

CHAPTER 16

(Senate Bill 57)

AN ACT concerning

Child Welfare – Permanency Planning and Interstate Placement of Foster Children

FOR the purpose of altering the factors a juvenile court is required to consider in making certain findings in certain hearings; altering the number of days' notice a local department of social services is required to give to certain persons before certain hearings; specifying the contents of the notice; requiring the notice to be in writing, unless waived for good cause; clarifying that certain persons have the right to be heard at certain hearings; requiring the court to consult with a child in a certain manner at certain hearings; requiring a local department to consider certain placements for certain children; correcting an obsolete reference; and generally relating to children in out-of-home placement.

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 3–816.1(c)(3) and 3–823(i) and (j)
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY adding to
Article – Courts and Judicial Proceedings
Section 3–823(k)
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Family Law
Section 5–525(d) and (e)
Annotated Code of Maryland
(2006 Replacement Volume and 2007 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

3–816.1.

(c) In making its findings in accordance with subsection (b) of this section, the court shall consider:

(3) For a hearing under § 3–823 of this subtitle, whether a local department has provided appropriate services that facilitate the achievement of a permanency plan for the child, **INCLUDING CONSIDERATION OF IN-STATE AND OUT-OF-STATE PLACEMENT OPTIONS;**

3–823.

(i) (1) In this subsection, “preadoptive parent” means an individual whom a child placement agency, as defined in § 5–101 of the Family Law Article, approves to adopt a child who has been placed in the individual’s home for adoption before the order of adoption.

(2) (I) If practicable, **BEFORE ANY HEARING CONDUCTED UNDER THIS SECTION**, the local department shall give at least [7] **10** days’ notice [before any hearing conducted under this section] to the child’s foster parent, preadoptive parent, or relative providing care for the child **OF THE DATE, TIME, AND PLACE OF THE HEARING AND OF THE RIGHT TO BE HEARD.**

(II) **UNLESS WAIVED FOR GOOD CAUSE, THE NOTICE SHALL BE IN WRITING.**

(3) The foster parent, preadoptive parent, relative, or an attorney for the foster parent, preadoptive parent, or relative shall be given [an opportunity] **THE RIGHT** to be heard at the hearing.

(4) The foster parent, preadoptive parent, relative, or attorney may not be considered to be a party solely on the basis of the right to notice and [opportunity] **THE RIGHT** to be heard provided under this subsection.

(j) At a review hearing under this section, the court shall consider any written report of a local out-of-home [placement] **CARE** review board required under § 5–545 of the Family Law Article.

(k) **AT LEAST EVERY 12 MONTHS AT A HEARING UNDER THIS SECTION, THE COURT SHALL CONSULT ON THE RECORD WITH THE CHILD IN AN AGE APPROPRIATE MANNER.**

Article – Family Law

5–525.

(d) (1) Unless a court orders that reasonable efforts are not required under § 3–812 of the Courts Article or § 5–323 of this title, reasonable efforts shall be made to preserve and reunify families:

(i) prior to the placement of a child in an out-of-home placement, to prevent or eliminate the need for removing the child from the child's home; and

(ii) to make it possible for a child to safely return to the child's home.

(2) In determining the reasonable efforts to be made and in making the reasonable efforts described under paragraph (1) of this subsection, the child's safety and health shall be the primary concern.

(3) Reasonable efforts to place a child for adoption or with a legal guardian may be made concurrently with the reasonable efforts described under paragraph (1) of this subsection.

(4) If continuation of reasonable efforts to reunify the child with the child's parents or guardian is determined to be inconsistent with the permanency plan for the child, reasonable efforts shall be made to place the child in a timely manner in accordance with the permanency plan, **INCLUDING CONSIDERATION OF BOTH IN-STATE AND OUT-OF-STATE PLACEMENTS**, and to complete the steps to finalize the permanent placement of the child.

(e) (1) In developing a permanency plan for a child in an out-of-home placement, the local department shall give primary consideration to the best interests of the child, **INCLUDING CONSIDERATION OF BOTH IN-STATE AND OUT-OF-STATE PLACEMENTS**. The local department shall consider the following factors in determining the permanency plan that is in the best interests of the child:

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

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

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

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

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

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

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

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

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

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

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

2. by another approved adoptive family; or

(iv) 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:

- services to the child;
1. the availability of resources to provide necessary
 2. the accessibility to family treatment, if appropriate;
 3. the effect on the local school system.
- and

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 8, 2008.