

Chapter 381

(Senate Bill 360)

AN ACT concerning

Juvenile Causes – Permanency Plans – ~~Age Age~~ Restrictions on Use of Another Planned Permanent Living Arrangement

FOR the purpose of providing that another planned permanent living arrangement may be a child's permanency plan only if the child is at least a certain age; ~~requiring a local department of social services to document certain efforts and steps at certain permanency planning hearings, certain permanency plan review hearings, and certain guardianship review hearings, under certain circumstances,~~ and generally relating to permanency plans for the out-of-home placement of children.

BY repealing and reenacting, with amendments,

Article – Courts and Judicial Proceedings

Section 3–823(e) ~~and (h)~~

Annotated Code of Maryland

(2013 Replacement Volume and 2015 Supplement)

BY repealing and reenacting, with amendments,

Article – Family Law

Section 5–326(a) and 5–525(f)

Annotated Code of Maryland

(2012 Replacement Volume and 2015 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.

(e) (1) At a permanency planning hearing, the court shall:

(i) Determine the child's permanency plan, which, to the extent consistent with the best interests of the child, may be, in descending order of priority:

1. Reunification with the parent or guardian;

2. Placement with a relative for:

A. Adoption; or

B. Custody and guardianship under § 3–819.2 of this subtitle;

3. Adoption by a nonrelative;
4. Custody and guardianship by a nonrelative under § 3-819.2 of this subtitle; or
5. [Another] **FOR A CHILD AT LEAST 16 YEARS OLD, ANOTHER** planned permanent living arrangement that:

A. Addresses the individualized needs of the child, including the child's educational plan, emotional stability, physical placement, and socialization needs; and

B. Includes goals that promote the continuity of relations with individuals who will fill a lasting and significant role in the child's life; and

(ii) For a child who has attained the age of 16 years, determine the services needed to assist the child to make the transition from placement to independent living.

(2) In determining the child's permanency plan, the court shall consider the factors specified in § 5-525(f)(1) of the Family Law Article.

(3) AT A PERMANENCY PLANNING HEARING FOR A CHILD WHOSE RECOMMENDED PERMANENCY PLAN IS ANOTHER PLANNED PERMANENT LIVING ARRANGEMENT THAT MEETS THE REQUIREMENTS OF PARAGRAPH (1)(I)5 OF THIS SUBSECTION, THE LOCAL DEPARTMENT SHALL DOCUMENT:

(I) THE ONGOING EFFORTS TO PLACE THE CHILD PERMANENTLY WITH A PARENT OR RELATIVE OR IN A GUARDIANSHIP OR AN ADOPTIVE PLACEMENT; AND

(II) THE STEPS THAT THE LOCAL DEPARTMENT IS TAKING TO ENSURE THAT:

1. THE CHILD'S RESOURCE PROVIDER IS FOLLOWING THE REASONABLE AND PRUDENT PARENT STANDARD; AND

2. THE CHILD HAS REGULAR OPPORTUNITIES TO ENGAGE IN AGE OR DEVELOPMENTALLY APPROPRIATE ACTIVITIES.

(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 subsubparagraph 2 of this subparagraph unless the court has seen the child in person.

(2) At the review hearing, the court shall:

(i) Determine the continuing necessity for and appropriateness of the commitment;

(ii) Determine and document in its order whether reasonable efforts have been made to finalize the permanency plan that is in effect;

(iii) Determine the extent of progress that has been made toward alleviating or mitigating the causes necessitating commitment;

(iv) 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;

(v) Evaluate the safety of the child and take necessary measures to protect the child; and

(vi) Change the permanency plan if a change in the permanency plan would be in the child's best interest.

(3) AT EACH REVIEW HEARING FOR A CHILD WHOSE PERMANENCY PLAN IS ANOTHER PLANNED PERMANENT LIVING ARRANGEMENT THAT MEETS THE REQUIREMENTS OF SUBSECTION (E)(1)(I)5 OF THIS SECTION, THE LOCAL DEPARTMENT SHALL DOCUMENT:

(i) THE ONGOING EFFORTS TO PLACE THE CHILD PERMANENTLY WITH A PARENT OR RELATIVE OR IN A GUARDIANSHIP OR AN ADOPTIVE PLACEMENT; AND

(ii) THE STEPS THAT THE LOCAL DEPARTMENT IS TAKING TO ENSURE THAT:

1. THE CHILD'S RESOURCE PROVIDER IS FOLLOWING THE REASONABLE AND PRUDENT PARENT STANDARD; AND

2. THE CHILD HAS REGULAR OPPORTUNITIES TO ENGAGE IN AGE OR DEVELOPMENTALLY APPROPRIATE ACTIVITIES.

[§(3)](4) Every reasonable effort shall be made to effectuate a permanent placement for the child within 24 months after the date of initial placement.

Article – Family Law

5–326.

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

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

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

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

(i) the child's current circumstances and placement are in the child's best interests;

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

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

(3) (i) A juvenile court shall give at least 30 days' notice before each guardianship review hearing for a child to:

1. the local department;

2. the child's attorney; and

3. each of the child's living parents who has not waived the right to notice and that parent's attorney.

(ii) A parent is entitled to be heard and to participate at a guardianship review hearing.

(iii) A parent is not a party solely on the basis of the right to notice or opportunity to be heard or participate at a guardianship review hearing.

(4) (i) A local department shall give a child's caregiver at least 7 days' notice before a guardianship review hearing.

(ii) A caregiver is entitled to be heard at a guardianship review hearing.

(iii) A caregiver is not a party solely on the basis of the right to notice or opportunity to be heard at a guardianship review hearing.

(5) (i) At least 10 days before each guardianship review hearing, a local department shall:

1. investigate as needed to prepare a written report that summarizes the child's circumstances and the progress that has been made in implementing the child's permanency plan; and

2. send a copy of the report to:

A. the child's attorney; and

B. each of the child's living parents who has not waived the right to notice and that parent's attorney.

(ii) Notice to a parent under this paragraph shall be sent to the parent's last address known to the juvenile court.

(6) A child's permanency plan may be, in order of priority:

(i) adoption of the child;

(ii) custody and guardianship of the child by an individual; or

(iii) **FOR A CHILD AT LEAST 16 YEARS OLD**, another planned permanent living arrangement that:

1. addresses the individualized 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.

- (7) Every reasonable effort shall be made to implement a permanency plan within 1 year.
- (8) At each guardianship review hearing for a child, a juvenile court shall:
- (i) evaluate the child's safety and act as needed to protect the child;
 - (ii) consider the written report of a local out-of-home placement review board required under § 5-545 of this title;
 - (iii) determine the extent of compliance with the permanency plan;
 - (iv) make a specific factual finding on whether reasonable efforts have been made to finalize the child's permanency plan and document the finding;
 - (v) subject to subsection (b) of this section, change the child's permanency plan if a change would be in the child's best interests;
 - (vi) project a reasonable date by which the permanency plan will be finalized;
 - (vii) enter any order that the juvenile court finds appropriate to implement the permanency plan; and
 - (viii) take all other action that the juvenile court considers to be in the child's best interests, including any order allowed under § 5-324(b)(1)(ii) of this subtitle.

(9) AT EACH GUARDIANSHIP REVIEW HEARING FOR A CHILD WHOSE PERMANENCY PLAN IS ANOTHER PLANNED PERMANENT LIVING ARRANGEMENT THAT MEETS THE REQUIREMENTS OF PARAGRAPH (6)(III) OF THIS SUBSECTION, THE LOCAL DEPARTMENT SHALL DOCUMENT:

(I) THE ONGOING EFFORTS TO PLACE THE CHILD PERMANENTLY WITH A PARENT OR RELATIVE OR IN A GUARDIANSHIP OR AN ADOPTIVE PLACEMENT; AND

(II) THE STEPS THAT THE LOCAL DEPARTMENT IS TAKING TO ENSURE THAT:

1. THE CHILD'S RESOURCE PROVIDER IS FOLLOWING THE REASONABLE AND PRUDENT PARENT STANDARD; AND

2. THE CHILD HAS REGULAR OPPORTUNITIES TO ENGAGE IN AGE OR DEVELOPMENTALLY APPROPRIATE ACTIVITIES.

~~(9) (10) (9)~~ A juvenile court may approve a permanency plan other than adoption of a child only if the juvenile court finds that, for a compelling reason, adoption is not in the child's best interests.

~~(10) (11) (10)~~ (i) At a guardianship review hearing held 1 year or more after a juvenile court enters an order for guardianship of a child, the juvenile court may designate an individual guardian of the child if:

1. the local department certifies the child's successful placement with the individual under the supervision of the local department or its agent for at least 180 days or a shorter period allowed by the juvenile court on recommendation of the local department;

2. the local department files a report by a child placement agency, completed in accordance with department regulations, as to the suitability of the individual to be the child's guardian; and

3. the juvenile court makes a specific finding that:

A. for a compelling reason, adoption is not in the child's best interests; and

B. custody and guardianship by the individual is in the child's best interests and is the least restrictive alternative available.

(ii) Designation of a guardian under this paragraph terminates the local department's legal obligations and responsibilities to the child.

(iii) After designation of a guardian under this paragraph, a juvenile court may order any further review that the juvenile court finds to be in the child's best interests.

5-525.

(f) (1) In developing a permanency plan for a child in an out-of-home placement, the local department shall give primary consideration to the best interests of the child, including consideration of both in-State and out-of-state placements. The local department shall consider the following factors in determining the permanency plan that is in the best interests of the child:

(i) the child's ability to be safe and healthy in the home of the child's parent;

(ii) the child's attachment and emotional ties to the child's natural parents and siblings;

(iii) the child's emotional attachment to the child's current caregiver and the caregiver's family;

(iv) the length of time the child has resided with the current caregiver;

(v) the potential emotional, developmental, and educational harm to the child if moved from the child's current placement; and

(vi) the potential harm to the child by remaining in State custody for an excessive period of time.

(2) To the extent consistent with the best interests of the child in an out-of-home placement, the local department shall consider the following permanency plans, in descending order of priority:

(i) returning the child to the child's parent or guardian, unless the local department is the guardian;

(ii) placing the child with relatives to whom adoption, custody and guardianship, or care and custody, in descending order of priority, are planned to be granted;

(iii) adoption in the following descending order of priority:

1. by a current foster parent with whom the child has resided continually for at least the 12 months prior to developing the permanency plan or for a sufficient length of time to have established positive relationships and family ties; or

2. by another approved adoptive family; or

(iv) **FOR A CHILD AT LEAST 16 YEARS OLD**, another planned permanent living arrangement that:

1. addresses the individualized 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.

(3) Subject to paragraphs (1) and (2) of this subsection and to the extent consistent with the best interests of a child in an out-of-home placement, in determining a permanency plan, the local department shall consider the following in descending order of priority:

(i) placement of the child in the local jurisdiction where the child's parent or guardian resides; or

(ii) if the local department finds, based on a compelling reason, that placement of the child as described in item (i) of this paragraph is not in the best interest of the child, placement of the child in another jurisdiction in the State after considering:

1. the availability of resources to provide necessary services to the child;
2. the accessibility to family treatment, if appropriate; and
3. the effect on the local school system.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2016.

Approved by the Governor, May 10, 2016.