

HOUSE BILL 1155

D4
HB 893/21 – JUD

2lr2084
CF 2lr2085

By: **Delegates McComas, Boteler, and McKay**
Introduced and read first time: February 11, 2022
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

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

4 FOR the purpose of requiring the local department of social services and the circuit court
5 to provide notice to a child's foster parent, kinship parent, preadoptive parent, or
6 caregiver of the right to intervene as a party in a proceeding concerning the child;
7 extending to kinship parents certain rights granted to foster parents, preadoptive
8 parents, and caregivers; granting to foster parents, kinship parents, preadoptive
9 parents, and caregivers the right to intervene as a party in certain proceedings;
10 granting the right to obtain nonprivileged documents pertaining to a child to the
11 child's foster parent or kinship parent; and generally relating to the rights of foster
12 parents, kinship parents, preadoptive parents, and caregivers.

13 BY repealing and reenacting, with amendments,
14 Article – Courts and Judicial Proceedings
15 Section 3–801(u) and 3–816.3
16 Annotated Code of Maryland
17 (2020 Replacement Volume and 2021 Supplement)

18 BY repealing and reenacting, with amendments,
19 Article – Family Law
20 Section 5–504
21 Annotated Code of Maryland
22 (2019 Replacement Volume and 2021 Supplement)

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

25 **Article – Courts and Judicial Proceedings**

26 3–801.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.



(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, **KINSHIP PARENT, PREADOPTIVE PARENT, OR CAREGIVER UNLESS THAT INDIVIDUAL HAS EXERCISED THE RIGHT TO INTERVENE AS PROVIDED IN § 3–816.3(D) OF THIS SUBTITLE.**

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, **KINSHIP 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 AS PROVIDED IN SUBSECTION (D) OF THIS SECTION.

(c) The foster parent, **KINSHIP PARENT**, preadoptive parent, **OR** caregiver[,], or an attorney for the foster parent, **KINSHIP 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, **KINSHIP 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) SUBJECT TO THE PROVISIONS OF PARAGRAPHS (3) AND (4) OF THIS SUBSECTION, THE FOSTER PARENT, KINSHIP PARENT, PREADOPTIVE PARENT, OR CAREGIVER SHALL HAVE THE RIGHT TO INTERVENE AS A PARTY IN ANY CHILD ABUSE OR NEGLECT, TERMINATION OF PARENTAL RIGHTS, OR ADOPTION

1 PROCEEDING.

2 (3) A FOSTER PARENT, KINSHIP PARENT, PREADOPTIVE PARENT, OR
3 CAREGIVER WITH WHOM THE CHILD HAS BEEN LIVING FOR AT LEAST 12 MONTHS
4 SHALL, ON REQUEST, BE DESIGNATED AS A PARTY TO ANY CHILD ABUSE OR
5 NEGLECT, TERMINATION OF PARENTAL RIGHTS, OR ADOPTION PROCEEDING.

6 (4) A FOSTER PARENT, KINSHIP PARENT, PREADOPTIVE PARENT, OR
7 CAREGIVER WITH WHOM THE CHILD HAS BEEN LIVING FOR LESS THAN 12 MONTHS
8 MAY, AT THE DISCRETION OF THE COURT, BE DESIGNATED AS A PARTY TO ANY CHILD
9 ABUSE OR NEGLECT, TERMINATION OF PARENTAL RIGHTS, OR ADOPTION
10 PROCEEDING.

11 Article – Family Law

12 5–504.

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

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

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

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

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

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

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

1 **(4) THE RIGHT TO RECEIVE NOTICE OF AND, IN ACCORDANCE WITH**
2 **THE PROVISIONS OF § 3-816.3 OF THE COURTS ARTICLE, INTERVENE AS A PARTY IN**
3 **CHILD ABUSE AND NEGLECT, TERMINATION OF PARENTAL RIGHTS, AND ADOPTION**
4 **PROCEEDINGS.**

5 **(B) (1) A FOSTER PARENT OR KINSHIP PARENT SHALL HAVE THE RIGHT**
6 **TO OBTAIN ALL NONPRIVILEGED INFORMATION IN DOCUMENTS PERTAINING TO A**
7 **CHILD IN THE CARE OF THE FOSTER PARENT OR KINSHIP PARENT.**

8 **(2) A PARTY WHO ASSERTS THAT INFORMATION IN A DOCUMENT IS**
9 **PRIVILEGED SHALL:**

10 **(I) IDENTIFY THE PRIVILEGE;**

11 **(II) PROVE THE APPLICABILITY OF THE PRIVILEGE; AND**

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

14 **[(b)] (C)** This section does not create, and may not be construed to create, a cause
15 of action for foster parents **OR KINSHIP PARENTS.**

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
17 October 1, 2022.