

Chapter 304

(Senate Bill 732)

AN ACT concerning

**Child in Need of Assistance – Guardianship by Local Department – ~~ABLE~~
Financial Accounts**

FOR the purpose of ~~authorizing~~ requiring a court to issue a certain order on request of a local department of social services that has been granted certain guardianship over a child in need of assistance to have control over the property of the child for the purpose of establishing a certain ~~ABLE-account~~ account or trust on behalf of the child; requiring an order authorizing a local department of social services to have control of the property of the child for the purpose of establishing a certain account or trust on behalf of the child to include certain provisions; and generally relating to children in need of assistance and the establishment of ABLE accounts.

BY repealing and reenacting, without amendments,
 Article – Courts and Judicial Proceedings
 Section 3–801(f), (g), and (p), 3–802(c), and 3–819(b)(1)(iii) and (c)(1)
 Annotated Code of Maryland
 (2013 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,
 Article – Courts and Judicial Proceedings
 Section 3–819(g)
 Annotated Code of Maryland
 (2013 Replacement Volume and 2018 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

3–801.

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

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

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

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

(p) “Local department” means:

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

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

3–802.

(c) (1) In all judicial proceedings conducted in accordance with this subtitle or § 5–326 of the Family Law Article, the court may direct the local department to provide services to a child, the child’s family, or the child’s caregiver to the extent that the local department is authorized under State law.

(2) The court shall exercise the authority described in paragraph (1) of this subsection to protect and advance a child’s best interests.

3–819.

(b) (1) In making a disposition on a CINA petition under this subtitle, the court shall:

(iii) Subject to paragraph (2) of this subsection, find that the child is in need of assistance and:

1. Not change the child’s custody status; or

2. Commit the child on terms the court considers appropriate to the custody of:

A. A parent;

B. Subject to § 3–819.2 of this subtitle, a relative, or other individual; or

C. A local department, the Maryland Department of Health, or both, including designation of the type of facility where the child is to be placed.

(c) In addition to any action under subsection (b)(1)(iii) of this section, the court may:

(1) (i) Place a child under the protective supervision of the local department on terms the court considers appropriate;

(ii) Grant limited guardianship to the department or an individual or both for specific purposes including medical and educational purposes or for other appropriate services if a parent is unavailable, unwilling, or unable to consent to services that are in the best interest of the child; or

(iii) Order the child and the child’s parent, guardian, or custodian to participate in rehabilitative services that are in the best interest of the child and family;

(g) **(1)** A guardian appointed under this section has no control over the property of the child unless ~~the~~

~~(1) THE court expressly grants that authority; OR~~

~~(2) THE LOCAL DEPARTMENT IS THE GUARDIAN AND EXERCISES THE CONTROL TO ESTABLISH AN ABLE ACCOUNT ON BEHALF OF THE CHILD IN ACCORDANCE WITH TITLE 18, SUBTITLE 19C OF THE EDUCATION ARTICLE.~~

(2) (I) IF A GUARDIAN APPOINTED UNDER THIS SECTION IS A LOCAL DEPARTMENT, THE COURT SHALL, ON REQUEST OF THE LOCAL DEPARTMENT, ISSUE A SEPARATE ORDER GRANTING THE LOCAL DEPARTMENT GUARDIANSHIP AUTHORITY TO ESTABLISH:

1. AN INDIVIDUAL SAVINGS ACCOUNT;

2. IF THE LOCAL DEPARTMENT IS UNABLE TO ESTABLISH AN INDIVIDUAL SAVINGS ACCOUNT DUE TO THE CHILD’S AGE, AN ABLE ACCOUNT IN ACCORDANCE WITH THE PROVISIONS OF TITLE 18, SUBTITLE 19C OF THE EDUCATION ARTICLE; OR

3. A POOLED SPECIAL NEEDS TRUST UNDER § 14.5-1002 OF THE ESTATES AND TRUSTS ARTICLE.

(II) AN ORDER AUTHORIZING A LOCAL DEPARTMENT TO ESTABLISH AN ACCOUNT OR A TRUST AS THE GUARDIAN OF A CHILD UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL:

1. REQUIRE THAT FUNDS DEPOSITED TO ESTABLISH AN ABLE ACCOUNT UNDER SUBPARAGRAPH (I)2 OF THIS PARAGRAPH BE IN AN FDIC-INSURED PORTFOLIO OPTION THAT MOST MINIMIZES THE RISK OF CAPITAL LOSS;

2. PROHIBIT THE LOCAL DEPARTMENT FROM WITHDRAWING FUNDS FROM ANY ACCOUNT OR TRUST ESTABLISHED UNDER THE ORDER; AND

3. REQUIRE THE LOCAL DEPARTMENT TO PROVIDE PROMPT NOTICE TO A FINANCIAL INSTITUTION, INCLUDING CONTACT INFORMATION FOR THE CHILD OR SUBSEQUENT GUARDIAN OF THE CHILD, OF THE TERMINATION OF THE GUARDIANSHIP UNDER THIS SUBTITLE OR TITLE 5, SUBTITLE 3 OF THE FAMILY LAW ARTICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2019.

Approved by the Governor, April 30, 2019.