

SENATE BILL 586

D4

0lr1351
CF HB 369

By: Senators Waldstreicher, Hettleman, Hough, Ready, and West ~~West~~, Salling, and Young

Introduced and read first time: January 31, 2020

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted with floor amendments

Read second time: February 28, 2020

CHAPTER _____

1 AN ACT concerning

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

4 FOR the purpose of requiring the circuit court to provide notice to a child's foster parent,
5 preadoptive parent, or caregiver of the right to ~~intervene~~ request to be designated as
6 a party in a certain proceeding except under certain circumstances; granting certain
7 rights to certain individuals in certain proceedings; ~~granting the right to intervene~~
8 ~~in certain proceedings and~~ the right to obtain certain documents to a foster parent
9 or kinship parent under certain circumstances; authorizing a court, in its discretion,
10 to grant certain status to certain parties in certain proceedings; requiring a court to
11 grant certain status to certain parties in certain proceedings; providing for the
12 construction of certain provisions of this Act; requiring a party who asserts a certain
13 privilege to take certain actions; altering a certain definition; and generally relating
14 to the rights of foster parents, preadoptive parents, and caregivers.

15 BY repealing and reenacting, with amendments,
16 Article – Courts and Judicial Proceedings
17 Section 3–801(u) and 3–816.3
18 Annotated Code of Maryland
19 (2013 Replacement Volume and 2019 Supplement)

20 BY repealing and reenacting, without amendments,
21 Article – Courts and Judicial Proceedings
22 Section 3–802(a)(3) and (7)

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.



Annotated Code of Maryland
(2013 Replacement Volume and 2019 Supplement)

BY repealing and reenacting, with amendments,
Article – Family Law
Section 5–504
Annotated Code of Maryland
(2019 Replacement Volume)

BY repealing and reenacting, without amendments,
Article – Family Law
Section 5–525(j)(2)
Annotated Code of Maryland
(2019 Replacement Volume)

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.

(u) (1) “Party” means:

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

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

(iii) The petitioner; or

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

(2) “Party” does not include a foster parent **UNLESS THAT FOSTER
PARENT HAS EXERCISED THE RIGHT TO INTERVENE BEEN DESIGNATED AS A PARTY
UNDER § 3–816.3(D) OF THIS SUBTITLE.**

3–802.

(a) The purposes of this subtitle are:

(3) To conserve and strengthen the child’s family ties and to separate a
child from the child’s parents only when necessary for the child’s welfare;

(7) To achieve a timely, permanent placement for the child consistent with
the child’s best interests; and

3–816.3.

(a) In this section, “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.

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

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

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

(3) **THE RIGHT TO ~~INTERVENE~~ REQUEST TO BE DESIGNATED AS A PARTY IN THE PROCEEDING.**

(c) The foster parent, preadoptive parent, caregiver, or an attorney for the foster parent, preadoptive parent, or caregiver **WHO HAS NOT ~~EXERCISED THE RIGHT TO INTERVENE~~ BEEN DESIGNATED AS A PARTY UNDER SUBSECTION (D) OF THIS SECTION** shall be given the right to be heard at the proceeding.

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

~~(2) **THE FOSTER PARENT, PREADOPTIVE PARENT, CAREGIVER, OR ATTORNEY SHALL HAVE THE RIGHT TO INTERVENE AS A PARTY IN ANY PROCEEDING INVOLVING THE WELFARE OR PLACEMENT OF THE CHILD.**~~

(2) THE FOSTER PARENT, PREADOPTIVE PARENT, OR CAREGIVER MAY REQUEST TO BE DESIGNATED AS A PARTY IN:

(I) A PERMANENCY PLANNING HEARING UNDER § 3–823 OF THIS SUBTITLE; OR

(II) A REVIEW HEARING UNDER § 3–816.2 OF THIS SUBTITLE.

(3) (I) IF A FOSTER PARENT, PREADOPTIVE PARENT, OR CAREGIVER HAS BEEN LIVING WITH THE CHILD FOR LESS THAN 12 MONTHS, THE COURT AT ITS DISCRETION MAY DESIGNATE THE FOSTER PARENT, PREADOPTIVE PARENT, OR CAREGIVER AS A PARTY TO:

1. A PERMANENCY PLANNING HEARING UNDER § 3–823 OF THIS SUBTITLE; OR

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

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

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

(4) THE RIGHT TO INTERVENE REQUEST TO BE DESIGNATED AS A PARTY IN ANY PROCEEDING INVOLVING THE WELFARE OR PLACEMENT OF A CHILD.

~~(B) (1) A FOSTER PARENT OR KINSHIP PARENT SHALL HAVE THE RIGHT TO OBTAIN ALL NONPRIVILEGED INFORMATION IN DOCUMENTS PERTAINING TO THE PLACEMENT OF A CHILD.~~

~~(2) A PARTY WHO ASSERTS THAT INFORMATION IN A DOCUMENT IS PRIVILEGED SHALL:~~

~~(I) IDENTIFY THE PRIVILEGE;~~

~~(II) PROVE THE APPLICABILITY OF THE PRIVILEGE; AND~~

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

~~[(b)] (c)~~ This section does not create, and may not be construed to create, a cause of action for foster parents.

5-525.

(j) The Administration shall adopt regulations that:

(2) prohibit a local department from seeking the custody or guardianship of a child for placement in foster care solely because the child's parent or guardian lacks shelter or has a disability or solely because the child's parents are financially unable to provide treatment or care for a child with a developmental disability or mental illness;

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2020.