

SENATE BILL 1010

D4, O3, O4

3lr3267
CF HB 1460

By: **Senators Brinkley, Forehand, Kelley, King, Kittleman, Klausmeier, Madaleno, Middleton, Pipkin, and Pugh**

Introduced and read first time: February 21, 2013

Assigned to: Rules

Re-referred to: Finance, March 4, 2013

Committee Report: Favorable with amendments

Committee amendments withdrawn, March 28, 2013

Senate action: Adopted with floor amendments

Read second time: March 28, 2013

CHAPTER _____

1 AN ACT concerning

2 **Children with Developmental Disabilities in State Custody – Continuation of**
3 **Placement and Services**

4 FOR the purpose of continuing the jurisdiction of a juvenile court over a child who is
5 medically fragile, has a developmental disability, and is committed to the
6 custody of a local department of social services for a certain period of time after
7 the child attains 21 years of age for the court to review, as necessary, the
8 content, implementation, and enforcement of certain plans; requiring the
9 juvenile court to review a certain transition plan and change the plan if
10 necessary to ensure that the Developmental Disabilities Administration
11 provides a certain level of care, supervision, and treatment services for a certain
12 child; requiring a certain local department of social services at certain times to
13 coordinate with the Administration to plan for the transfer of responsibility for
14 the case management, care, supervision, and treatment of a certain child at a
15 certain time, to notify the Administration of the date when a certain child will
16 require certain services to begin, and to develop jointly with the Administration
17 a transition plan that ensures continuity of a certain child's residential
18 placement and ~~maintains a certain level of care, supervision, and treatment~~
19 ~~services and placement support for the child~~ a certain level of services;
20 requiring the Administration to coordinate with each local department to plan
21 for the transfer of responsibility for the case management, care, supervision,
22 and treatment of certain children; ~~prohibiting the Department of Health and~~

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.



1 ~~Mental Hygiene from requiring a certain child to submit an application for~~
 2 ~~certain services in certain circumstances;~~ requiring the Administration, after
 3 receiving a certain notice, at certain times to develop jointly with a local
 4 department a transition plan that ensures continuity of a certain child's
 5 residential placement and ~~maintains a certain level of care, supervision, and~~
 6 ~~treatment services and placement support for the child~~ a certain level of
 7 services, to submit the transition plan to the court that has jurisdiction over the
 8 child, to develop and approve a certain individual service plan for the child, to
 9 enter into a certain service funding plan, to investigate, license, approve, or
 10 otherwise qualify a certain residence, and to implement and continue for a
 11 certain time period a certain individual service plan and level of support and
 12 funding for the child; defining certain terms; and generally relating to medically
 13 fragile children with developmental disabilities.

14 BY repealing and reenacting, without amendments,
 15 Article – Courts and Judicial Proceedings
 16 Section 3–801(a), (e), (f), (g), (i), (k), (l), (p), and (bb)
 17 Annotated Code of Maryland
 18 (2006 Replacement Volume and 2012 Supplement)

19 BY repealing and reenacting, with amendments,
 20 Article – Courts and Judicial Proceedings
 21 Section 3–804
 22 Annotated Code of Maryland
 23 (2006 Replacement Volume and 2012 Supplement)

24 BY adding to
 25 Article – Courts and Judicial Proceedings
 26 Section 3–823.1
 27 Annotated Code of Maryland
 28 (2006 Replacement Volume and 2012 Supplement)

29 BY repealing and reenacting, without amendments,
 30 Article – Family Law
 31 Section 1–101(a), (f), and (g)
 32 Annotated Code of Maryland
 33 (2012 Replacement Volume)

34 BY adding to
 35 Article – Family Law
 36 Section 5–327.1 and 5–525.3
 37 Annotated Code of Maryland
 38 (2012 Replacement Volume)

39 BY repealing and reenacting, with amendments,
 40 Article – Family Law
 41 Section 5–328

1 Annotated Code of Maryland
2 (2012 Replacement Volume)

3 BY repealing and reenacting, without amendments,
4 Article – Health – General
5 Section 1–101(a) and (c), 7–101(a), (b), (e), and (n), and 7–403
6 Annotated Code of Maryland
7 (2009 Replacement Volume and 2012 Supplement)

8 BY adding to
9 Article – Health – General
10 Section 7–804
11 Annotated Code of Maryland
12 (2009 Replacement Volume and 2012 Supplement)

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

15 **Article – Courts and Judicial Proceedings**

16 3–801.

17 (a) In this subtitle the following words have the meanings indicated.

18 (e) “Child” means an individual under the age of 18 years.

19 (f) “Child in need of assistance” means a child who requires court
20 intervention because:

21 (1) The child has been abused, has been neglected, has a
22 developmental disability, or has a mental disorder; and

23 (2) The child’s parents, guardian, or custodian are unable or unwilling
24 to give proper care and attention to the child and the child’s needs.

25 (g) “CINA” means a child in need of assistance.

26 (i) “Court” means the circuit court for a county sitting as the juvenile court.

27 (k) “Custody” means the right and obligation, unless otherwise determined
28 by the court, to provide ordinary care for a child and determine placement.

29 (l) “Developmental disability” means a severe chronic disability of an
30 individual that:

1 (1) Is attributable to a physical or mental impairment, other than the
2 sole diagnosis of mental illness, or to a combination of mental and physical
3 impairments;

4 (2) Is likely to continue indefinitely;

5 (3) Results in an inability to live independently without external
6 support or continuing and regular assistance; and

7 (4) Reflects the need for a combination and sequence of special,
8 interdisciplinary, or generic care, treatment, or other services that are individually
9 planned and coordinated for the individual.

10 (p) "Local department" means:

11 (1) The local department of social services for the county in which the
12 court is located; or

13 (2) In Montgomery County, the county department of health and
14 human services.

15 (bb) "Voluntary placement" means a placement in accordance with §
16 5-525(b)(1)(i) or (iii) of the Family Law Article.

17 3-804.

18 (a) The court has jurisdiction under this subtitle only if the alleged CINA or
19 child in a voluntary placement is under the age of 18 years when the petition is filed.

20 (b) If the court obtains jurisdiction over a child, that jurisdiction continues in
21 that case [until]:

22 (1) UNTIL the child reaches the age of 21 years, unless the court
23 terminates the case; OR

24 (2) IF THE CHILD IS MEDICALLY FRAGILE AND HAS A
25 DEVELOPMENTAL DISABILITY, FOR 2 ADDITIONAL YEARS AFTER THE CHILD
26 ATTAINS 21 YEARS OF AGE FOR THE COURT TO REVIEW, AS NECESSARY, THE
27 CONTENT, IMPLEMENTATION, AND ENFORCEMENT OF THE CHILD'S TRANSITION
28 PLAN, INDIVIDUAL SERVICE PLAN, OR SERVICE FUNDING PLAN DEVELOPED AND
29 IMPLEMENTED UNDER § 5-525.3 OF THE FAMILY LAW ARTICLE OR § 7-804 OF
30 THE HEALTH – GENERAL ARTICLE.

31 (c) After the court terminates jurisdiction, a custody order issued by the
32 court in a CINA case:

- 1 (1) Remains in effect; and
- 2 (2) May be revised or superseded only by another court of competent
3 jurisdiction.

4 **3-823.1.**

5 **IF A MEDICALLY FRAGILE CHILD WITH A DEVELOPMENTAL DISABILITY IS**
6 **COMMITTED TO THE CUSTODY OF A LOCAL DEPARTMENT UNDER § 3-819 OF**
7 **THIS SUBTITLE, THE COURT SHALL:**

8 (1) **REVIEW THE TRANSITION PLAN DEVELOPED BY THE LOCAL**
9 **DEPARTMENT AND THE DEVELOPMENTAL DISABILITIES ADMINISTRATION**
10 **UNDER § 5-525.3 OF THE FAMILY LAW ARTICLE AND § 7-804 OF THE HEALTH -**
11 **GENERAL ARTICLE FOR SUFFICIENCY; AND**

12 (2) **CHANGE THE TRANSITION PLAN IF NECESSARY TO ENSURE**
13 **THAT THE DEVELOPMENTAL DISABILITIES ADMINISTRATION PROVIDES**
14 **APPROPRIATE CARE, SUPERVISION, AND TREATMENT SERVICES TO MEET THE**
15 **CHILD'S NEEDS AFTER THE CHILD ATTAINS 21 YEARS OF AGE.**

16 **Article - Family Law**

17 1-101.

- 18 (a) In this article the following words have the meanings indicated.
- 19 (f) "Juvenile court" means the circuit court for a county sitting as a juvenile
20 court.
- 21 (g) "Local department" means:
- 22 (1) a local department of social services; or
- 23 (2) in Montgomery County, the county department of health and
24 human services.

25 **5-327.1.**

26 **IF A LOCAL DEPARTMENT IS THE GUARDIAN UNDER THIS SUBTITLE OF A**
27 **MEDICALLY FRAGILE CHILD WITH A DEVELOPMENTAL DISABILITY, THE**
28 **JUVENILE COURT SHALL:**

29 (1) **REVIEW THE TRANSITION PLAN DEVELOPED BY THE LOCAL**
30 **DEPARTMENT AND THE DEVELOPMENTAL DISABILITIES ADMINISTRATION**

1 UNDER § 5-525.3 OF THIS ARTICLE AND § 7-804 OF THE HEALTH – GENERAL
2 ARTICLE FOR SUFFICIENCY; AND

3 (2) CHANGE THE TRANSITION PLAN IF NECESSARY TO ENSURE
4 THAT THE DEVELOPMENTAL DISABILITIES ADMINISTRATION PROVIDES
5 APPROPRIATE CARE, SUPERVISION, AND TREATMENT SERVICES TO MEET THE
6 CHILD’S NEEDS AFTER THE CHILD ATTAINS 21 YEARS OF AGE.

7 5-328.

8 (a) If a local department is a child’s guardian under this subtitle, a juvenile
9 court:

10 (1) retains jurisdiction until:

11 (i) the child attains 18 years of age; or

12 (ii) the juvenile court finds the child to be eligible for
13 emancipation; and

14 (2) may continue jurisdiction:

15 (I) until the child attains 21 years of age; OR

16 (II) IF THE CHILD IS MEDICALLY FRAGILE AND HAS A
17 DEVELOPMENTAL DISABILITY, FOR 2 ADDITIONAL YEARS AFTER THE CHILD
18 ATTAINS 21 YEARS OF AGE FOR THE JUVENILE COURT TO REVIEW, AS
19 NECESSARY, THE CONTENT, IMPLEMENTATION, AND ENFORCEMENT OF THE
20 CHILD’S TRANSITION PLAN, INDIVIDUAL SERVICE PLAN, OR SERVICE FUNDING
21 PLAN DEVELOPED AND IMPLEMENTED UNDER § 5-525.3 OF THIS TITLE OR §
22 7-804 OF THE HEALTH – GENERAL ARTICLE.

23 (b) If a juvenile court designates an individual as a child’s guardian, the
24 juvenile court:

25 (1) may retain jurisdiction until the child attains 18 years of age; or

26 (2) on finding further review unnecessary to maintain the child’s
27 health and welfare, may terminate the case before the child attains 18 years of age.

28 (c) An order for adoption of a child terminates the child’s guardianship case.

29 (d) On termination of a guardianship case, a juvenile court shall close the
30 case.

31 5-525.3.

1 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE**
2 **MEANINGS INDICATED.**

3 **(2) “DEVELOPMENTAL DISABILITY” HAS THE MEANING STATED**
4 **IN § 7-101 OF THE HEALTH – GENERAL ARTICLE.**

5 **(3) “MEDICALLY FRAGILE CHILD” MEANS A CHILD WHO IS**
6 **DEPENDENT ON:**

7 **(I) MECHANICAL VENTILATION FOR AT LEAST PART OF**
8 **EACH DAY;**

9 **(II) INTRAVENOUS ADMINISTRATION OF NUTRITIONAL**
10 **SUBSTANCES OR DRUGS;**

11 **(III) OTHER DEVICE-BASED RESPIRATORY OR NUTRITIONAL**
12 **SUPPORT ON A DAILY BASIS, INCLUDING TRACHEOTOMY TUBE CARE,**
13 **SUCTIONING, AND OXYGEN SUPPORT;**

14 **(IV) OTHER MEDICAL DEVICES THAT COMPENSATE FOR**
15 **VITAL BODY FUNCTIONS, INCLUDING APNEA AND CARDIORESPIRATORY**
16 **MONITORS, RENAL DIALYSIS, AND OTHER MECHANICAL DEVICES; OR**

17 **(V) SUBSTANTIAL NURSING CARE IN CONNECTION WITH**
18 **DISABILITIES.**

19 **(B) A LOCAL DEPARTMENT THAT IS RESPONSIBLE FOR THE CARE AND**
20 **CUSTODY OF A MEDICALLY FRAGILE CHILD WITH A DEVELOPMENTAL**
21 **DISABILITY SHALL:**

22 **(1) COORDINATE WITH THE DEVELOPMENTAL DISABILITIES**
23 **ADMINISTRATION TO PLAN FOR THE TRANSFER OF RESPONSIBILITY FOR THE**
24 **CASE MANAGEMENT, CARE, SUPERVISION, AND TREATMENT OF THE CHILD TO**
25 **THE DEVELOPMENTAL DISABILITIES ADMINISTRATION WHEN THE CHILD**
26 **ATTAINS 21 YEARS OF AGE;**

27 **(2) AT LEAST 18 MONTHS BEFORE THE CHILD ATTAINS 21 YEARS**
28 **OF AGE, NOTIFY THE DEVELOPMENTAL DISABILITIES ADMINISTRATION OF THE**
29 **DATE WHEN THE CHILD WILL REQUIRE THE SERVICES OF THE DEVELOPMENTAL**
30 **DISABILITIES ADMINISTRATION TO BEGIN; AND**

1 (n) “Services” means residential, day, or other services that provide for
2 evaluation, diagnosis, treatment, care, supervision, assistance, or attention to
3 individuals with developmental disability and that promote habilitation of these
4 individuals.

5 7-403.

6 (a) (1) Except as otherwise provided in this title, an applicant for services
7 provided or funded, wholly or partly, by this State shall submit an application to the
8 Department in writing.

9 (2) The application shall contain the information that the Department
10 requires.

11 (b) Within 60 days after the Department receives an application for services
12 for an individual, the Secretary, on the basis of the application, shall:

13 (1) Determine whether there is a reasonable likelihood that the
14 individual:

15 (i) Has developmental disability; or

16 (ii) Does not have developmental disability, but may be eligible
17 for individual support services under subsection (c) of this section; and

18 (2) If a positive determination is made under item (1)(i) or (ii) of this
19 subsection:

20 (i) Approve the application;

21 (ii) Determine the nature of the disability;

22 (iii) Determine the nature of services that the individual may
23 require;

24 (iv) Determine the type of environment in which any needed
25 services could be provided with the least restriction on the liberty of the individual;

26 (v) Determine what types of evaluations, if any, the individual
27 requires;

28 (vi) Inform the individual of these determinations; and

29 (vii) Inform the individual that these determinations are
30 preliminary and may be subject to modification as a result of further evaluation.

1 (c) To be eligible for individual support services, an individual shall have a
2 severe chronic disability that:

3 (1) Is attributable to a physical or mental impairment, other than the
4 sole diagnosis of mental illness, or to a combination of mental and physical
5 impairments; and

6 (2) Is likely to continue indefinitely.

7 (d) If the Secretary determines, based on the application, that the individual
8 has a sole diagnosis of mental disorder, the Secretary shall refer the individual to the
9 Mental Hygiene Administration.

10 **7-804.**

11 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
12 MEANINGS INDICATED.

13 (2) "LOCAL DEPARTMENT" MEANS:

14 (I) A LOCAL DEPARTMENT OF SOCIAL SERVICES; OR

15 (II) IN MONTGOMERY COUNTY, THE COUNTY DEPARTMENT
16 OF HEALTH AND HUMAN SERVICES.

17 (3) "MEDICALLY FRAGILE CHILD" HAS THE MEANING STATED IN §
18 5-525.3 OF THE FAMILY LAW ARTICLE.

19 (B) ~~(1)~~ THE ADMINISTRATION SHALL COORDINATE WITH EACH
20 LOCAL DEPARTMENT TO PLAN FOR THE TRANSFER OF RESPONSIBILITY FOR
21 THE CASE MANAGEMENT, CARE, SUPERVISION, AND TREATMENT OF EACH
22 MEDICALLY FRAGILE CHILD WITH A DEVELOPMENTAL DISABILITY WHO HAS
23 BEEN IN THE CARE AND CUSTODY OF THE LOCAL DEPARTMENT TO THE
24 ADMINISTRATION WHEN THE CHILD ATTAINS 21 YEARS OF AGE.

25 ~~(2) IF THE ADMINISTRATION COORDINATES WITH A LOCAL~~
26 ~~DEPARTMENT TO PLAN FOR THE TRANSFER OF RESPONSIBILITY FOR A CHILD~~
27 ~~UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE DEPARTMENT MAY NOT~~
28 ~~REQUIRE THE CHILD TO SUBMIT AN APPLICATION FOR SERVICES UNDER §~~
29 ~~7-403 OF THIS TITLE.~~

30 (C) AFTER RECEIVING NOTICE FROM A LOCAL DEPARTMENT THAT A
31 MEDICALLY FRAGILE CHILD WITH A DEVELOPMENTAL DISABILITY WHO IS IN
32 THE CARE AND CUSTODY OF THE LOCAL DEPARTMENT WILL REQUIRE THE

1 SERVICES OF THE ADMINISTRATION WHEN THE CHILD ATTAINS 21 YEARS OF
2 AGE, THE ADMINISTRATION SHALL:

3 (1) AT LEAST 1 YEAR BEFORE THE CHILD ATTAINS 21 YEARS OF
4 AGE, DEVELOP JOINTLY WITH THE LOCAL DEPARTMENT A TRANSITION PLAN
5 THAT:

6 (i) ENSURES, TO THE EXTENT POSSIBLE, CONTINUITY OF
7 THE CHILD'S PLACEMENT IN THE FOSTER HOME OR ALTERNATIVE RESIDENCE
8 WHERE THE CHILD RESIDES DURING THE LAST YEAR THE CHILD IS IN THE CARE
9 AND CUSTODY OF THE LOCAL DEPARTMENT; AND

10 (ii) ~~MAINTAINS THE LEVEL OF CARE, SUPERVISION, AND~~
11 ~~TREATMENT SERVICES AND PLACEMENT SUPPORT THAT THE CHILD RECEIVES~~
12 ~~DURING THE LAST YEAR THE CHILD IS IN THE CARE AND CUSTODY OF THE~~
13 ~~LOCAL DEPARTMENT~~ ENSURES AN APPROPRIATE LEVEL OF SERVICES THAT
14 MEET THE NEEDS OF THE CHILD;

15 (2) AT LEAST 1 YEAR BEFORE THE CHILD ATTAINS 21 YEARS OF
16 AGE, SUBMIT THE TRANSITION PLAN TO THE COURT THAT HAS JURISDICTION
17 OVER THE CHILD;

18 (3) AT LEAST 6 MONTHS BEFORE THE CHILD ATTAINS 21 YEARS
19 OF AGE, DEVELOP AND APPROVE AN INDIVIDUAL SERVICE PLAN:

20 (i) TO BE IMPLEMENTED WHEN THE CHILD ATTAINS 21
21 YEARS OF AGE AND THE ADMINISTRATION TAKES RESPONSIBILITY FOR THE
22 CASE MANAGEMENT, CARE, SUPERVISION, AND TREATMENT SERVICES AND
23 PLACEMENT SUPPORT FOR THE CHILD; AND

24 (ii) THAT PROVIDES FOR THE PLACEMENT CONTINUITY,
25 PLACEMENT SUPPORT, AND THE CARE, SUPERVISION, AND TREATMENT
26 SERVICES IDENTIFIED IN THE TRANSITION PLAN DEVELOPED UNDER ITEM (1)
27 OF THIS SUBSECTION;

28 (4) AT LEAST 6 MONTHS BEFORE THE CHILD ATTAINS 21 YEARS
29 OF AGE, ENTER INTO A SERVICE FUNDING PLAN FOR THE PLACEMENT SUPPORT
30 AND THE CARE, SUPERVISION, AND TREATMENT SERVICES IDENTIFIED IN THE
31 INDIVIDUAL SERVICE PLAN DEVELOPED UNDER ITEM (3) OF THIS SUBSECTION;

32 (5) BEFORE THE CHILD ATTAINS 21 YEARS OF AGE, INVESTIGATE,
33 LICENSE, APPROVE, OR OTHERWISE QUALIFY THE FOSTER HOME OR
34 ALTERNATIVE RESIDENCE WHERE THE CHILD RESIDES DURING THE LAST YEAR
35 THE CHILD IS IN THE CARE AND CUSTODY OF THE LOCAL DEPARTMENT; AND

1 **(6) WHEN THE CHILD ATTAINS 21 YEARS OF AGE AND FOR AS**
2 **LONG THEREAFTER AS IT REMAINS FEASIBLE AND IN THE CHILD’S BEST**
3 **INTEREST:**

4 **(I) IMPLEMENT THE INDIVIDUAL SERVICE PLAN**
5 **DEVELOPED UNDER ITEM (3) OF THIS SUBSECTION; AND**

6 **(II) MAINTAIN THE LEVEL OF SUPPORT AND FUNDING THE**
7 **CHILD AND THE PLACEMENT PROVIDER RECEIVE DURING THE LAST YEAR THE**
8 **CHILD IS IN THE CARE AND CUSTODY OF THE LOCAL DEPARTMENT.**

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
10 October 1, 2013.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.