

SENATE BILL 586

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0lr1351
CF HB 369

By: **Senators Waldstreicher, Ready, and West**

Introduced and read first time: January 31, 2020

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

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

3 FOR the purpose of requiring the circuit court to provide notice to a child's foster parent,
4 preadoptive parent, or caregiver of the right to intervene as a party in a certain
5 proceeding except under certain circumstances; granting certain rights to certain
6 individuals in certain proceedings; granting the right to intervene in certain
7 proceedings and the right to obtain certain documents to a foster parent or kinship
8 parent under certain circumstances; requiring a party who asserts a certain privilege
9 to take certain actions; altering a certain definition; and generally relating to the
10 rights of foster parents, preadoptive parents, and caregivers.

11 BY repealing and reenacting, with amendments,
12 Article – Courts and Judicial Proceedings
13 Section 3–801(u) and 3–816.3
14 Annotated Code of Maryland
15 (2013 Replacement Volume and 2019 Supplement)

16 BY repealing and reenacting, with amendments,
17 Article – Family Law
18 Section 5–504
19 Annotated Code of Maryland
20 (2019 Replacement Volume)

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

23 **Article – Courts and Judicial Proceedings**

24 3–801.

25 (u) (1) “Party” means:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



- (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.**

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 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 AS A PARTY** 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.

Article – Family Law

5–504.

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

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

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

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

(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 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

1 of action for foster parents.

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