

HOUSE BILL 278

D4

3lr1463
CF SB 265

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

Introduced and read first time: January 23, 2013

Assigned to: Judiciary

Committee Report: Favorable

House action: Adopted

Read second time: March 5, 2013

CHAPTER _____

1 AN ACT concerning

2 **Children in Need of Assistance – Rights of Preadoptive Parents, Foster**
3 **Parents, and Caregivers of Child**

4 FOR the purpose of expanding the proceedings for which a local department of social
5 services is required to provide certain notice to preadoptive parents and foster
6 parents of a child under certain circumstances and at which preadoptive
7 parents, foster parents, or their attorneys have the right to be heard; repealing
8 a requirement that a local department of social services provide certain notice to
9 certain relatives of a child and substituting a requirement that the local
10 department provide certain notice to caregivers of a child; repealing the right of
11 certain relatives or their attorneys to be heard in certain proceedings
12 concerning the child and substituting the right of caregivers of a child or their
13 attorneys to be heard in certain proceedings concerning the child; establishing
14 that certain individuals may not be considered to be a party solely on the basis
15 of certain rights; defining a certain term; and generally relating to the rights of
16 preadoptive parents, foster parents, and caregivers of a child.

17 BY adding to
18 Article – Courts and Judicial Proceedings
19 Section 3–816.2
20 Annotated Code of Maryland
21 (2006 Replacement Volume and 2012 Supplement)

22 BY repealing

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 Article – Courts and Judicial Proceedings
2 Section 3–823(i)
3 Annotated Code of Maryland
4 (2006 Replacement Volume and 2012 Supplement)

5 BY repealing and reenacting, with amendments,
6 Article – Courts and Judicial Proceedings
7 Section 3–823(j) and (k)
8 Annotated Code of Maryland
9 (2006 Replacement Volume and 2012 Supplement)

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

12 **Article – Courts and Judicial Proceedings**

13 **3–816.2.**

14 (A) IN THIS SECTION, “PREADOPTIVE PARENT” MEANS AN INDIVIDUAL
15 WHOM A CHILD PLACEMENT AGENCY, AS DEFINED IN § 5–101 OF THE FAMILY
16 LAW ARTICLE, APPROVES TO ADOPT A CHILD WHO HAS BEEN PLACED IN THE
17 INDIVIDUAL’S HOME FOR ADOPTION BEFORE THE ORDER OF ADOPTION.

18 (B) UNLESS WAIVED FOR GOOD CAUSE, BEFORE ANY PROCEEDING
19 CONCERNING A CHILD, THE LOCAL DEPARTMENT SHALL GIVE AT LEAST 10
20 DAYS’ NOTICE IN WRITING TO THE CHILD’S FOSTER PARENT, PREADOPTIVE
21 PARENT, OR CAREGIVER OF THE DATE, TIME, AND PLACE OF THE PROCEEDING
22 AND OF THE RIGHT TO BE HEARD AT THE PROCEEDING.

23 (C) THE FOSTER PARENT, PREADOPTIVE PARENT, CAREGIVER, OR AN
24 ATTORNEY FOR THE FOSTER PARENT, PREADOPTIVE PARENT, OR CAREGIVER
25 SHALL BE GIVEN THE RIGHT TO BE HEARD AT THE PROCEEDING.

26 (D) THE FOSTER PARENT, PREADOPTIVE PARENT, CAREGIVER, OR
27 ATTORNEY MAY NOT BE CONSIDERED TO BE A PARTY SOLELY ON THE BASIS OF
28 THE RIGHT TO NOTICE AND THE RIGHT TO BE HEARD PROVIDED UNDER THIS
29 SECTION.

30 3–823.

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

1 (2) (i) If practicable, before any hearing conducted under this
2 section, the local department shall give at least 10 days' notice to the child's foster
3 parent, preadoptive parent, or relative providing care for the child of the date, time,
4 and place of the hearing and of the right to be heard.

5 (ii) Unless waived for good cause, the notice shall be in writing.

6 (3) The foster parent, preadoptive parent, relative, or an attorney for
7 the foster parent, preadoptive parent, or relative shall be given the right to be heard at
8 the hearing.

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

12 [(j)] (I) At a review hearing under this section, the court shall consider any
13 written report of a local out-of-home care review board required under § 5-545 of the
14 Family Law Article.

15 [(k)] (J) (1) At least every 12 months at a hearing under this section, the
16 court shall consult on the record with the child in an age-appropriate manner to
17 obtain the child's views on permanency.

18 (2) (i) If, after a hearing or with the agreement of all parties, the
19 court determines that the child is medically fragile and that it is detrimental to the
20 child's physical or mental health to be transported to the courthouse, the court may,
21 subject to subparagraph (ii) of this paragraph:

22 1. Visit the child at the child's placement and use
23 appropriate technology to document the consultation for the record; or

24 2. Use video conferencing to consult with the child on
25 the record during the hearing.

26 (ii) If the court visits the child at the child's placement under
27 subparagraph (i)1 of this paragraph or uses video conferencing under subparagraph
28 (i)2 of this paragraph, the court shall give each party notice and an opportunity to
29 attend the visit or the video conferencing, unless the court determines that it is not in
30 the best interest of the child for a party to attend the visit or the video conferencing.

31 (3) Subject to the provisions of paragraph (2)(ii) of this subsection, if
32 the child's placement is outside the State and, after a hearing or with the agreement of
33 all parties, the court determines that it is not in the best interest of the child to be
34 transported to the court, the court may use video conferencing to consult with the child
35 on the record during the hearing.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2013.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.