

SENATE BILL 1010

D4, O3, O4

3lr3267
CF 3lr2911

By: **Senators Brinkley, Forehand, Kelley, King, Kittleman, Klausmeier,
Madaleno, Middleton, Pipkin, and Pugh**

Introduced and read first time: February 21, 2013

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Children with Developmental Disabilities in State Custody – Continuation of**
3 **Placement and Services**

4 FOR the purpose of continuing the jurisdiction of a juvenile court over a child who is
5 medically fragile, has a developmental disability, and is committed to the
6 custody of a local department of social services for a certain period of time after
7 the child attains 21 years of age for the court to review, as necessary, the
8 implementation and enforcement of certain plans; requiring the juvenile court
9 to review a certain transition plan and change the plan if necessary to ensure
10 that the Developmental Disabilities Administration provides a certain level of
11 care, supervision, and treatment services for a certain child; requiring a certain
12 local department of social services at certain times to coordinate with the
13 Administration to plan for the transfer of responsibility for the case
14 management, care, supervision, and treatment of a certain child at a certain
15 time, to notify the Administration of the date when a certain child will require
16 certain services to begin, and to develop jointly with the Administration a
17 transition plan that ensures continuity of a certain child's residential placement
18 and maintains a certain level of care, supervision, and treatment services and
19 placement support for the child; requiring the Administration to coordinate with
20 each local department to plan for the transfer of responsibility for the case
21 management, care, supervision, and treatment of certain children; prohibiting
22 the Department of Health and Mental Hygiene from requiring a certain child to
23 submit an application for certain services in certain circumstances; requiring
24 the Administration, after receiving a certain notice, at certain times to develop
25 jointly with a local department a transition plan that ensures continuity of a
26 certain child's residential placement and maintains a certain level of care,
27 supervision, and treatment services and placement support for the child, to
28 submit the transition plan to the court that has jurisdiction over the child, to
29 develop and approve a certain individual service plan for the child, to enter into
30 a certain service funding plan, to investigate, license, approve, or otherwise

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 qualify a certain residence, and to implement and continue for a certain time
2 period a certain individual service plan and level of support and funding for the
3 child; defining certain terms; and generally relating to medically fragile
4 children with developmental disabilities.

5 BY repealing and reenacting, without amendments,
6 Article – Courts and Judicial Proceedings
7 Section 3–801(a), (e), (f), (g), (i), (k), (l), (p), and (bb)
8 Annotated Code of Maryland
9 (2006 Replacement Volume and 2012 Supplement)

10 BY repealing and reenacting, with amendments,
11 Article – Courts and Judicial Proceedings
12 Section 3–804
13 Annotated Code of Maryland
14 (2006 Replacement Volume and 2012 Supplement)

15 BY adding to
16 Article – Courts and Judicial Proceedings
17 Section 3–823.1
18 Annotated Code of Maryland
19 (2006 Replacement Volume and 2012 Supplement)

20 BY repealing and reenacting, without amendments,
21 Article – Family Law
22 Section 1–101(a), (f), and (g)
23 Annotated Code of Maryland
24 (2012 Replacement Volume)

25 BY adding to
26 Article – Family Law
27 Section 5–327.1 and 5–525.3
28 Annotated Code of Maryland
29 (2012 Replacement Volume)

30 BY repealing and reenacting, with amendments,
31 Article – Family Law
32 Section 5–328
33 Annotated Code of Maryland
34 (2012 Replacement Volume)

35 BY repealing and reenacting, without amendments,
36 Article – Health – General
37 Section 1–101(a) and (c), 7–101(a), (b), (e), and (n), and 7–403
38 Annotated Code of Maryland
39 (2009 Replacement Volume and 2012 Supplement)

1 BY adding to
2 Article – Health – General
3 Section 7–804
4 Annotated Code of Maryland
5 (2009 Replacement Volume and 2012 Supplement)

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

8 **Article – Courts and Judicial Proceedings**

9 3–801.

10 (a) In this subtitle the following words have the meanings indicated.

11 (e) “Child” means an individual under the age of 18 years.

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

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

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

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

19 (i) “Court” means the circuit court for a county sitting as the juvenile court.

20 (k) “Custody” means the right and obligation, unless otherwise determined
21 by the court, to provide ordinary care for a child and determine placement.

22 (l) “Developmental disability” means a severe chronic disability of an
23 individual that:

24 (1) Is attributable to a physical or mental impairment, other than the
25 sole diagnosis of mental illness, or to a combination of mental and physical
26 impairments;

27 (2) Is likely to continue indefinitely;

28 (3) Results in an inability to live independently without external
29 support or continuing and regular assistance; and

1 (4) Reflects the need for a combination and sequence of special,
2 interdisciplinary, or generic care, treatment, or other services that are individually
3 planned and coordinated for the individual.

4 (p) "Local department" means:

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

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

9 (bb) "Voluntary placement" means a placement in accordance with §
10 5-525(b)(1)(i) or (iii) of the Family Law Article.

11 3-804.

12 (a) The court has jurisdiction under this subtitle only if the alleged CINA or
13 child in a voluntary placement is under the age of 18 years when the petition is filed.

14 (b) If the court obtains jurisdiction over a child, that jurisdiction continues in
15 that case [until]:

16 (1) **UNTIL** the child reaches the age of 21 years, unless the court
17 terminates the case; **OR**

18 (2) **IF THE CHILD IS MEDICALLY FRAGILE AND HAS A**
19 **DEVELOPMENTAL DISABILITY, FOR 2 ADDITIONAL YEARS AFTER THE CHILD**
20 **ATTAINS 21 YEARS OF AGE FOR THE COURT TO REVIEW, AS NECESSARY, THE**
21 **IMPLEMENTATION AND ENFORCEMENT OF THE CHILD'S TRANSITION PLAN,**
22 **INDIVIDUAL SERVICE PLAN, OR SERVICE FUNDING PLAN DEVELOPED AND**
23 **IMPLEMENTED UNDER § 5-525.3 OF THE FAMILY LAW ARTICLE OR § 7-804 OF**
24 **THE HEALTH - GENERAL ARTICLE.**

25 (c) After the court terminates jurisdiction, a custody order issued by the
26 court in a CINA case:

27 (1) Remains in effect; and

28 (2) May be revised or superseded only by another court of competent
29 jurisdiction.

30 **3-823.1.**

1 IF A MEDICALLY FRAGILE CHILD WITH A DEVELOPMENTAL DISABILITY IS
2 COMMITTED TO THE CUSTODY OF A LOCAL DEPARTMENT UNDER § 3-819 OF
3 THIS SUBTITLE, THE COURT SHALL:

4 (1) REVIEW THE TRANSITION PLAN DEVELOPED BY THE LOCAL
5 DEPARTMENT AND THE DEVELOPMENTAL DISABILITIES ADMINISTRATION
6 UNDER § 5-525.3 OF THE FAMILY LAW ARTICLE AND § 7-804 OF THE HEALTH -
7 GENERAL ARTICLE FOR SUFFICIENCY; AND

8 (2) CHANGE THE TRANSITION PLAN IF NECESSARY TO ENSURE
9 THAT THE DEVELOPMENTAL DISABILITIES ADMINISTRATION PROVIDES
10 APPROPRIATE CARE, SUPERVISION, AND TREATMENT SERVICES TO MEET THE
11 CHILD'S NEEDS AFTER THE CHILD ATTAINS 21 YEARS OF AGE.

12 Article - Family Law

13 1-101.

14 (a) In this article the following words have the meanings indicated.

15 (f) "Juvenile court" means the circuit court for a county sitting as a juvenile
16 court.

17 (g) "Local department" means:

18 (1) a local department of social services; or

19 (2) in Montgomery County, the county department of health and
20 human services.

21 5-327.1.

22 IF A LOCAL DEPARTMENT IS THE GUARDIAN UNDER THIS SUBTITLE OF A
23 MEDICALLY FRAGILE CHILD WITH A DEVELOPMENTAL DISABILITY, THE
24 JUVENILE COURT SHALL:

25 (1) REVIEW THE TRANSITION PLAN DEVELOPED BY THE LOCAL
26 DEPARTMENT AND THE DEVELOPMENTAL DISABILITIES ADMINISTRATION
27 UNDER § 5-525.3 OF THIS ARTICLE AND § 7-804 OF THE HEALTH - GENERAL
28 ARTICLE FOR SUFFICIENCY; AND

29 (2) CHANGE THE TRANSITION PLAN IF NECESSARY TO ENSURE
30 THAT THE DEVELOPMENTAL DISABILITIES ADMINISTRATION PROVIDES
31 APPROPRIATE CARE, SUPERVISION, AND TREATMENT SERVICES TO MEET THE
32 CHILD'S NEEDS AFTER THE CHILD ATTAINS 21 YEARS OF AGE.

1 5–328.

2 (a) If a local department is a child’s guardian under this subtitle, a juvenile
3 court:

4 (1) retains jurisdiction until:

5 (i) the child attains 18 years of age; or

6 (ii) the juvenile court finds the child to be eligible for
7 emancipation; and

8 (2) may continue jurisdiction:

9 (I) until the child attains 21 years of age; **OR**

10 (II) **IF THE CHILD IS MEDICALLY FRAGILE AND HAS A**
11 **DEVELOPMENTAL DISABILITY, FOR 2 ADDITIONAL YEARS AFTER THE CHILD**
12 **ATTAINS 21 YEARS OF AGE FOR THE JUVENILE COURT TO REVIEW, AS**
13 **NECESSARY, THE IMPLEMENTATION AND ENFORCEMENT OF THE CHILD’S**
14 **TRANSITION PLAN, INDIVIDUAL SERVICE PLAN, OR SERVICE FUNDING PLAN**
15 **DEVELOPED AND IMPLEMENTED UNDER § 5–525.3 OF THIS TITLE OR § 7–804 OF**
16 **THE HEALTH – GENERAL ARTICLE.**

17 (b) If a juvenile court designates an individual as a child’s guardian, the
18 juvenile court:

19 (1) may retain jurisdiction until the child attains 18 years of age; or

20 (2) on finding further review unnecessary to maintain the child’s
21 health and welfare, may terminate the case before the child attains 18 years of age.

22 (c) An order for adoption of a child terminates the child’s guardianship case.

23 (d) On termination of a guardianship case, a juvenile court shall close the
24 case.

25 **5–525.3.**

26 (A) (1) **IN THIS SECTION THE FOLLOWING WORDS HAVE THE**
27 **MEANINGS INDICATED.**

28 (2) **“DEVELOPMENTAL DISABILITY” HAS THE MEANING STATED**
29 **IN § 7–101 OF THE HEALTH – GENERAL ARTICLE.**

1 **(3) “MEDICALLY FRAGILE CHILD” MEANS A CHILD WHO IS**
2 **DEPENDENT ON:**

3 **(I) MECHANICAL VENTILATION FOR AT LEAST PART OF**
4 **EACH DAY;**

5 **(II) INTRAVENOUS ADMINISTRATION OF NUTRITIONAL**
6 **SUBSTANCES OR DRUGS;**

7 **(III) OTHER DEVICE–BASED RESPIRATORY OR NUTRITIONAL**
8 **SUPPORT ON A DAILY BASIS, INCLUDING TRACHEOTOMY TUBE CARE,**
9 **SUCTIONING, AND OXYGEN SUPPORT;**

10 **(IV) OTHER MEDICAL DEVICES THAT COMPENSATE FOR**
11 **VITAL BODY FUNCTIONS, INCLUDING APNEA AND CARDIORESPIRATORY**
12 **MONITORS, RENAL DIALYSIS, AND OTHER MECHANICAL DEVICES; OR**

13 **(V) SUBSTANTIAL NURSING CARE IN CONNECTION WITH**
14 **DISABILITIES.**

15 **(B) A LOCAL DEPARTMENT THAT IS RESPONSIBLE FOR THE CARE AND**
16 **CUSTODY OF A MEDICALLY FRAGILE CHILD WITH A DEVELOPMENTAL**
17 **DISABILITY SHALL:**

18 **(1) COORDINATE WITH THE DEVELOPMENTAL DISABILITIES**
19 **ADMINISTRATION TO PLAN FOR THE TRANSFER OF RESPONSIBILITY FOR THE**
20 **CASE MANAGEMENT, CARE, SUPERVISION, AND TREATMENT OF THE CHILD TO**
21 **THE DEVELOPMENTAL DISABILITIES ADMINISTRATION WHEN THE CHILD**
22 **ATTAINS 21 YEARS OF AGE;**

23 **(2) AT LEAST 18 MONTHS BEFORE THE CHILD ATTAINS 21 YEARS**
24 **OF AGE, NOTIFY THE DEVELOPMENTAL DISABILITIES ADMINISTRATION OF THE**
25 **DATE WHEN THE CHILD WILL REQUIRE THE SERVICES OF THE DEVELOPMENTAL**
26 **DISABILITIES ADMINISTRATION TO BEGIN; AND**

27 **(3) AT LEAST 1 YEAR BEFORE THE CHILD ATTAINS 21 YEARS OF**
28 **AGE, DEVELOP JOINTLY WITH THE DEVELOPMENTAL DISABILITIES**
29 **ADMINISTRATION A TRANSITION PLAN THAT:**

30 **(I) ENSURES, TO THE EXTENT POSSIBLE, CONTINUITY OF**
31 **THE CHILD’S PLACEMENT IN THE FOSTER HOME OR ALTERNATIVE RESIDENCE**

1 WHERE THE CHILD RESIDES DURING THE LAST YEAR THE CHILD IS IN THE CARE
2 AND CUSTODY OF THE LOCAL DEPARTMENT; AND

3 (II) MAINTAINS THE LEVEL OF CARE, SUPERVISION, AND
4 TREATMENT SERVICES AND PLACEMENT SUPPORT THAT THE CHILD RECEIVES
5 DURING THE LAST YEAR THE CHILD IS IN THE CARE AND CUSTODY OF THE
6 LOCAL DEPARTMENT.

7 **Article – Health – General**

8 1–101.

9 (a) In this article the following words have the meanings indicated.

10 (c) “Department” means the Department of Health and Mental Hygiene.

11 7–101.

12 (a) In this title the following words have the meanings indicated.

13 (b) “Administration” means the Developmental Disabilities Administration.

14 (e) “Developmental disability” means a severe chronic disability of an
15 individual that:

16 (1) Is attributable to a physical or mental impairment, other than the
17 sole diagnosis of mental illness, or to a combination of mental and physical
18 impairments;

19 (2) Is manifested before the individual attains the age of 22;

20 (3) Is likely to continue indefinitely;

21 (4) Results in an inability to live independently without external
22 support or continuing and regular assistance; and

23 (5) Reflects the need for a combination and sequence of special,
24 interdisciplinary, or generic care, treatment, or other services that are individually
25 planned and coordinated for the individual.

26 (n) “Services” means residential, day, or other services that provide for
27 evaluation, diagnosis, treatment, care, supervision, assistance, or attention to
28 individuals with developmental disability and that promote habilitation of these
29 individuals.

30 7–403.

1 (a) (1) Except as otherwise provided in this title, an applicant for services
2 provided or funded, wholly or partly, by this State shall submit an application to the
3 Department in writing.

4 (2) The application shall contain the information that the Department
5 requires.

6 (b) Within 60 days after the Department receives an application for services
7 for an individual, the Secretary, on the basis of the application, shall:

8 (1) Determine whether there is a reasonable likelihood that the
9 individual:

10 (i) Has developmental disability; or

11 (ii) Does not have developmental disability, but may be eligible
12 for individual support services under subsection (c) of this section; and

13 (2) If a positive determination is made under item (1)(i) or (ii) of this
14 subsection:

15 (i) Approve the application;

16 (ii) Determine the nature of the disability;

17 (iii) Determine the nature of services that the individual may
18 require;

19 (iv) Determine the type of environment in which any needed
20 services could be provided with the least restriction on the liberty of the individual;

21 (v) Determine what types of evaluations, if any, the individual
22 requires;

23 (vi) Inform the individual of these determinations; and

24 (vii) Inform the individual that these determinations are
25 preliminary and may be subject to modification as a result of further evaluation.

26 (c) To be eligible for individual support services, an individual shall have a
27 severe chronic disability that:

28 (1) Is attributable to a physical or mental impairment, other than the
29 sole diagnosis of mental illness, or to a combination of mental and physical
30 impairments; and

1 (2) Is likely to continue indefinitely.

2 (d) If the Secretary determines, based on the application, that the individual
3 has a sole diagnosis of mental disorder, the Secretary shall refer the individual to the
4 Mental Hygiene Administration.

5 **7-804.**

6 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
7 MEANINGS INDICATED.

8 (2) "LOCAL DEPARTMENT" MEANS:

9 (I) A LOCAL DEPARTMENT OF SOCIAL SERVICES; OR

10 (II) IN MONTGOMERY COUNTY, THE COUNTY DEPARTMENT
11 OF HEALTH AND HUMAN SERVICES.

12 (3) "MEDICALLY FRAGILE CHILD" HAS THE MEANING STATED IN §
13 5-525.3 OF THE FAMILY LAW ARTICLE.

14 (B) (1) THE ADMINISTRATION SHALL COORDINATE WITH EACH
15 LOCAL DEPARTMENT TO PLAN FOR THE TRANSFER OF RESPONSIBILITY FOR
16 THE CASE MANAGEMENT, CARE, SUPERVISION, AND TREATMENT OF EACH
17 MEDICALLY FRAGILE CHILD WITH A DEVELOPMENTAL DISABILITY WHO HAS
18 BEEN IN THE CARE AND CUSTODY OF THE LOCAL DEPARTMENT TO THE
19 ADMINISTRATION WHEN THE CHILD ATTAINS 21 YEARS OF AGE.

20 (2) IF THE ADMINISTRATION COORDINATES WITH A LOCAL
21 DEPARTMENT TO PLAN FOR THE TRANSFER OF RESPONSIBILITY FOR A CHILD
22 UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE DEPARTMENT MAY NOT
23 REQUIRE THE CHILD TO SUBMIT AN APPLICATION FOR SERVICES UNDER §
24 7-403 OF THIS TITLE.

25 (C) AFTER RECEIVING NOTICE FROM A LOCAL DEPARTMENT THAT A
26 MEDICALLY FRAGILE CHILD WITH A DEVELOPMENTAL DISABILITY WHO IS IN
27 THE CARE AND CUSTODY OF THE LOCAL DEPARTMENT WILL REQUIRE THE
28 SERVICES OF THE ADMINISTRATION WHEN THE CHILD ATTAINS 21 YEARS OF
29 AGE, THE ADMINISTRATION SHALL:

30 (1) AT LEAST 1 YEAR BEFORE THE CHILD ATTAINS 21 YEARS OF
31 AGE, DEVELOP JOINTLY WITH THE LOCAL DEPARTMENT A TRANSITION PLAN
32 THAT:

1 **(I) ENSURES, TO THE EXTENT POSSIBLE, CONTINUITY OF**
2 **THE CHILD'S PLACEMENT IN THE FOSTER HOME OR ALTERNATIVE RESIDENCE**
3 **WHERE THE CHILD RESIDES DURING THE LAST YEAR THE CHILD IS IN THE CARE**
4 **AND CUSTODY OF THE LOCAL DEPARTMENT; AND**

5 **(II) MAINTAINS THE LEVEL OF CARE, SUPERVISION, AND**
6 **TREATMENT SERVICES AND PLACEMENT SUPPORT THAT THE CHILD RECEIVES**
7 **DURING THE LAST YEAR THE CHILD IS IN THE CARE AND CUSTODY OF THE**
8 **LOCAL DEPARTMENT;**

9 **(2) AT LEAST 1 YEAR BEFORE THE CHILD ATTAINS 21 YEARS OF**
10 **AGE, SUBMIT THE TRANSITION PLAN TO THE COURT THAT HAS JURISDICTION**
11 **OVER THE CHILD;**

12 **(3) AT LEAST 6 MONTHS BEFORE THE CHILD ATTAINS 21 YEARS**
13 **OF AGE, DEVELOP AND APPROVE AN INDIVIDUAL SERVICE PLAN:**

14 **(I) TO BE IMPLEMENTED WHEN THE CHILD ATTAINS 21**
15 **YEARS OF AGE AND THE ADMINISTRATION TAKES RESPONSIBILITY FOR THE**
16 **CASE MANAGEMENT, CARE, SUPERVISION, AND TREATMENT SERVICES AND**
17 **PLACEMENT SUPPORT FOR THE CHILD; AND**

18 **(II) THAT PROVIDES FOR THE PLACEMENT CONTINUITY,**
19 **PLACEMENT SUPPORT, AND THE CARE, SUPERVISION, AND TREATMENT**
20 **SERVICES IDENTIFIED IN THE TRANSITION PLAN DEVELOPED UNDER ITEM (1)**
21 **OF THIS SUBSECTION;**

22 **(4) AT LEAST 6 MONTHS BEFORE THE CHILD ATTAINS 21 YEARS**
23 **OF AGE, ENTER INTO A SERVICE FUNDING PLAN FOR THE PLACEMENT SUPPORT**
24 **AND THE CARE, SUPERVISION, AND TREATMENT SERVICES IDENTIFIED IN THE**
25 **INDIVIDUAL SERVICE PLAN DEVELOPED UNDER ITEM (3) OF THIS SUBSECTION;**

26 **(5) BEFORE THE CHILD ATTAINS 21 YEARS OF AGE, INVESTIGATE,**
27 **LICENSE, APPROVE, OR OTHERWISE QUALIFY THE FOSTER HOME OR**
28 **ALTERNATIVE RESIDENCE WHERE THE CHILD RESIDES DURING THE LAST YEAR**
29 **THE CHILD IS IN THE CARE AND CUSTODY OF THE LOCAL DEPARTMENT; AND**

30 **(6) WHEN THE CHILD ATTAINS 21 YEARS OF AGE AND FOR AS**
31 **LONG THEREAFTER AS IT REMAINS FEASIBLE AND IN THE CHILD'S BEST**
32 **INTEREST:**

33 **(I) IMPLEMENT THE INDIVIDUAL SERVICE PLAN**
34 **DEVELOPED UNDER ITEM (3) OF THIS SUBSECTION; AND**

1 **(II) MAINTAIN THE LEVEL OF SUPPORT AND FUNDING THE**
2 **CHILD AND THE PLACEMENT PROVIDER RECEIVE DURING THE LAST YEAR THE**
3 **CHILD IS IN THE CARE AND CUSTODY OF THE LOCAL DEPARTMENT.**

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