

**FAMILY LAW
TITLE 5. CHILDREN
SUBTITLE 3. GUARDIANSHIP TO AND ADOPTION THROUGH LOCAL DEPARTMENT
PART I. GENERAL PROVISIONS**

Md. FAMILY LAW Code Ann. § 5-301 (2014)

§ 5-301. Definitions

- (a) In general. -- In this subtitle the following words have the meanings indicated.
- (b) Caregiver. -- "Caregiver" means a person with whom a child resides and who exercises responsibility for the welfare of the child.
- (c) Child. -- "Child" means an individual who is the subject of a guardianship or adoption petition under this subtitle.
- (d) Guardianship. -- "Guardianship" means an award, under this subtitle, of any power of a guardian.
- (e) Identifying information. -- "Identifying information" means information that reveals the identity or location of an individual.
- (f) Parent. --
- (1) "Parent" means an individual who, at the time a petition for guardianship is filed under this subtitle or at any time before a court terminates the individual's parental rights:
- (i) meets a criterion in § 5-306(a) of this subtitle; or
 - (ii) is the mother.
- (2) "Parent" does not include an individual whom a court has adjudicated not to be a father or mother of a child.
- (g) Party. -- "Party" means:
- (1) in a guardianship case under this subtitle:
- (i) the child;
 - (ii) except as provided in § 5-326(a)(3)(iii) of this subtitle, the child's parent; and
 - (iii) the local department to which the child is committed;
- (2) in an adoption case under Part III of this subtitle:

(i) the child;

(ii) the child's parent; and

(iii) the individual seeking adoption;

(3) in an adoption case under Part IV of this subtitle:

(i) the child; and

(ii) the individual seeking adoption; and

(4) if express reference is made to a CINA case, a governmental unit or person defined as a party in § 3-801 of the Courts Article.

§ 5-302. Scope of subtitle

(a) Proceedings. -- This subtitle applies only to:

(1) guardianship of an individual who is committed to a local department as a child in need of assistance;

(2) adoption of an individual who is committed to a local department as a child in need of assistance, without prior termination of parental rights as to the individual; and

(3) adoption of an individual under guardianship under this subtitle.

(b) Prior filings. -- This subtitle:

(1) does not apply to a guardianship case filed on or before December 31, 2005, until guardianship is granted; and

(2) unless otherwise specified, does not apply to an adoption case filed on or before December 31, 2005.

§ 5-303. Statement of findings; purposes

(a) Statement of findings. -- The General Assembly finds that the policies and procedures of this subtitle are desirable and socially necessary.

(b) Purposes. -- The purposes of this subtitle are to:

(1) timely provide permanent and safe homes for children consistent with their best interests;

(2) protect children from unnecessary separation from their parents;

- (3) ensure adoption only by individuals fit for the responsibility;
- (4) protect parents from making hurried or ill-considered agreements to terminate parental rights;
- (5) protect prospective adoptive parents by giving them information about children and their backgrounds; and
- (6) protect adoptive parents from future disturbances of their relationships with children by former parents.

§ 5-305. Foreign orders

(a) "Order" defined. -- In this section, "order" includes any action that, under the laws of another jurisdiction, has the force and effect of a comparable judicial order under this subtitle.

(b) Order of another state. -- In accordance with the United States Constitution, this State shall accord full faith and credit to:

- (1) an order of another state as to adoption or guardianship in compliance with the other state's laws; and

- (2) termination of parental rights in compliance with the other state's laws.

(c) Other foreign orders. -- As to a jurisdiction other than a state:

- (1) an order for adoption or guardianship entered in compliance with the jurisdiction's laws shall have the same legal effect as an order for adoption or guardianship entered in this State; and

- (2) termination of parental rights in compliance with the jurisdiction's laws shall have the same legal effect as termination of parental rights in this State.

§ 5-306. Paternity

(a) In general. -- Unless a court excludes a man as the father of a child, a man is the father if:

- (1) the man was married to the child's mother at the time of the child's conception;

- (2) the man was married to the child's mother at the time of the child's birth;

- (3) the man is named as the father on the child's birth certificate and has not signed a denial of paternity;

- (4) the child's mother has named the man as the child's father and the man has not

signed a denial of paternity;

(5) the man has been adjudicated to be the child's father;

(6) the man has acknowledged himself, orally or in writing, to be the child's father and the mother agrees; or

(7) on the basis of genetic testing, the man is indicated to be the child's biological father.

(b) Notice and hearing on paternity claim. --

(1) A petitioner under Part II or Part III of this subtitle shall give a juvenile court notice that a man who is not named in the petition and has not been excluded as a father claims paternity.

(2) After a request of a party or claimant and before ruling on a petition under Part II or Part III of this subtitle, a juvenile court shall hold a hearing on the issue of paternity.

§ 5-307. Appointed counsel

(a) Parent. --

(1) Unless the public defender is required under § 16-204 of the Criminal Procedure Article to provide representation, in a case under Part II or Part III of this subtitle, a juvenile court shall appoint an attorney to represent a parent who:

(i) has a disability that makes the parent incapable of effectively participating in the case; or

(ii) when a petition for guardianship or adoption is filed or consent to guardianship or adoption is given, is a minor.

(2) To determine whether a disability makes a parent incapable of effectively participating in a case, a juvenile court, on its own motion or motion of a party, may order examination of the parent.

(b) Child. --

(1) In accordance with paragraph (2) of this subsection, in a case under this subtitle, a juvenile court shall appoint an attorney to represent a child.

(2) Unless a juvenile court finds that it is not in a child's best interests, the juvenile court:

(i) if the attorney who currently represents the child in a pending CINA case or guardianship case is under contract with the Department to provide services under this subsection, shall appoint that attorney; and

(ii) if the attorney who currently represents the child is not under contract with the Department, shall strike the appearance of that attorney.

(c) Dual representation. -- An attorney or firm may represent more than one party in a case under this subtitle only if the Maryland Lawyers' Rules of Professional Conduct allow.

(d) Compensation. -- An attorney appointed under this section may be compensated for reasonable fees, as approved by a juvenile court.

§ 5-308. Agreement for postadoption contact

(a) Authorized. --

(1) A prospective adoptive parent and parent of a prospective adoptee under this subtitle may enter into a written agreement to allow contact, after the adoption, between:

(i) the parent or other relative of the adoptee; and

(ii) the adoptee or adoptive parent.

(2) An adoptive parent and former parent of an adoptee under this subtitle may enter into a written agreement to allow contact between:

(i) a relative or former parent of the adoptee; and

(ii) the adoptee or adoptive parent.

(b) Construction of agreement. -- An agreement made under this section applies to contact with an adoptee only while the adoptee is a minor.

(c) Dissemination; redaction. -- An individual who prepares an agreement described in subsection (a)(1) of this section:

(1) shall provide a copy to each party in a case pending as to the prospective adoptee under this subtitle or in a CINA case pending as to the prospective adoptee; and

(2) if the agreement so provides, shall redact identifying information from the copies.

(d) Effect of noncompliance. -- Failure to comply with a condition of an agreement made under this section is not a ground for revoking consent to, or setting aside an order for, an adoption or guardianship.

(e) Mediation. -- If a dispute as to an agreement made under this section arises, a court may refer the parties to mediation to try to resolve the dispute.

(f) Enforcement. --

(1) A juvenile court or other court of competent jurisdiction shall enforce a written agreement made in accordance with this section unless enforcement is not in the adoptee's best interests.

(2) If a party moves in juvenile court or another court of competent jurisdiction to modify a written agreement made in accordance with this section and satisfies the court that modification is justified because an exceptional circumstance has arisen and the court finds modification to be in an adoptee's best interests, the court may modify the agreement.

§ 5-309. Assessment of costs

A juvenile court may assign counsel fees and costs among the parties to a case as the juvenile court considers appropriate and the parties' economic situations allow.

§ 5-310. Appeal

A party to a case under this subtitle may appeal to the Court of Special Appeals:

(1) in an interlocutory appeal, from a denial of the right to participate in a guardianship case before entry of an order for guardianship;

(2) in an interlocutory appeal, from a denial of the right to participate in an adoption case under Part III of this subtitle; or

(3) from a final order.

§§ 5-311, 5-312.

Reserved.

§ 5-313. Petition

(a) Required. -- Except as provided in § 5-331 of this subtitle, a petition for guardianship shall precede a petition for adoption under this subtitle.

(b) Petitioner. -- Only the individual who would be subject to guardianship or a local department may file a petition for guardianship under this Part II of this subtitle.

(c) Age limit. -- A petition for guardianship of an individual shall be filed before the individual attains 18 years of age.

(d) Contents. -- A petitioner under this section shall attach to a petition:

(1) all written consents for the guardianship that the petitioner has;

(2) if applicable:

(i) proof of guardianship or relinquishment of parental rights granted by an administrative, executive, or judicial body of a state or other jurisdiction; and

(ii) certification that the guardianship or relinquishment was granted in compliance with the jurisdiction's laws; and

(3) a notice of filing that:

(i) states the date on which the petition was filed;

(ii) identifies each person whose consent was filed with the petition;

(iii) states the obligation of a parent to give the juvenile court and local department notice of each change in the parent's address;

(iv) has printed on it the website that the Department maintains under § 2-302 of the Human Services Article; and

(v) includes no identifying information that would be in violation of an agreement or consent.

§ 5-314. Parental addresses

A clerk of a juvenile court shall keep a listing of each address given to the juvenile court for a parent under this Part II of this subtitle.

§ 5-315. Notice of filing

(a) Requirement. -- Within 5 days after a petition for guardianship of a child is filed with a juvenile court, the clerk shall send a copy of the petition, with the notice of filing that was attached to the petition, to:

(1) the local department;

(2) each of the child's living parents who has not waived the right to notice;

(3) each living parent's last attorney of record in the CINA case; and

(4) the child's last attorney of record in the CINA case.

(b) Method. -- Notice under this section shall be by first-class mail.

(c) Parental address. -- Notice under this section shall be sent to a parent's last address known to the juvenile court.

§ 5-316. Order to show cause

(a) Requirement. -- Promptly after a petition for guardianship is filed under this Part II of this subtitle, a juvenile court shall issue a show-cause order that requires the party to whom it is issued to respond as required under the Maryland Rules.

(b) Service. -- On issuance of a show-cause order as to guardianship of a child, a petitioner shall serve the order on:

- (1) each of the child's living parents who has not consented to the guardianship;
- (2) each living parent's last attorney of record in the CINA case; and
- (3) the child's last attorney of record in the CINA case.

(c) Method. -- Service under this section shall be:

- (1) on a parent, by:
 - (i) personal service; or
 - (ii) certified mail, restricted delivery, return receipt requested; and
- (2) on an attorney, by:
 - (i) personal service; or
 - (ii) certified mail, return receipt requested.

(d) Parental addresses. --

(1) Subject to paragraph (2) of this subsection, service on a parent under this section shall be attempted at:

- (i) each address in records of a juvenile court kept under § 3-822 of the Courts Article within the 270 days immediately preceding the filing of the petition for guardianship;
- (ii) each address in records of, or known to, the local department within the 270 days immediately preceding the filing of the petition for guardianship;
- (iii) the last address in records of a child support agency; and
- (iv) each other address provided by the child's caregiver.

(2) If a local department has proof that a parent does not live at an address, the local department need not attempt service there.

(e) Reasonable efforts to locate parent. --

(1) If a juvenile court never notified a parent of the requirements of § 3-822 of the Courts Article and a petitioner cannot serve the parent at any of the addresses listed in subsection (d) of this section, the petitioner shall make a reasonable, good faith effort to identify an address for the parent and serve the parent at that address.

(2) A juvenile court shall find that a petitioner has met the requirements of paragraph (1) of this subsection if the petitioner shows, by affidavit or testimony, that the petitioner made inquiries after or within the 180 days immediately preceding the filing of the petition for guardianship:

(i) with the Motor Vehicle Administration;

(ii) with the Department;

(iii) with the Department of Public Safety and Correctional Services, including its Division of Parole and Probation;

(iv) with the detention center of the county where the petition is filed;

(v) with the juvenile court;

(vi) if the local department is aware that the parent has received benefits from a particular social services entity within the 180 days immediately preceding the filing of the petition, with that entity;

(vii) if the local department is aware that the parent has been confined in a particular detention facility within the 180 days immediately preceding the filing of the petition, with that facility;

(viii) with the child's caregiver;

(ix) if the petitioner is able to contact the child's other parent, with that parent;

(x) if the petitioner is able to contact known members of the parent's immediate family, with those members; and

(xi) if the petitioner is able to contact the parent's current or last known employer, with that employer.

(3) A juvenile court shall consider an inquiry under this subsection sufficient if made by searching the computer files of, or making an inquiry by first-class mail to, a governmental unit or person listed in this subsection.

(4) A juvenile court shall consider failure to receive a response within 30 days after the petitioner mails an inquiry under this subsection to be a negative response to the inquiry.

(f) Publication. --

(1) If a juvenile court is satisfied, by affidavit or testimony, that a petitioner met the requirements of subsection (d) and, if applicable, subsection (e) of this section but could not effect service on a parent, the juvenile court shall order service through notice by publication as to that parent.

(2) Notice under this subsection shall consist of substantially the following statement:

To: (Father's name) To: (Mother's name) To: Unknown parent

"You are hereby notified that a guardianship case has been filed in the Circuit Court for (county name), Case No. (number). All persons who believe themselves to be parents of a (male or female) child born on (date of birth) in (city, state) to (mother's and father's names and dates of birth) shall file a written response. A copy of the show-cause order may be obtained from the juvenile clerk's office at (address) and (telephone number). If you do not file a written objection by (deadline), you will have agreed to the permanent loss of your parental rights to this child."

(3) Service under this subsection shall be by:

(i) publication at least once in one or more newspapers in general circulation in the county where the parent last resided or, if unknown, where the petition is filed; and

(ii) posting for at least 30 days on a website of the Department.

§ 5-317. Investigations

In addition to any investigation required under § 5-323(c) of this subtitle, a juvenile court may order a neutral governmental unit or neutral person to carry out any investigation that the juvenile court considers necessary to determine a child's best interests in ruling on a petition for guardianship.

§ 5-318. Hearings on guardianship petition

(a) Consensual guardianship. --

(1) In addition to any hearing required under this subsection or § 5-306(b)(2) of this subtitle, a juvenile court may hold a hearing before entering a guardianship order under § 5-320(a)(1) of this subtitle or otherwise ruling on a guardianship petition.

(2) If a party becomes aware, before a juvenile court rules on a guardianship petition, that a condition of consent under § 5-320(b) of this subtitle may not be fulfilled:

(i) the party promptly shall:

1. file notice with the juvenile court;
2. give notice to all of the other parties; and

3. if consent was received from a governmental unit or person who is not a party, give notice to that unit or person;

(ii) the juvenile court shall schedule a hearing to occur within 30 days after the filing of the notice; and

(iii) if the party, unit, or person whose condition cannot be fulfilled fails to enter into a new consent, the juvenile court shall set the case in for a prompt trial on the merits of the petition.

(b) Nonconsensual guardianship. -- Before a juvenile court grants guardianship under § 5-320(a)(2) of this subtitle, the juvenile court shall hold a trial on the merits of the petition.

(c) Notice of hearings. -- Before a trial or other hearing under this section, a juvenile court shall give notice to all of the parties.

§ 5-319. Time limits

(a) Maximum limits. -- Subject to subsection (b) of this section, a juvenile court shall rule on a guardianship petition:

(1) within 180 days after the petition is filed; and

(2) within 45 days after the earlier of:

(i) receipt of all of the consents required under this Part II of this subtitle; or

(ii) trial on the merits.

(b) Minimum limit. -- A juvenile court may not enter an order for guardianship of a child under this subtitle before the later of:

(1) 30 days after the birth of the child;

(2) expiration of the time set for revocation of consent, and not waived, under § 5-321(c) of this subtitle; or

(3) expiration of the time to respond to the show-cause order issued under § 5-316 of this subtitle.

§ 5-320. Authority to grant guardianship

(a) Consent and acquiescence or best interests. -- A juvenile court may grant guardianship of a child only if:

(1) (i) the child does not object;

(ii) the local department:

1. filed the petition; or

2. did not object to another party filing the petition; and

(iii) 1. each of the child's living parents consents:

A. in writing;

B. knowingly and voluntarily, on the record before the juvenile court; or

C. by failure to file a timely notice of objection after being served with a show-cause order in accordance with this subtitle;

2. an administrative, executive, or judicial body of a state or other jurisdiction has granted a governmental unit or person other than a parent the power to consent to adoption, and the unit or person consents; or

3. parental rights have been terminated in compliance with the laws of a state or other jurisdiction, as described in § 5-305 of this subtitle; or

(2) in accordance with § 5-323 of this subtitle, the juvenile court finds termination of parental rights to be in the child's best interests without consent otherwise required under this section or over the child's objection.

(b) Conditional consent or acquiescence. -- A governmental unit or person:

(1) may condition consent or acquiescence on adoption into a specific family that a local department approves for the placement; but

(2) may not condition consent or acquiescence on any factor other than placement into a specific family.

§ 5-321. Consent

(a) Contents and attachments. --

(1) Consent of a parent to guardianship may include a waiver of the right to notice of:

(i) the filing of a petition under this subtitle; and

(ii) a hearing under this subtitle.

(2) Consent to guardianship entered into before a judge on the record shall include a waiver of a revocation period.

(3) Consent of a party to guardianship is not valid unless:

(i) the consent is given in a language that the party understands;

(ii) if given in a language other than English, the consent:

1. is given before a judge on the record; or

2. is accompanied by the affidavit of a translator stating that the translation of the document of consent is accurate;

(iii) the party has received written notice or on-the-record notice before a judge of:

1. the revocation provisions in subsections (a)(2) and (c)(1) of this section;

2. the search rights of adoptees and parents under § 5-359 of this subtitle and the search rights of adoptees, parents, and siblings under Subtitle 4B of this title; and

3. the right to file a disclosure veto under § 5-359 of this subtitle;

(iv) if signed after counsel enters an appearance for a parent, the consent is accompanied by an affidavit of counsel stating that:

1. counsel reviewed the consent with the parent; and

2. the parent consents knowingly and voluntarily; and

(v) the consent is accompanied by an affidavit of counsel appointed under § 5-307(a) of this subtitle stating that a parent who is a minor or has a disability consents knowingly and voluntarily.

(b) Copy. --

(1) Whenever a local department receives consent to guardianship of an individual before a guardianship petition is filed, the local department promptly shall:

(i) file the consent in the individual's CINA case; and

(ii) serve a copy of the consent on:

1. each living parent of the individual;
2. the parent's last attorney of record in the CINA case; and
3. the individual's last attorney of record in the CINA case.

(2) Whenever a party obtains consent to guardianship after a guardianship petition is filed, the party promptly shall:

- (i) file the consent with the juvenile court in which the petition is pending; and
- (ii) serve a copy of the consent on each other party.

(c) Revocation period; waiver. --

(1) Subject to paragraph (2) of this subsection, a person may revoke consent to guardianship any time within the later of:

- (i) 30 days after the person signs the consent; or
- (ii) 30 days after the consent is filed as required under this section.

(2) Consent to guardianship under subsection (a)(2) of this section is irrevocable.

(d) Invalidation of conditional consent or acquiescence. -- If, at any time before a juvenile court enters an order for adoption of a child, the juvenile court finds that a condition of consent to guardianship will not be fulfilled, the consent or acquiescence becomes invalid.

§ 5-322. Grant of guardianship -- Consensual

(a) Authority. -- If all consents for guardianship of a child have been given in accordance with this subtitle and the child has not objected, a juvenile court may enter an order for guardianship.

(b) Notice. --

(1) Within 5 days after entry of an order under this section, a juvenile court shall give notice of the order to:

- (i) each party or, if represented, counsel;
- (ii) each of the child's living parents who has not waived the right to notice;
- (iii) each living parent's last attorney of record in the CINA case; and

(iv) the child's last attorney of record in the CINA case.

(2) Notice under this subsection shall be by first-class mail.

(3) Notice to a party under this subsection shall be sent to the party's last address known to the juvenile court.

§ 5-323. Grant of guardianship -- Nonconsensual

(a) "Drug" defined. -- In this section, "drug" means cocaine, heroin, methamphetamine, or a derivative of cocaine, heroin, or methamphetamine.

(b) Authority. -- If, after consideration of factors as required in this section, a juvenile court finds by clear and convincing evidence that a parent is unfit to remain in a parental relationship with the child or that exceptional circumstances exist that would make a continuation of the parental relationship detrimental to the best interests of the child such that terminating the rights of the parent is in a child's best interests, the juvenile court may grant guardianship of the child without consent otherwise required under this subtitle and over the child's objection.

(c) Exemption from considerations. -- A juvenile court need not consider any factor listed in subsection (d) of this section in determining a child's best interests if, after a thorough investigation by a local department, the juvenile court finds that:

(1) the identities of the child's parents are unknown; and

(2) during the 60 days immediately after the child's adjudication as a child in need of assistance, no one has claimed to be the child's parent.

(d) Considerations. -- Except as provided in subsection (c) of this section, in ruling on a petition for guardianship of a child, a juvenile court shall give primary consideration to the health and safety of the child and consideration to all other factors needed to determine whether terminating a parent's rights is in the child's best interests, including:

(1) (i) all services offered to the parent before the child's placement, whether offered by a local department, another agency, or a professional;

(ii) the extent, nature, and timeliness of services offered by a local department to facilitate reunion of the child and parent; and

(iii) the extent to which a local department and parent have fulfilled their obligations under a social services agreement, if any;

(2) the results of the parent's effort to adjust the parent's circumstances, condition, or conduct to make it in the child's best interests for the child to be returned to the parent's

home, including:

(i) the extent to which the parent has maintained regular contact with:

1. the child;
2. the local department to which the child is committed; and
3. if feasible, the child's caregiver;

(ii) the parent's contribution to a reasonable part of the child's care and support, if the parent is financially able to do so;

(iii) the existence of a parental disability that makes the parent consistently unable to care for the child's immediate and ongoing physical or psychological needs for long periods of time; and

(iv) whether additional services would be likely to bring about a lasting parental adjustment so that the child could be returned to the parent within an ascertainable time not to exceed 18 months from the date of placement unless the juvenile court makes a specific finding that it is in the child's best interests to extend the time for a specified period;

(3) whether:

(i) the parent has abused or neglected the child or a minor and the seriousness of the abuse or neglect;

(ii) 1. A. on admission to a hospital for the child's delivery, the mother tested positive for a drug as evidenced by a positive toxicology test; or

B. upon the birth of the child, the child tested positive for a drug as evidenced by a positive toxicology test; and

2. the mother refused the level of drug treatment recommended by a qualified addictions specialist, as defined in § 5-1201 of this title, or by a physician or psychologist, as defined in the Health Occupations Article;

(iii) the parent subjected the child to:

1. chronic abuse;
2. chronic and life-threatening neglect;
3. sexual abuse; or

4. torture;

(iv) the parent has been convicted, in any state or any court of the United States, of:

1. a crime of violence against:

A. a minor offspring of the parent;

B. the child; or

C. another parent of the child; or

2. aiding or abetting, conspiring, or soliciting to commit a crime described in item 1 of this item; and

(v) the parent has involuntarily lost parental rights to a sibling of the child; and

(4) (i) the child's emotional ties with and feelings toward the child's parents, the child's siblings, and others who may affect the child's best interests significantly;

(ii) the child's adjustment to:

1. community;

2. home;

3. placement; and

4. school;

(iii) the child's feelings about severance of the parent-child relationship; and

(iv) the likely impact of terminating parental rights on the child's well-being.

(e) Waiver of local department's obligation. --

(1) A juvenile court shall consider the evidence under subsection (d)(3)(i) and (ii) of this section as to a continuing or serious act or condition and may waive a local department's obligations for services described in subsection (d)(1) of this section if, after appropriate evaluation of efforts made and services offered, the juvenile court finds by clear and convincing evidence that a waiver is in the child's best interests.

(2) A juvenile court may waive a local department's obligations for services described in subsection (d)(1) of this section if the juvenile court finds by clear and convincing evidence that one or more of the acts or circumstances listed in subsection (d)(3)(iii), (iv), or (v) of this section exists.

(3) If a juvenile court waives reunification efforts under § 3-812(d) of the Courts Article, the juvenile court may not consider any factor under subsection (d)(1) of this section.

(f) Specific finding required. -- If a juvenile court finds that an act or circumstance listed in subsection (d)(3)(iii), (iv), or (v) of this section exists, the juvenile court shall make a specific finding, based on facts in the record, whether return of the child to a parent's custody poses an unacceptable risk to the child's future safety.

(g) Construction as voluntary. -- If a parent has consented to guardianship in accordance with § 5-320(a)(1)(iii)1 of this subtitle, the loss of parental rights shall be considered voluntary.

§ 5-324. Contents of order

(a) Denial of guardianship. -- In a separate order accompanying an order denying guardianship of a child, a juvenile court shall include:

(1) a specific factual finding on whether reasonable efforts have been made to finalize the child's permanency plan;

(2) any order under Title 3, Subtitle 8 of the Courts Article in the child's best interests; and

(3) a date, no later than 180 days after the date of the order, for the next review hearing under Title 3, Subtitle 8 of the Courts Article.

(b) Grant of guardianship. --

(1) In a separate order accompanying an order granting guardianship of a child, a juvenile court:

(i) shall include a directive terminating the child's CINA case;

(ii) consistent with the child's best interests:

1. may place the child:

A. subject to paragraph (2) of this subsection, in a specific type of facility; or

B. with a specific individual;

2. may direct provision of services by a local department to:

A. the child; or

B. the child's caregiver;

3. subject to a local department retaining legal guardianship, may award to a caregiver limited authority to make an emergency or ordinary decision as to the child's care, education, mental or physical health, or welfare;

4. may allow access to a medical or other record of the child;

5. may allow visitation for the child with a specific individual;

6. may appoint, or continue the appointment of, a court-appointed special advocate for any purpose set forth under § 3-830 of the Courts Article;

7. shall direct the provision of any other service or taking of any other action as to the child's education, health, and welfare, including:

A. for a child who is at least 16 years old, services needed to help the child's transition from guardianship to independence; or

B. for a child with a disability, services to obtain ongoing care, if any, needed after the guardianship case ends; and

8. may co-commit the child to the custody of the Department of Health and Mental Hygiene and order the Department of Health and Mental Hygiene to provide a plan for the child of clinically appropriate services in the least restrictive setting, in accordance with federal and State law;

(iii) if entered under § 5-322 of this subtitle, shall state each party's response to the petition;

(iv) shall state a specific factual finding on whether reasonable efforts have been made to finalize the child's permanency plan;

(v) shall state whether the child's parent has waived the right to notice; and

(vi) shall set a date, no later than 180 days after the date of the order, for the initial guardianship review hearing under § 5-326 of this subtitle.

(2) (i) Except for emergency commitment in accordance with § 10-617 of the Health - General Article or as expressly authorized by a juvenile court in accordance with the standards in § 3-819(h) and (i) of the Courts Article, a child may not be committed or otherwise placed for inpatient care or treatment in a psychiatric facility or a facility for the developmentally disabled.

(ii) A juvenile court shall include in a commitment order under this paragraph a requirement that the guardian:

1. file a progress report with the juvenile court at least every 180 days; and
2. provide a copy of each report to each person entitled to notice of a review hearing under § 5-326 of this subtitle.

(iii) Every 180 days during a commitment or placement under this paragraph, a juvenile court shall hold a hearing to determine whether the standards in § 3-819(h) or (i) of the Courts Article continue to be met.

(c) Persons to receive copies of orders. -- A juvenile court shall send a copy of an order entered under this section to:

- (1) each party or, if represented, counsel;
- (2) each of the child's living parents who has not waived the right to notice;
- (3) each living parent's last attorney of record in the CINA case; and
- (4) the child's last attorney of record in the CINA case.

§ 5-325. Effects of order for guardianship

(a) Parent-child relationship. -- An order for guardianship of an individual:

- (1) except as otherwise provided in this subtitle, § 4-414 of the Estates and Trusts Article, and § 2-123 of the Real Property Article, terminates a parent's duties, obligations, and rights toward the individual;
- (2) eliminates the need for a further consent by a parent to adoption of the individual;
- (3) grants a local department guardianship with the right to consent to the individual's adoption or other planned permanent living arrangement; and
- (4) terminates the individual's CINA case.

(b) Guardian. --

(1) Unless a juvenile court gives legal custody to another person, a child's guardian under this subtitle has legal custody.

(2) (i) Unless a juvenile court orders otherwise and subject to review by the juvenile court, a child's guardian may make all decisions affecting the child's education, health, and welfare, including consenting:

1. to adoption of the child;

2. to application by the child for a driver's license;

3. to enlistment by the child in the armed forces;

4. to marriage of the child; and

5. subject to subparagraphs (ii) and (iii) of this paragraph, to medical, psychiatric, or surgical treatment.

(ii) A child's guardian:

1. may have the child admitted to an inpatient psychiatric facility in accordance with the standards for emergency commitment in § 10-617 of the Health - General Article for not more than 20 days;

2. except as provided in item 1 of this subparagraph, may not place the child in an inpatient psychiatric facility without express authorization of the juvenile court.

(iii) 1. A child's guardian may not withhold or withdraw a life-sustaining procedure without the prior authorization of a juvenile court.

2. in deciding whether to grant authorization, a juvenile court shall apply the factors set forth in § 13-711(b) of the Estates and Trusts Article.

(3) A local department shall notify a juvenile court, a child's attorney, and the attorney for each other party who has not waived the right to notice:

(i) within 2 business days after the child's placement changes or the time required under § 5-326(b) of this subtitle, whichever is shorter;

(ii) within 2 business days after the child is placed in a psychiatric facility; or

(iii) within 2 business days after the child is absent from a placement for more than a week.

(4) A local department shall give a child's attorney the child's new address and telephone number within 2 business days after the address or telephone number changes.

§ 5-326. Review hearings

(a) Periodic hearing. --

(1) A juvenile court shall hold:

(i) an initial guardianship review hearing as scheduled under § 5-324(b)(1)(vi) of this

subtitle to establish a permanency plan for the child; and

(ii) at least once each year after the initial guardianship review hearing until the juvenile court's jurisdiction terminates, a guardianship review hearing.

(2) At each guardianship review hearing, a juvenile court shall determine whether:

(i) the child's current circumstances and placement are in the child's best interests;

(ii) the permanency plan that is in effect is in the child's best interests; and

(iii) reasonable efforts have been made to finalize the permanency plan that is in effect.

(3) (i) A juvenile court shall give at least 30 days' notice before each guardianship review hearing for a child to:

1. the local department;

2. the child's attorney; and

3. each of the child's living parents who has not waived the right to notice and that parent's attorney.

(ii) A parent is entitled to be heard and to participate at a guardianship review hearing.

(iii) A parent is not a party solely on the basis of the right to notice or opportunity to be heard or participate at a guardianship review hearing.

(4) (i) A local department shall give a child's caregiver at least 7 days' notice before a guardianship review hearing.

(ii) A caregiver is entitled to be heard at a guardianship review hearing.

(iii) A caregiver is not a party solely on the basis of the right to notice or opportunity to be heard at a guardianship review hearing.

(5) (i) At least 10 days before each guardianship review hearing, a local department shall:

1. investigate as needed to prepare a written report that summarizes the child's circumstances and the progress that has been made in implementing the child's permanency plan; and

2. send a copy of the report to:

A. the child's attorney; and

B. each of the child's living parents who has not waived the right to notice and that parent's attorney.

(ii) Notice to a parent under this paragraph shall be sent to the parent's last address known to the juvenile court.

(6) A child's permanency plan may be, in order of priority:

(i) adoption of the child;

(ii) custody and guardianship of the child by an individual; or

(iii) 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.

(7) Every reasonable effort shall be made to implement a permanency plan within 1 year.

(8) At each guardianship review hearing for a child, a juvenile court shall:

(i) evaluate the child's safety and act as needed to protect the child;

(ii) consider the written report of a local out-of-home placement review board required under § 5-545 of this title;

(iii) determine the extent of compliance with the permanency plan;

(iv) make a specific factual finding on whether reasonable efforts have been made to finalize the child's permanency plan and document the finding;

(v) subject to subsection (b) of this section, change the child's permanency plan if a change would be in the child's best interests;

(vi) project a reasonable date by which the permanency plan will be finalized;

(vii) enter any order that the juvenile court finds appropriate to implement the permanency plan; and

(viii) take all other action that the juvenile court considers to be in the child's best interests, including any order allowed under § 5-324(b)(1)(ii) of this subtitle.

(9) A juvenile court may approve a permanency plan other than adoption of a child only if

the juvenile court finds that, for a compelling reason, adoption is not in the child's best interests.

(10) (i) At a guardianship review hearing held 1 year or more after a juvenile court enters an order for guardianship of a child, the juvenile court may designate an individual guardian of the child if:

1. the local department certifies the child's successful placement with the individual under the supervision of the local department or its agent for at least 180 days or a shorter period allowed by the juvenile court on recommendation of the local department;

2. the local department files a report by a child placement agency, completed in accordance with department regulations, as to the suitability of the individual to be the child's guardian; and

3. the juvenile court makes a specific finding that:

A. for a compelling reason, adoption is not in the child's best interests; and

B. custody and guardianship by the individual is in the child's best interests and is the least restrictive alternative available.

(ii) Designation of a guardian under this paragraph terminates the local department's legal obligations and responsibilities to the child.

(iii) After designation of a guardian under this paragraph, a juvenile court may order any further review that the juvenile court finds to be in the child's best interests.

(b) Emergency review hearing. --

(1) Whenever a juvenile court orders a specific placement for a child, a local department may remove the child from the placement before a hearing only if:

(i) removal is needed to protect the child from serious immediate danger;

(ii) continuation of the placement is contrary to the child's best interests; or

(iii) the child's caregiver asks for the child's immediate removal.

(2) (i) On the next day on which the circuit court sits after a local department changes a placement under this subsection, the juvenile court shall hold an emergency review hearing on the change.

(ii) A juvenile court shall give reasonable notice of an emergency review hearing to:

1. the child's attorney;

2. each of the child's living parents who has not waived the right to notice and that parent's attorney; and

3. each other party's attorney.

(iii) At an emergency review hearing, the standard of review as to a change shall be the standard for continued shelter care in a hearing under § 3-815 of the Courts Article.

(iv) Unless all of the parties agree to a juvenile court's order entered at an emergency review hearing, the juvenile court shall hold a full review hearing on the change within 30 days after the date of removal or, if agreed to by the parties, a later date.

(c) Annual consultation on record with child; use of video conferencing or related technology. --

(1) 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 to obtain the child's views on permanency.

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

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

2. use video conferencing to consult with the child on the record during the hearing.

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

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

§ 5-327. Failed conditional placement during guardianship

If, after a juvenile court grants guardianship, a party becomes aware that a condition of consent to the guardianship may not be fulfilled:

(1) the party promptly shall:

(i) file notice with the juvenile court;

(ii) give notice to all of the other parties; and

(iii) if consent was received from a governmental unit or person who is not a party, give notice to that unit or person;

(2) the juvenile court shall schedule a hearing to occur within 30 days after the filing of the notice; and

(3) if the party, unit, or person whose condition cannot be fulfilled fails to enter into a new consent, the juvenile court shall:

(i) set aside the guardianship order;

(ii) set the case in for a prompt trial on the merits of the guardianship petition; and

(iii) reopen the CINA case for review as required under Title 3, Subtitle 8 of the Courts Article.

§ 5-328. Termination of guardianship

(a) Local department guardianship. -- If a local department is a child's guardian under this subtitle, a juvenile court:

(1) retains jurisdiction until:

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

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

(2) may continue jurisdiction until the child attains 21 years of age.

(b) Individual guardian. -- If a juvenile court designates an individual as a child's guardian, the juvenile court:

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

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

(c) Adoption order. -- An order for adoption of a child terminates the child's guardianship case.

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

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Reserved.