

# HOUSE BILL 893

D4

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By: **Delegate Dumais**

Introduced and read first time: February 2, 2021

Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Foster Parents, Kinship Parents, Preadoptive Parents, and Caregivers – Right**  
3 **to Intervene**

4 FOR the purpose of requiring the local department of social services and the circuit court  
5 to provide notice to a child's foster parent, kinship parent, preadoptive parent, or  
6 caregiver of the right to intervene as a party in a certain proceeding under certain  
7 circumstances; requiring the local department of social services and the circuit court  
8 to provide certain notice to a child's kinship parent; granting to certain individuals  
9 who have not exercised a certain right to intervene in certain proceedings the right  
10 to be heard in certain proceedings; granting to foster parents, kinship parents,  
11 preadoptive parents, and caregivers the right to intervene as a party in certain  
12 proceedings under certain circumstances; specifying certain rights for kinship  
13 parents in the State; granting the right to obtain certain documents to a foster parent  
14 or kinship parent under certain circumstances; requiring a party who asserts a  
15 certain privilege to take certain actions; altering a certain definition; making  
16 conforming changes; and generally relating to the rights of foster parents, kinship  
17 parents, preadoptive parents, and caregivers.

18 BY repealing and reenacting, with amendments,  
19 Article – Courts and Judicial Proceedings  
20 Section 3–801(u) and 3–816.3  
21 Annotated Code of Maryland  
22 (2020 Replacement Volume)

23 BY repealing and reenacting, with amendments,  
24 Article – Family Law  
25 Section 5–504  
26 Annotated Code of Maryland  
27 (2019 Replacement Volume and 2020 Supplement)

28 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 That the Laws of Maryland read as follows:

2 **Article – Courts and Judicial Proceedings**

3 3–801.

4 (u) (1) “Party” means:

5 (i) A child who is the subject of a petition;

6 (ii) The child’s parent, guardian, or custodian;

7 (iii) The petitioner; or

8 (iv) An adult who is charged under § 3–828 of this subtitle.

9 (2) “Party” does not include a foster parent, **KINSHIP PARENT,**  
10 **PREADOPTIVE PARENT, OR CAREGIVER UNLESS THAT INDIVIDUAL HAS EXERCISED**  
11 **THE RIGHT TO INTERVENE AS PROVIDED IN § 3–816.3(D) OF THIS SUBTITLE.**

12 3–816.3.

13 (a) In this section, “preadoptive parent” means an individual whom a child  
14 placement agency, as defined in § 5–101 of the Family Law Article, approves to adopt a  
15 child who has been placed in the individual’s home for adoption before the order of adoption.

16 (b) Unless waived for good cause, before any proceeding concerning a child, the  
17 local department **AND THE CIRCUIT COURT** shall give at least 10 days’ notice in writing  
18 to the child’s foster parent, **KINSHIP PARENT,** preadoptive parent, or caregiver of [the]:

19 **(1) THE** date, time, and place of the proceeding [and of the];

20 **(2) THE** right to be heard at the proceeding; **AND**

21 **(3) THE RIGHT TO INTERVENE AS A PARTY IN THE PROCEEDING AS**  
22 **PROVIDED IN SUBSECTION (D) OF THIS SECTION.**

23 (c) The foster parent, **KINSHIP PARENT,** preadoptive parent, caregiver, or an  
24 attorney for the foster parent, preadoptive parent, or caregiver **WHO HAS NOT EXERCISED**  
25 **THE RIGHT TO INTERVENE AS A PARTY** shall be given the right to be heard at the  
26 proceeding.

27 (d) **(1)** The foster parent, **KINSHIP PARENT,** preadoptive parent, caregiver, or  
28 attorney may not be considered to be a party solely on the basis of the right to notice and  
29 the right to be heard provided under this section.

1           **(2) SUBJECT TO THE PROVISIONS OF PARAGRAPHS (3) AND (4) OF**  
2 **THIS SUBSECTION, THE FOSTER PARENT, KINSHIP PARENT, PREADOPTIVE PARENT,**  
3 **OR CAREGIVER SHALL HAVE THE RIGHT TO INTERVENE AS A PARTY IN ANY CHILD**  
4 **ABUSE OR NEGLECT, TERMINATION OF PARENTAL RIGHTS, OR ADOPTION**  
5 **PROCEEDING.**

6           **(3) A FOSTER PARENT, KINSHIP PARENT, PREADOPTIVE PARENT, OR**  
7 **CAREGIVER WITH WHOM THE CHILD HAS BEEN LIVING FOR AT LEAST 12 MONTHS**  
8 **SHALL, ON REQUEST, BE DESIGNATED AS A PARTY TO ANY CHILD ABUSE OR**  
9 **NEGLECT, TERMINATION OF PARENTAL RIGHTS, OR ADOPTION PROCEEDING.**

10           **(4) A FOSTER PARENT, KINSHIP PARENT, PREADOPTIVE PARENT, OR**  
11 **CAREGIVER WITH WHOM THE CHILD HAS BEEN LIVING FOR LESS THAN 12 MONTHS**  
12 **MAY, AT THE DISCRETION OF THE COURT, BE DESIGNATED AS A PARTY TO ANY CHILD**  
13 **ABUSE OR NEGLECT, TERMINATION OF PARENTAL RIGHTS, OR ADOPTION**  
14 **PROCEEDING.**

#### 15   **Article – Family Law**

16           **5-504.**

17           (a) Foster **AND KINSHIP** parents in this State have the following rights:

18                   (1) the right, at the initial placement, at any time during the placement of  
19 a child in foster care **OR KINSHIP CARE**, and as soon as practicable after new information  
20 becomes available, to receive full information from the caseworker, except for information  
21 about the family members that may be privileged or confidential, on the physical, social,  
22 emotional, educational, and mental history of a child which would possibly affect the care  
23 provided by a foster parent **OR KINSHIP PARENT**;

24                   (2) with regard to the local department case planning, the right to:

25                           (i) except for meetings covered by the attorney–client privilege or  
26 meetings in which confidential information about the natural parents is discussed, be  
27 notified of, and when applicable, be heard at scheduled meetings and staffings concerning  
28 a child in order to actively participate, without superseding the rights of the natural  
29 parents to participate and make appropriate decisions regarding the child, in the case  
30 planning, administrative case reviews, interdisciplinary staffings, and individual  
31 educational planning and mental health team meetings;

32                           (ii) be informed of decisions made by the courts or a child welfare  
33 agency concerning a child; and

34                           (iii) provide input concerning the plan of services for a child and to  
35 have that input given full consideration by the local department; [and]

1           (3)     the right to be given reasonable written notice, waived only in cases of  
2 a court order or when a child is determined to be at imminent risk of harm, of plans to  
3 terminate the placement of a child with a foster parent **OR KINSHIP PARENT; AND**

4           (4)     **THE RIGHT TO RECEIVE NOTICE OF, AND, IN ACCORDANCE WITH**  
5 **THE PROVISIONS OF § 3-816.3 OF THE COURTS ARTICLE, INTERVENE AS A PARTY IN**  
6 **CHILD ABUSE AND NEGLECT, TERMINATION OF PARENTAL RIGHTS, AND ADOPTION**  
7 **PROCEEDINGS.**

8           **(B) (1) A FOSTER PARENT OR KINSHIP PARENT SHALL HAVE THE RIGHT**  
9 **TO OBTAIN ALL NONPRIVILEGED INFORMATION IN DOCUMENTS PERTAINING TO A**  
10 **CHILD IN THE CARE OF THE FOSTER PARENT OR KINSHIP PARENT.**

11           **(2) A PARTY WHO ASSERTS THAT INFORMATION IN A DOCUMENT IS**  
12 **PRIVILEGED SHALL:**

13                   **(I) IDENTIFY THE PRIVILEGE;**

14                   **(II) PROVE THE APPLICABILITY OF THE PRIVILEGE; AND**

15                   **(III) PRODUCE THE DOCUMENT, WITH THE INFORMATION FOR**  
16 **WHICH THE PRIVILEGE IS CLAIMED REDACTED.**

17           **[(b)] (C)**     This section does not create, and may not be construed to create, a cause  
18 of action for foster parents **OR KINSHIP PARENTS.**

19           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
20 October 1, 2021.