

HOUSE BILL 192

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CF SB 360

By: **Chair, Judiciary Committee (By Request – Maryland Judicial Conference)**

Introduced and read first time: January 21, 2016

Assigned to: Judiciary

Committee Report: Favorable

House action: Adopted

Read second time: February 16, 2016

CHAPTER _____

1 AN ACT concerning

2 **Juvenile Causes – Permanency Plans – Age Restrictions on Use of Another**
3 **Planned Permanent Living Arrangement**

4 FOR the purpose of providing that another planned permanent living arrangement may be
5 a child’s permanency plan only if the child is at least a certain age; and generally
6 relating to permanency plans for the out-of-home placement of children.

7 BY repealing and reenacting, with amendments,
8 Article – Courts and Judicial Proceedings
9 Section 3–823(e)
10 Annotated Code of Maryland
11 (2013 Replacement Volume and 2015 Supplement)

12 BY repealing and reenacting, with amendments,
13 Article – Family Law
14 Section 5–326(a) and 5–525(f)
15 Annotated Code of Maryland
16 (2012 Replacement Volume and 2015 Supplement)

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

19 **Article – Courts and Judicial Proceedings**

20 3–823.

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

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

4 1. Reunification with the parent or guardian;

5 2. Placement with a relative for:

6 A. Adoption; or

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

8 3. Adoption by a nonrelative;

9 4. Custody and guardianship by a nonrelative under
10 § 3–819.2 of this subtitle; or

11 5. **[Another] FOR A CHILD AT LEAST 16 YEARS OLD,**
12 **ANOTHER** planned permanent living arrangement that:

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

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

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

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

23 **Article – Family Law**

24 5–326.

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

26 (i) an initial guardianship review hearing as scheduled under
27 § 5–324(b)(1)(vi) of this subtitle to establish a permanency plan for the child; and

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

1 A. the child's attorney; and

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

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

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

7 (i) adoption of the child;

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

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

11 1. addresses the individualized needs of the child, including
12 the child's educational plan, emotional stability, physical placement, and socialization
13 needs; and

14 2. includes goals that promote the continuity of relations
15 with individuals who will fill a lasting and significant role in the child's life.

16 (7) Every reasonable effort shall be made to implement a permanency plan
17 within 1 year.

18 (8) At each guardianship review hearing for a child, a juvenile court shall:

19 (i) evaluate the child's safety and act as needed to protect the child;

20 (ii) consider the written report of a local out-of-home placement
21 review board required under § 5-545 of this title;

22 (iii) determine the extent of compliance with the permanency plan;

23 (iv) make a specific factual finding on whether reasonable efforts
24 have been made to finalize the child's permanency plan and document the finding;

25 (v) subject to subsection (b) of this section, change the child's
26 permanency plan if a change would be in the child's best interests;

27 (vi) project a reasonable date by which the permanency plan will be
28 finalized;

29 (vii) enter any order that the juvenile court finds appropriate to
30 implement the permanency plan; and

1 (viii) take all other action that the juvenile court considers to be in the
2 child's best interests, including any order allowed under § 5-324(b)(1)(ii) of this subtitle.

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

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

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

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

16 3. the juvenile court makes a specific finding that:

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

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

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

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

26 5-525.

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

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

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

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

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

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

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

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

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

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

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

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

23 2. by another approved adoptive family; or

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

26 1. addresses the individualized needs of the child, including
27 the child's educational plan, emotional stability, physical placement, and socialization
28 needs; and

29 2. includes goals that promote the continuity of relations
30 with individuals who will fill a lasting and significant role in the child's life.

31 (3) Subject to paragraphs (1) and (2) of this subsection and to the extent
32 consistent with the best interests of a child in an out-of-home placement, in determining

1 a permanency plan, the local department shall consider the following in descending order
2 of priority:

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

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

8 1. the availability of resources to provide necessary services
9 to the child;

10 2. the accessibility to family treatment, if appropriate; and

11 3. the effect on the local school system.

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

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.