

# HOUSE BILL 278

D4

3lr1463  
CF SB 265

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By: **Chair, Judiciary Committee (By Request – Maryland Judicial Conference)**

Introduced and read first time: January 23, 2013

Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Children in Need of Assistance – Rights of Preadoptive Parents, Foster**  
3 **Parents, and Caregivers of Child**

4 FOR the purpose of expanding the proceedings for which a local department of social  
5 services is required to provide certain notice to preadoptive parents and foster  
6 parents of a child under certain circumstances and at which preadoptive  
7 parents, foster parents, or their attorneys have the right to be heard; repealing  
8 a requirement that a local department of social services provide certain notice to  
9 certain relatives of a child and substituting a requirement that the local  
10 department provide certain notice to caregivers of a child; repealing the right of  
11 certain relatives or their attorneys to be heard in certain proceedings  
12 concerning the child and substituting the right of caregivers of a child or their  
13 attorneys to be heard in certain proceedings concerning the child; establishing  
14 that certain individuals may not be considered to be a party solely on the basis  
15 of certain rights; defining a certain term; and generally relating to the rights of  
16 preadoptive parents, foster parents, and caregivers of a child.

17 BY adding to

18 Article – Courts and Judicial Proceedings  
19 Section 3–816.2  
20 Annotated Code of Maryland  
21 (2006 Replacement Volume and 2012 Supplement)

22 BY repealing

23 Article – Courts and Judicial Proceedings  
24 Section 3–823(i)  
25 Annotated Code of Maryland  
26 (2006 Replacement Volume and 2012 Supplement)

27 BY repealing and reenacting, with amendments,

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – Courts and Judicial Proceedings  
2 Section 3–823(j) and (k)  
3 Annotated Code of Maryland  
4 (2006 Replacement Volume and 2012 Supplement)

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

7 **Article – Courts and Judicial Proceedings**

8 **3–816.2.**

9 (A) IN THIS SECTION, “PREADOPTIVE PARENT” MEANS AN INDIVIDUAL  
10 WHOM A CHILD PLACEMENT AGENCY, AS DEFINED IN § 5–101 OF THE FAMILY  
11 LAW ARTICLE, APPROVES TO ADOPT A CHILD WHO HAS BEEN PLACED IN THE  
12 INDIVIDUAL’S HOME FOR ADOPTION BEFORE THE ORDER OF ADOPTION.

13 (B) UNLESS WAIVED FOR GOOD CAUSE, BEFORE ANY PROCEEDING  
14 CONCERNING A CHILD, THE LOCAL DEPARTMENT SHALL GIVE AT LEAST 10  
15 DAYS’ NOTICE IN WRITING TO THE CHILD’S FOSTER PARENT, PREADOPTIVE  
16 PARENT, OR CAREGIVER OF THE DATE, TIME, AND PLACE OF THE PROCEEDING  
17 AND OF THE RIGHT TO BE HEARD AT THE PROCEEDING.

18 (C) THE FOSTER PARENT, PREADOPTIVE PARENT, CAREGIVER, OR AN  
19 ATTORNEY FOR THE FOSTER PARENT, PREADOPTIVE PARENT, OR CAREGIVER  
20 SHALL BE GIVEN THE RIGHT TO BE HEARD AT THE PROCEEDING.

21 (D) THE FOSTER PARENT, PREADOPTIVE PARENT, CAREGIVER, OR  
22 ATTORNEY MAY NOT BE CONSIDERED TO BE A PARTY SOLELY ON THE BASIS OF  
23 THE RIGHT TO NOTICE AND THE RIGHT TO BE HEARD PROVIDED UNDER THIS  
24 SECTION.

25 **3–823.**

26 [(i) (1) In this subsection, “preadoptive parent” means an individual whom  
27 a child placement agency, as defined in § 5–101 of the Family Law Article, approves to  
28 adopt a child who has been placed in the individual’s home for adoption before the  
29 order of adoption.

30 (2) (i) If practicable, before any hearing conducted under this  
31 section, the local department shall give at least 10 days’ notice to the child’s foster  
32 parent, preadoptive parent, or relative providing care for the child of the date, time,  
33 and place of the hearing and of the right to be heard.

34 (ii) Unless waived for good cause, the notice shall be in writing.

1           (3)     The foster parent, preadoptive parent, relative, or an attorney for  
2 the foster parent, preadoptive parent, or relative shall be given the right to be heard at  
3 the hearing.

4           (4)     The foster parent, preadoptive parent, relative, or attorney may  
5 not be considered to be a party solely on the basis of the right to notice and the right to  
6 be heard provided under this subsection.]

7           **[(j)] (I)**     At a review hearing under this section, the court shall consider any  
8 written report of a local out-of-home care review board required under § 5-545 of the  
9 Family Law Article.

10          **[(k)] (J)**     (1)     At least every 12 months at a hearing under this section, the  
11 court shall consult on the record with the child in an age-appropriate manner to  
12 obtain the child's views on permanency.

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

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

19                           2.     Use video conferencing to consult with the child on  
20 the record during the hearing.

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

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

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