanency Planning and Guardianship Review Hearings - Court Procedures**

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This bill sets forth methods by which the juvenile court may satisfy the requirement, in specified permanency planning and guardianship review hearings, to consult on the record with the child. The bill also specifies that the purpose of the consultation is to obtain the child's views on permanency.

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**Fiscal Summary**

**State Effect:** Minimal general fund expenditure increase for the Judiciary to arrange docket and scheduling changes to facilitate on the record consultations for circuit courts that are unable to obtain video conferencing and computer equipment. The Department of Human Resources (DHR), the Department of Health and Mental Hygiene (DHMH), the Department of Juvenile Services (DJS), and the Maryland State Department of Education (MSDE) can meet the bill's requirements with existing resources.

**Local Effect:** Potential significant increase in equipment expenditures for the circuit courts, in FY 2013 only, to obtain video conferencing and computer equipment or to facilitate in person consultations. **This bill may impose a mandate on a unit of local government.**

**Small Business Effect:** Minimal.

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## Analysis

**Bill Summary:** If the juvenile court determines, after a hearing or with the agreement of all parties, that a child is medically fragile and that it is detrimental to the child's physical or mental health to be transported to court, the court may (1) visit the child at the child's placement and use appropriate technology to document the consultation for the record; or (2) use video conferencing to consult with the child on the record during the hearing.

A court is also authorized to use video conferencing to consult with the child on the record if the child's placement is outside the State and the court determines, after a hearing or with the agreement of all parties, that it is not in the best interest of the child to be transported to the court.

If the court visits the child or video conferencing is used for either of the above reasons, the court is required to give each party notice and an opportunity 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.

**Current Law:** State law does not specify how a juvenile court may consult with a child during a permanency planning or guardianship review hearing in an "age-appropriate" manner.

No later than 11 months after a child in need of assistance or a child in a voluntary placement enters an out-of-home placement, the juvenile court must hold a permanency planning hearing to determine a permanency plan for the child. The court must also hold a permanency planning hearing within 30 days after the court finds that a local department's reasonable efforts to reunify a child with the child's parents or guardian are not required based on a finding that the child was subjected to chronic abuse, chronic and life-threatening neglect, sexual abuse, or torture, or that the parent has been convicted of a crime of violence or involuntarily lost parental rights, as specified in statute.

Except as otherwise provided, the court must conduct a hearing to review the permanency plan at least every six months until the commitment is rescinded or a voluntary placement is terminated. After the court determines that the child must be continued in an out-of-home placement with a specific caregiver who agrees to care for the child permanently, the court must conduct a review hearing every 12 months. A court must terminate a case after the court grants custody and guardianship of the child to a relative or other individual, unless the court finds good cause not to terminate the case. If the court does find such cause, the court must then conduct a review hearing every 12 months until the case is terminated. The foster parent, preadoptive parent, relative, or his or her attorney must be given an opportunity to be heard, and, if practicable, at least 10 days' notice before any hearing.

A juvenile court must hold an initial guardianship review hearing no later than 180 days after the date of an order granting guardianship to establish a permanency plan for the child. Additional review hearings must be held at least once each year after the initial review hearing until the juvenile court's jurisdiction terminates.

At least every 12 months at a permanency planning or guardianship review hearing, the court must consult on the record with the child in an age-appropriate manner.

**Background:** Title IV of the Social Security Act requires a court holding a permanency or guardianship review hearing to conduct an age-appropriate consultation on the record with the child regarding the proposed permanency or transition plan. In guidance issued by the U.S. Department of Health and Human Services, the importance of obtaining the child's views on the child's permanency or transition plan is emphasized. The guidance notes that at times, the reporting presented by attorneys, case workers, guardians *ad litem*, and other child representatives, although intended to be in the child's best interests, may not adequately convey the child's true feelings regarding placement or guardianship. Also, the federal guidance notes the importance of the judge's personal observation of the child's nonverbal communication and demeanor.

This bill is intended to set forth specific methods by which a juvenile court might comply with the federal mandate to have a meaningful consultation on the record with a child who is the subject of a permanency planning or guardianship review hearing.

**State and Local Expenditures:** For purposes of this analysis, it is assumed that the Judiciary will be responsible for all costs associated with video conferencing capabilities. Accordingly, it is anticipated that the bill's changes can be implemented by DHR, DHMH, DJS, and MSDE with existing resources. However, if DHR, DHMH, DJS, and MSDE undertake responsibility for providing computer equipment to facilitate video connections and conferencing with the children who are in their care, expenditures may increase for these agencies in fiscal 2013 only to purchase the necessary equipment. *For illustrative purposes only*, DJS had previously estimated one-time costs of \$150,000 for a prior introduction of a similar bill for purchasing computer equipment for each of its six regions to facilitate video conferencing. To the extent that the Judiciary uses one of the alternative methods provided under this bill to consult with the child on the record, expenditures associated with transporting children to court may decrease minimally for DHR, DHMH, DJS, and MSDE.

Minimal increase in general fund expenditures for the Judiciary to arrange dockets and scheduling in smaller circuit court jurisdictions to allow for visits of children at their placements to comply with the bill's requirements.

The Administrative Office of the Court advises that some of the larger circuit court jurisdictions already have video conferencing capabilities. For smaller circuit court jurisdictions or for those that do not have video conferencing equipment, local government expenditures could increase significantly in fiscal 2013 only to obtain the necessary equipment and minimally thereafter to reflect ongoing maintenance costs. The Administrative Office of the Courts estimates that equipping courts with video conferencing capabilities will be at least \$24,000 per courtroom, which does not include video connection and capability costs associated with the site at which the child is located. For those jurisdictions that are unable to obtain equipment to meet the bill's requirements, scheduling and dockets would have to be rearranged to a greater extent to allow for in person consultation.

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### **Additional Information**

**Prior Introductions:** SB 335 of 2011, a similar bill, received a hearing in the Senate Judicial Proceedings Committee, but no further action was taken.

**Cross File:** None.

**Information Source(s):** Department of Human Resources, Maryland State Department of Education, Department of Health and Mental Hygiene, Judiciary (Administrative Office of the Courts), Department of Juvenile Services, Department of Legislative Services

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