

# HOUSE BILL 192

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

Introduced and read first time: January 21, 2016

Assigned to: Judiciary

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## A BILL ENTITLED

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.

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

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

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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- 1                                   1.     Reunification with the parent or guardian;
- 2                                   2.     Placement with a relative for:
- 3                                   A.     Adoption; or
- 4                                   B.     Custody and guardianship under § 3–819.2 of this subtitle;
- 5                                   3.     Adoption by a nonrelative;
- 6                                   4.     Custody and guardianship by a nonrelative under
- 7 § 3–819.2 of this subtitle; or
- 8                                   5.     **[Another] FOR A CHILD AT LEAST 16 YEARS OLD,**
- 9 **ANOTHER** planned permanent living arrangement that:
- 10                                  A.     Addresses the individualized needs of the child, including
- 11 the child’s educational plan, emotional stability, physical placement, and socialization
- 12 needs; and
- 13                                  B.     Includes goals that promote the continuity of relations
- 14 with individuals who will fill a lasting and significant role in the child’s life; and
- 15                                  (ii)    For a child who has attained the age of 16 years, determine the
- 16 services needed to assist the child to make the transition from placement to independent
- 17 living.
- 18                                  (2)    In determining the child’s permanency plan, the court shall consider
- 19 the factors specified in § 5–525(f)(1) of the Family Law Article.

**Article – Family Law**

20

21 5–326.

- 22                   (a)   (1)   A juvenile court shall hold:
- 23                                  (i)    an initial guardianship review hearing as scheduled under
- 24 § 5–324(b)(1)(vi) of this subtitle to establish a permanency plan for the child; and
- 25                                  (ii)    at least once each year after the initial guardianship review
- 26 hearing until the juvenile court’s jurisdiction terminates, a guardianship review hearing.
- 27                   (2)    At each guardianship review hearing, a juvenile court shall determine
- 28 whether:
- 29                                  (i)    the child’s current circumstances and placement are in the child’s
- 30 best interests;

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

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

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

7 1. the local department;

8 2. the child's attorney; and

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

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

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

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

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

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

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

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

26 2. send a copy of the report to:

27 A. the child's attorney; and

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

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

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

4 (i) adoption of the child;

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

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

8 1. addresses the individualized needs of the child, including  
9 the child's educational plan, emotional stability, physical placement, and socialization  
10 needs; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 5-525.

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

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

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

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

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

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

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

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

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

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

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

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

21 2. by another approved adoptive family; or

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

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

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

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

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

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

6 1. the availability of resources to provide necessary services  
7 to the child;

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

9 3. the effect on the local school system.

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