

SENATE BILL 360

D4

6lr1957
CF HB 192

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

Introduced and read first time: January 28, 2016

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 14, 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; requiring a local
6 department of social services to document certain efforts and steps at certain
7 permanency planning hearings, certain permanency plan review hearings, and
8 certain guardianship review hearings, under certain circumstances; and generally
9 relating to permanency plans for the out-of-home placement of children.

10 BY repealing and reenacting, with amendments,
11 Article – Courts and Judicial Proceedings
12 Section 3–823(e) and (h)
13 Annotated Code of Maryland
14 (2013 Replacement Volume and 2015 Supplement)

15 BY repealing and reenacting, with amendments,
16 Article – Family Law
17 Section 5–326(a) and 5–525(f)
18 Annotated Code of Maryland
19 (2012 Replacement Volume and 2015 Supplement)

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

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

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

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

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

10 (h) (1) (i) Except as provided in subparagraphs (ii) and (iii) of this
11 paragraph, the court shall conduct a hearing to review the permanency plan at least every
12 6 months until commitment is rescinded or a voluntary placement is terminated.

13 (ii) The court shall conduct a review hearing every 12 months after
14 the court determines that the child shall be continued in out-of-home placement with a
15 specific caregiver who agrees to care for the child on a permanent basis.

16 (iii) 1. Unless the court finds good cause, a case shall be
17 terminated after the court grants custody and guardianship of the child to a relative or
18 other individual.

19 2. If the court finds good cause not to terminate a case, the
20 court shall conduct a review hearing every 12 months until the case is terminated.

21 3. The court may not conclude a review hearing under
22 subsubparagraph 2 of this subparagraph unless the court has seen the child in person.

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

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

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

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

30 (iv) Project a reasonable date by which a child in placement may be
31 returned home, placed in a preadoptive home, or placed under a legal guardianship;

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.

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

- 1 (6) A child’s permanency plan may be, in order of priority:
- 2 (i) adoption of the child;
- 3 (ii) custody and guardianship of the child by an individual; or
- 4 (iii) **FOR A CHILD AT LEAST 16 YEARS OLD**, another planned
5 permanent living arrangement that:
- 6 1. addresses the individualized needs of the child, including
7 the child’s educational plan, emotional stability, physical placement, and socialization
8 needs; and
- 9 2. includes goals that promote the continuity of relations
10 with individuals who will fill a lasting and significant role in the child’s life.
- 11 (7) Every reasonable effort shall be made to implement a permanency plan
12 within 1 year.
- 13 (8) At each guardianship review hearing for a child, a juvenile court shall:
- 14 (i) evaluate the child’s safety and act as needed to protect the child;
- 15 (ii) consider the written report of a local out-of-home placement
16 review board required under § 5–545 of this title;
- 17 (iii) determine the extent of compliance with the permanency plan;
- 18 (iv) make a specific factual finding on whether reasonable efforts
19 have been made to finalize the child’s permanency plan and document the finding;
- 20 (v) subject to subsection (b) of this section, change the child’s
21 permanency plan if a change would be in the child’s best interests;
- 22 (vi) project a reasonable date by which the permanency plan will be
23 finalized;
- 24 (vii) enter any order that the juvenile court finds appropriate to
25 implement the permanency plan; and
- 26 (viii) take all other action that the juvenile court considers to be in the
27 child’s best interests, including any order allowed under § 5–324(b)(1)(ii) of this subtitle.
- 28 **(9) AT EACH GUARDIANSHIP REVIEW HEARING FOR A CHILD WHOSE**
29 **PERMANENCY PLAN IS ANOTHER PLANNED PERMANENT LIVING ARRANGEMENT**

1 THAT MEETS THE REQUIREMENTS OF PARAGRAPH (6)(III) OF THIS SUBSECTION, THE
2 LOCAL DEPARTMENT SHALL DOCUMENT:

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

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

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

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

12 ~~(9)~~ **(10)** A juvenile court may approve a permanency plan other than
13 adoption of a child only if the juvenile court finds that, for a compelling reason, adoption is
14 not in the child's best interests.

15 ~~(10)~~ **(11)** (i) At a guardianship review hearing held 1 year or more after
16 a juvenile court enters an order for guardianship of a child, the juvenile court may designate
17 an individual guardian of the child if:

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

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

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

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

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

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

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

4 5-525.

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

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

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

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

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

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

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

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

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

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

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

31 1. by a current foster parent with whom the child has resided
32 continually for at least the 12 months prior to developing the permanency plan or for a
33 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:

Governor.

President of the Senate.

Speaker of the House of Delegates.