

HOUSE BILL 976

D4

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By: **Delegate Rosenberg**

Introduced and read first time: February 10, 2016

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: April 3, 2016

CHAPTER _____

1 AN ACT concerning

2 **CINA, Guardianship, Adoption, Custody, and Visitation – ~~Blindness~~ Disability of**
3 **Parent, Guardian, Custodian, or Party**

4 FOR the purpose of ~~establishing that, in making a disposition on a child in need of~~
5 ~~assistance (CINA) petition, the blindness of a child's parent, guardian, or custodian~~
6 ~~is relevant only to the extent that the court finds, based on clear and convincing~~
7 ~~evidence in the record, that the blindness affects the ability of the parent, guardian,~~
8 ~~or custodian to give proper care and attention to the child and the child's needs;~~
9 ~~granting certain blind individuals the opportunity to prove that certain supportive~~
10 ~~parenting services would prevent a certain finding, determination, denial, or~~
11 ~~withholding of consent in certain proceedings; authorizing the juvenile court to~~
12 ~~require the provision of certain supportive parenting services and review the need~~
13 ~~for the continuation of the services within a reasonable period of time; requiring a~~
14 ~~court, a local department of social services, a guardian, or a child placement agency,~~
15 ~~in certain proceedings, to specifically state in writing the basis for a certain finding,~~
16 ~~denial, determination, or withholding of consent and the reason that the provision of~~
17 ~~certain supportive parenting services is not a reasonable accommodation to prevent~~
18 ~~the finding, denial, determination, or withholding of consent under certain~~
19 ~~circumstances; establishing that, in determining whether to grant custody and~~
20 ~~guardianship to a relative or a nonrelative, the blindness of the relative or~~
21 ~~nonrelative is relevant only to the extent that the court finds, based on clear and~~
22 ~~convincing evidence in the record, that the blindness affects the best interest of the~~
23 ~~child; requiring the Social Services Administration to adopt certain regulations;~~
24 ~~establishing that, in any custody or visitation proceeding, the blindness disability of~~
25 ~~a party is relevant only to the extent that the court finds, based on ~~clear and~~~~

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.



1 ~~convincing~~ evidence in the record, that the ~~blindness~~ disability affects the best
 2 interest of the child; requiring, in a certain custody or visitation proceeding, the party
 3 alleging that the ~~blindness~~ disability of the other party affects the best interest of
 4 the child to bear a certain burden of proof; ~~defining a certain term; altering a certain~~
 5 the definition of “disability” in certain provisions of law; providing for the
 6 construction of “disability” in certain provisions of law; and generally relating to the
 7 ~~blindness~~ disability of certain individuals in certain CINA, guardianship, adoption,
 8 custody, and visitation proceedings.

9 BY repealing and reenacting, with amendments,
 10 Article – Courts and Judicial Proceedings
 11 Section 3–819(b)(2) and 3–819.2(a) ~~and (g)~~
 12 Annotated Code of Maryland
 13 (2013 Replacement Volume and 2015 Supplement)

14 BY repealing and reenacting, without amendments,
 15 Article – Courts and Judicial Proceedings
 16 Section 3–819.2(g)
 17 Annotated Code of Maryland
 18 (2013 Replacement Volume and 2015 Supplement)

19 BY repealing and reenacting, with amendments,
 20 Article – Family Law
 21 Section 5–338(b), 5–350, 5–3A–35(b), 5–3B–19, 5–525(a), ~~(d), and (j),~~ and
 22 9–107
 23 Annotated Code of Maryland
 24 (2012 Replacement Volume and 2015 Supplement)

25 BY repealing and reenacting, without amendments,
 26 Article – Family Law
 27 Section 5–3A–35(a) and 5–525(d) and (j)
 28 Annotated Code of Maryland
 29 (2012 Replacement Volume and 2015 Supplement)

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

32 Article – Courts and Judicial Proceedings

33 3–819.

34 (b) (2) (i) 1. In this paragraph~~],~~ “disability” means:~~]~~ ~~THE FOLLOWING~~
 35 ~~WORDS HAVE THE MEANINGS INDICATED.~~

36 [A. A physical disability, infirmity, malformation, or
 37 disfigurement that is caused by bodily injury, birth defect, or illness, including epilepsy;

B. A mental impairment or deficiency;

C. A record of having a physical or mental impairment as defined under this paragraph; or

D. Being regarded as having a physical or mental impairment as defined under this paragraph.

2. "Disability" includes:

A. Any degree of paralysis or amputation;

B. Blindness or visual impairment;

C. Deafness or hearing impairment;

D. Muteness or speech impediment;

E. Physical reliance on a service animal or a wheelchair or other remedial appliance or device; and

F. Intellectual disability, as defined in § 7-101 of the Health - General Article, and any other mental impairment or deficiency that may have necessitated remedial or special education and related services.]

~~2.~~ **"DISABILITY" MEANS:**

A. A PHYSICAL OR MENTAL IMPAIRMENT THAT SUBSTANTIALLY LIMITS ONE OR MORE OF AN INDIVIDUAL'S MAJOR LIFE ACTIVITIES;

B. A RECORD OF HAVING A PHYSICAL OR MENTAL IMPAIRMENT THAT SUBSTANTIALLY LIMITS ONE OR MORE OF AN INDIVIDUAL'S MAJOR LIFE ACTIVITIES; OR

C. BEING REGARDED AS HAVING A PHYSICAL OR MENTAL IMPAIRMENT THAT SUBSTANTIALLY LIMITS ONE OR MORE OF AN INDIVIDUAL'S MAJOR LIFE ACTIVITIES.

2. "DISABILITY" SHALL BE CONSTRUED IN ACCORDANCE WITH THE ADA AMENDMENTS ACT OF 2008, P.L. 110-325.

~~**3. "SUPPORTIVE PARENTING SERVICES" MEANS SERVICES THAT MAY ASSIST A BLIND INDIVIDUAL IN THE EFFECTIVE USE OF NONVISUAL TECHNIQUES AND OTHER ALTERNATIVE METHODS TO ENABLE THE INDIVIDUAL TO DISCHARGE THE INDIVIDUAL'S RESPONSIBILITIES TO A CHILD AS SUCCESSFULLY AS AN INDIVIDUAL WHO IS NOT BLIND.**~~

1 (ii) ~~[In] SUBJECT TO THE PROVISIONS OF SUBPARAGRAPH (III)~~
 2 ~~OF THIS PARAGRAPH, IN~~ making a disposition on a CINA petition under this subtitle, a
 3 disability of the child's parent, guardian, or custodian is relevant only to the extent that
 4 the court finds, based on evidence in the record, that the disability affects the ability of the
 5 parent, guardian, or custodian to give proper care and attention to the child and the child's
 6 needs.

7 ~~(III) 1. THIS SUBPARAGRAPH APPLIES ONLY TO A PARENT,~~
 8 ~~GUARDIAN, OR CUSTODIAN WHO IS BLIND.~~

9 ~~2. IN MAKING A DISPOSITION ON A CINA PETITION~~
 10 ~~UNDER THIS SUBTITLE, THE BLINDNESS OF A CHILD'S PARENT, GUARDIAN, OR~~
 11 ~~CUSTODIAN IS RELEVANT ONLY TO THE EXTENT THAT THE COURT FINDS, BASED ON~~
 12 ~~CLEAR AND CONVINCING EVIDENCE IN THE RECORD, THAT THE BLINDNESS AFFECTS~~
 13 ~~THE ABILITY OF THE PARENT, GUARDIAN, OR CUSTODIAN TO GIVE PROPER CARE~~
 14 ~~AND ATTENTION TO THE CHILD AND THE CHILD'S NEEDS.~~

15 ~~3. THE PARENT, GUARDIAN, OR CUSTODIAN SHALL HAVE~~
 16 ~~THE OPPORTUNITY TO PROVE THAT SUPPORTIVE PARENTING SERVICES WOULD~~
 17 ~~PREVENT A FINDING THAT THE BLINDNESS AFFECTS THE ABILITY OF THE PARENT,~~
 18 ~~GUARDIAN, OR CUSTODIAN TO GIVE PROPER CARE AND ATTENTION TO THE CHILD~~
 19 ~~AND THE CHILD'S NEEDS.~~

20 ~~4. THE COURT MAY:~~

21 ~~A. REQUIRE THE PROVISION OF SUPPORTIVE~~
 22 ~~PARENTING SERVICES; AND~~

23 ~~B. REVIEW THE NEED FOR THE CONTINUATION OF~~
 24 ~~SUPPORTIVE PARENTING SERVICES WITHIN A REASONABLE PERIOD OF TIME.~~

25 ~~5. IF THE COURT FINDS THAT THE BLINDNESS OF THE~~
 26 ~~PARENT, GUARDIAN, OR CUSTODIAN AFFECTS THE ABILITY OF THE PARENT,~~
 27 ~~GUARDIAN, OR CUSTODIAN TO GIVE PROPER CARE AND ATTENTION TO THE CHILD~~
 28 ~~AND THE CHILD'S NEEDS, THE COURT SHALL SPECIFICALLY STATE IN WRITING:~~

29 ~~A. THE BASIS FOR THE FINDING; AND~~

30 ~~B. THE REASON THAT THE PROVISION OF SUPPORTIVE~~
 31 ~~PARENTING SERVICES IS NOT A REASONABLE ACCOMMODATION TO PREVENT THE~~
 32 ~~FINDING.~~

1 (a) (1) In this section, “disability” means: ~~THE FOLLOWING WORDS HAVE~~
 2 ~~THE MEANINGS INDICATED.~~

3 [(i) A physical disability, infirmity, malformation, or disfigurement
 4 that is caused by bodily injury, birth defect, or illness, including epilepsy;

5 (ii) A mental impairment or deficiency;

6 (iii) A record of having a physical or mental impairment as defined
 7 under this subsection; or

8 (iv) Being regarded as having a physical or mental impairment as
 9 defined under this subsection.

10 (2) “Disability” includes:

11 (i) Any degree of paralysis or amputation;

12 (ii) Blindness or visual impairment;

13 (iii) Deafness or hearing impairment;

14 (iv) Muteness or speech impediment;

15 (v) Physical reliance on a service animal or a wheelchair or other
 16 remedial appliance or device; and

17 (vi) Intellectual disability, as defined in § 7–101 of the Health –
 18 General Article, and any other mental impairment or deficiency that may have necessitated
 19 remedial or special education and related services.]

20 ~~(2) “DISABILITY” MEANS:~~

21 (I) A PHYSICAL OR MENTAL IMPAIRMENT THAT
 22 SUBSTANTIALLY LIMITS ONE OR MORE OF AN INDIVIDUAL’S MAJOR LIFE ACTIVITIES;

23 (II) A RECORD OF HAVING A PHYSICAL OR MENTAL
 24 IMPAIRMENT THAT SUBSTANTIALLY LIMITS ONE OR MORE OF AN INDIVIDUAL’S
 25 MAJOR LIFE ACTIVITIES; OR

26 (III) BEING REGARDED AS HAVING A PHYSICAL OR MENTAL
 27 IMPAIRMENT THAT SUBSTANTIALLY LIMITS ONE OR MORE OF AN INDIVIDUAL’S
 28 MAJOR LIFE ACTIVITIES.

29 (2) “DISABILITY” SHALL BE CONSTRUED IN ACCORDANCE WITH THE
 30 ADA AMENDMENTS ACT OF 2008, P.L. 110–325.

~~(3) "SUPPORTIVE PARENTING SERVICES" MEANS SERVICES THAT MAY ASSIST A BLIND INDIVIDUAL IN THE EFFECTIVE USE OF NONVISUAL TECHNIQUES AND OTHER ALTERNATIVE METHODS TO ENABLE THE INDIVIDUAL TO DISCHARGE THE INDIVIDUAL'S RESPONSIBILITIES TO A CHILD AS SUCCESSFULLY AS AN INDIVIDUAL WHO IS NOT BLIND.~~

(g) ~~(1) [In] SUBJECT TO THE PROVISIONS OF PARAGRAPH (2) OF THIS SUBSECTION, IN~~ determining whether to grant custody and guardianship to a relative or a nonrelative under this section, a disability of the relative or nonrelative is relevant only to the extent that the court finds, based on evidence in the record, that the disability affects the best interest of the child.

~~(2) (I) THIS PARAGRAPH APPLIES ONLY TO A RELATIVE OR NONRELATIVE WHO IS BLIND.~~

~~(II) IN DETERMINING WHETHER TO GRANT CUSTODY AND GUARDIANSHIP TO A RELATIVE OR A NONRELATIVE UNDER THIS SECTION, THE BLINDNESS OF THE RELATIVE OR NONRELATIVE IS RELEVANT ONLY TO THE EXTENT THAT THE COURT FINDS, BASED ON CLEAR AND CONVINCING EVIDENCE IN THE RECORD, THAT THE BLINDNESS AFFECTS THE BEST INTEREST OF THE CHILD.~~

~~(III) THE RELATIVE OR NONRELATIVE SHALL HAVE THE OPPORTUNITY TO PROVE THAT SUPPORTIVE PARENTING SERVICES WOULD PREVENT A FINDING THAT THE BLINDNESS AFFECTS THE BEST INTEREST OF THE CHILD.~~

~~(IV) THE COURT MAY:~~

~~1. REQUIRE THE PROVISION OF SUPPORTIVE PARENTING SERVICES; AND~~

~~2. REVIEW THE NEED FOR THE CONTINUATION OF SUPPORTIVE PARENTING SERVICES WITHIN A REASONABLE PERIOD OF TIME.~~

~~(V) IF THE COURT FINDS THAT THE BLINDNESS OF THE RELATIVE OR NONRELATIVE AFFECTS THE BEST INTEREST OF THE CHILD, THE COURT SHALL SPECIFICALLY STATE IN WRITING:~~

~~1. THE BASIS FOR THE FINDING; AND~~

~~2. THE REASON THAT THE PROVISION OF SUPPORTIVE PARENTING SERVICES IS NOT A REASONABLE ACCOMMODATION TO PREVENT THE FINDING.~~

Article – Family Law

5–338.

(b) (1) (i) In this subsection~~], “disability” means:] THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.~~

1. a physical disability, infirmity, malformation, or disfigurement that is caused by bodily injury, birth defect, or illness, including epilepsy;

2. a mental impairment or deficiency;

3. a record of having a physical or mental impairment as defined under this paragraph; or

4. being regarded as having a physical or mental impairment as defined under this paragraph.

(ii) “Disability” includes:

1. any degree of paralysis or amputation;

2. blindness or visual impairment;

3. deafness or hearing impairment;

4. muteness or speech impediment;

5. physical reliance on a service animal or a wheelchair or other remedial appliance or device; and

6. intellectual disability, as defined in § 7–101 of the Health – General Article, and any other mental impairment or deficiency that may have necessitated remedial or special education and related services.]

~~(ii) “DISABILITY” MEANS:~~

1. A PHYSICAL OR MENTAL IMPAIRMENT THAT SUBSTANTIALLY LIMITS ONE OR MORE OF AN INDIVIDUAL’S MAJOR LIFE ACTIVITIES;

2. A RECORD OF HAVING A PHYSICAL OR MENTAL IMPAIRMENT THAT SUBSTANTIALLY LIMITS ONE OR MORE OF AN INDIVIDUAL’S MAJOR LIFE ACTIVITIES; OR

1 3. BEING REGARDED AS HAVING A PHYSICAL OR MENTAL
2 IMPAIRMENT THAT SUBSTANTIALLY LIMITS ONE OR MORE OF AN INDIVIDUAL'S
3 MAJOR LIFE ACTIVITIES.

4 (II) “DISABILITY” SHALL BE CONSTRUED IN ACCORDANCE WITH
5 THE ADA AMENDMENTS ACT OF 2008, P.L. 110-325.

6 ~~(III) “SUPPORTIVE PARENTING SERVICES” MEANS SERVICES~~
7 ~~THAT MAY ASSIST A BLIND INDIVIDUAL IN THE EFFECTIVE USE OF NONVISUAL~~
8 ~~TECHNIQUES AND OTHER ALTERNATIVE METHODS TO ENABLE THE INDIVIDUAL TO~~
9 ~~DISCHARGE THE INDIVIDUAL'S RESPONSIBILITIES TO A CHILD AS SUCCESSFULLY AS~~
10 ~~AN INDIVIDUAL WHO IS NOT BLIND.~~

11 (2) ~~(I)~~ A local department may not withhold consent for the sole reason
12 that:

13 ~~{(i)}~~ ~~1.~~ the race, religion, color, or national origin of a prospective
14 adoptive parent differs from that of the child or parent; or

15 ~~{(ii)}~~ ~~2.~~ a prospective adoptive parent has a disability.

16 ~~(H) 1. THIS SUBPARAGRAPH APPLIES ONLY TO A~~
17 ~~PROSPECTIVE ADOPTIVE PARENT WHO IS BLIND.~~

18 ~~2. THE PROSPECTIVE ADOPTIVE PARENT SHALL HAVE~~
19 ~~THE OPPORTUNITY TO PROVE THAT SUPPORTIVE PARENTING SERVICES WOULD~~
20 ~~PREVENT THE WITHHOLDING OF CONSENT.~~

21 ~~3. IF THE LOCAL DEPARTMENT WITHHOLDS CONSENT,~~
22 ~~THE LOCAL DEPARTMENT SHALL SPECIFICALLY STATE IN WRITING:~~

23 ~~A. THE BASIS FOR THE WITHHOLDING OF CONSENT; AND~~

24 ~~B. THE REASON THAT THE PROVISION OF SUPPORTIVE~~
25 ~~PARENTING SERVICES IS NOT A REASONABLE ACCOMMODATION TO PREVENT THE~~
26 ~~WITHHOLDING OF CONSENT.~~

27 5-350.

28 (a) A juvenile court may enter an order for a child's adoption under this Part IV
29 of this subtitle only if:

30 (1) for an individual under the age of 18 years, the individual's guardian
31 consents; and

1 (2) for an individual who is at least 10 years old, the individual consents.

2 (b) (1) (i) In this subsection, “disability” means: ~~THE FOLLOWING~~
3 ~~WORDS HAVE THE MEANINGS INDICATED.~~

4 [1. a physical disability, infirmity, malformation, or
5 disfigurement that is caused by bodily injury, birth defect, or illness, including epilepsy;

6 2. a mental impairment or deficiency;

7 3. a record of having a physical or mental impairment as
8 defined under this paragraph; or

9 4. being regarded as having a physical or mental impairment
10 as defined under this paragraph.

11 (ii) “Disability” includes:

12 1. any degree of paralysis or amputation;

13 2. blindness or visual impairment;

14 3. deafness or hearing impairment;

15 4. muteness or speech impediment;

16 5. physical reliance on a service animal or a wheelchair or
17 other remedial appliance or device; and

18 6. intellectual disability, as defined in § 7–101 of the Health
19 – General Article, and any other mental impairment or deficiency that may have
20 necessitated remedial or special education and related services.]

21 ~~(H)~~ ~~“DISABILITY” MEANS:~~

22 1. A PHYSICAL OR MENTAL IMPAIRMENT THAT
23 SUBSTANTIALLY LIMITS ONE OR MORE OF AN INDIVIDUAL’S MAJOR LIFE ACTIVITIES;

24 2. A RECORD OF HAVING A PHYSICAL OR MENTAL
25 IMPAIRMENT THAT SUBSTANTIALLY LIMITS ONE OR MORE OF AN INDIVIDUAL’S
26 MAJOR LIFE ACTIVITIES; OR

27 3. BEING REGARDED AS HAVING A PHYSICAL OR MENTAL
28 IMPAIRMENT THAT SUBSTANTIALLY LIMITS ONE OR MORE OF AN INDIVIDUAL’S
29 MAJOR LIFE ACTIVITIES.

1 (ii) “DISABILITY” SHALL BE CONSTRUED IN ACCORDANCE WITH
 2 THE ADA AMENDMENTS ACT OF 2008, P.L. 110-325.

3 ~~(iii) “SUPPORTIVE PARENTING SERVICES” MEANS SERVICES~~
 4 ~~THAT MAY ASSIST A BLIND INDIVIDUAL IN THE EFFECTIVE USE OF NONVISUAL~~
 5 ~~TECHNIQUES AND OTHER ALTERNATIVE METHODS TO ENABLE THE INDIVIDUAL TO~~
 6 ~~DISCHARGE THE INDIVIDUAL’S RESPONSIBILITIES TO A CHILD AS SUCCESSFULLY AS~~
 7 ~~AN INDIVIDUAL WHO IS NOT BLIND.~~

8 (2) ~~(i)~~ A guardian may not withhold consent for the sole reason that:

9 ~~{(i)}~~ ~~1.~~ the race, religion, color, or national origin of a prospective
 10 adoptive parent differs from that of the child or parent; or

11 ~~{(ii)}~~ ~~2.~~ a prospective adoptive parent has a disability.

12 ~~(ii) 1. THIS SUBPARAGRAPH APPLIES ONLY TO A~~
 13 ~~PROSPECTIVE ADOPTIVE PARENT WHO IS BLIND.~~

14 ~~2. THE PROSPECTIVE ADOPTIVE PARENT SHALL HAVE~~
 15 ~~THE OPPORTUNITY TO PROVE THAT SUPPORTIVE PARENTING SERVICES WOULD~~
 16 ~~PREVENT THE WITHHOLDING OF CONSENT.~~

17 ~~3. IF THE GUARDIAN WITHHOLDS CONSENT, THE~~
 18 ~~GUARDIAN SHALL SPECIFICALLY STATE IN WRITING:~~

19 ~~A. THE BASIS FOR THE WITHHOLDING OF CONSENT; AND~~

20 ~~B. THE REASON THAT THE PROVISION OF SUPPORTIVE~~
 21 ~~PARENTING SERVICES IS NOT A REASONABLE ACCOMMODATION TO PREVENT THE~~
 22 ~~WITHHOLDING OF CONSENT.~~

23 5-3A-35.

24 (a) A court may enter an order for a child’s adoption under this subtitle only if:

25 (1) the child placement agency consents; and

26 (2) for a child who is at least 10 years old, the child consents.

27 (b) (1) (i) In this subsection~~], “disability” means:} THE FOLLOWING~~
 28 ~~WORDS HAVE THE MEANINGS INDICATED.~~

29 [1. a physical disability, infirmity, malformation, or
 30 disfigurement that is caused by bodily injury, birth defect, or illness, including epilepsy;

- 1 2. a mental impairment or deficiency;
- 2 3. a record of having a physical or mental impairment as
- 3 defined under this paragraph; or
- 4 4. being regarded as having a physical or mental impairment
- 5 as defined under this paragraph.

6 (ii) “Disability” includes:

- 7 1. any degree of paralysis or amputation;
- 8 2. blindness or visual impairment;
- 9 3. deafness or hearing impairment;
- 10 4. muteness or speech impediment;
- 11 5. physical reliance on a service animal or a wheelchair or
- 12 other remedial appliance or device; and
- 13 6. intellectual disability, as defined in § 7–101 of the Health
- 14 – General Article, and any other mental impairment or deficiency that may have
- 15 necessitated remedial or special education and related services.]

16 ~~(H) “DISABILITY” MEANS:~~

- 17 1. A PHYSICAL OR MENTAL IMPAIRMENT THAT
- 18 SUBSTANTIALLY LIMITS ONE OR MORE OF AN INDIVIDUAL’S MAJOR LIFE ACTIVITIES;
- 19 2. A RECORD OF HAVING A PHYSICAL OR MENTAL
- 20 IMPAIRMENT THAT SUBSTANTIALLY LIMITS ONE OR MORE OF AN INDIVIDUAL’S
- 21 MAJOR LIFE ACTIVITIES; OR
- 22 3. BEING REGARDED AS HAVING A PHYSICAL OR MENTAL
- 23 IMPAIRMENT THAT SUBSTANTIALLY LIMITS ONE OR MORE OF AN INDIVIDUAL’S
- 24 MAJOR LIFE ACTIVITIES.

25 ~~(II) “DISABILITY” SHALL BE CONSTRUED IN ACCORDANCE WITH~~

26 ~~THE ADA AMENDMENTS ACT OF 2008, P.L. 110–325.~~

27 ~~(III) “SUPPORTIVE PARENTING SERVICES” MEANS SERVICES~~

28 ~~THAT MAY ASSIST A BLIND INDIVIDUAL IN THE EFFECTIVE USE OF NONVISUAL~~

29 ~~TECHNIQUES AND OTHER ALTERNATIVE METHODS TO ENABLE THE INDIVIDUAL TO~~

1 ~~DISCHARGE THE INDIVIDUAL'S RESPONSIBILITIES TO A CHILD AS SUCCESSFULLY AS~~
 2 ~~AN INDIVIDUAL WHO IS NOT BLIND.~~

3 (2) ~~(H)~~ A child placement agency may not withhold consent for the sole
 4 reason that:

5 ~~{(i)}~~ ~~1.~~ the race, religion, color, or national origin of a prospective
 6 adoptive parent differs from that of the child or parent; or

7 ~~{(ii)}~~ ~~2.~~ a prospective adoptive parent has a disability.

8 ~~(H) 1. THIS SUBPARAGRAPH APPLIES ONLY TO A~~
 9 ~~PROSPECTIVE ADOPTIVE PARENT WHO IS BLIND.~~

10 ~~2. THE PROSPECTIVE ADOPTIVE PARENT SHALL HAVE~~
 11 ~~THE OPPORTUNITY TO PROVE THAT SUPPORTIVE PARENTING SERVICES WOULD~~
 12 ~~PREVENT THE WITHHOLDING OF CONSENT.~~

13 ~~3. IF THE CHILD PLACEMENT AGENCY WITHHOLDS~~
 14 ~~CONSENT, THE AGENCY SHALL SPECIFICALLY STATE IN WRITING:~~

15 ~~A. THE BASIS FOR THE WITHHOLDING OF CONSENT; AND~~

16 ~~B. THE REASON THAT THE PROVISION OF SUPPORTIVE~~
 17 ~~PARENTING SERVICES IS NOT A REASONABLE ACCOMMODATION TO PREVENT THE~~
 18 ~~WITHHOLDING OF CONSENT.~~

19 5-3B-19.

20 (a) In ruling on a petition for a prospective adoptee's adoption under this subtitle,
 21 a court shall consider:

22 (1) all factors necessary to determine the prospective adoptee's best
 23 interests; and

24 (2) any report prepared for the court.

25 (b) (1) (i) In this subsection~~], "disability" means:} THE FOLLOWING~~
 26 ~~WORDS HAVE THE MEANINGS INDICATED.~~

27 ~~1. a physical disability, infirmity, malformation, or~~
 28 ~~disfigurement that is caused by bodily injury, birth defect, or illness, including epilepsy;~~

29 ~~2. a mental impairment or deficiency;~~

~~3. a record of having a physical or mental impairment as defined under this paragraph; or~~

~~4. being regarded as having a physical or mental impairment as defined under this paragraph.~~

(ii) ~~“Disability” includes:~~

~~1. any degree of paralysis or amputation;~~

~~2. blindness or visual impairment;~~

~~3. deafness or hearing impairment;~~

~~4. muteness or speech impediment;~~

~~5. physical reliance on a service animal or a wheelchair or other remedial appliance or device; and~~

~~6. intellectual disability, as defined in § 7-101 of the Health General Article, and any other mental impairment or deficiency that may have necessitated remedial or special education and related services.~~

~~(H) “DISABILITY” MEANS:~~

~~1. A PHYSICAL OR MENTAL IMPAIRMENT THAT SUBSTANTIALLY LIMITS ONE OR MORE OF AN INDIVIDUAL’S MAJOR LIFE ACTIVITIES;~~

~~2. A RECORD OF HAVING A PHYSICAL OR MENTAL IMPAIRMENT THAT SUBSTANTIALLY LIMITS ONE OR MORE OF AN INDIVIDUAL’S MAJOR LIFE ACTIVITIES; OR~~

~~3. BEING REGARDED AS HAVING A PHYSICAL OR MENTAL IMPAIRMENT THAT SUBSTANTIALLY LIMITS ONE OR MORE OF AN INDIVIDUAL’S MAJOR LIFE ACTIVITIES.~~

~~(II) “DISABILITY” SHALL BE CONSTRUED IN ACCORDANCE WITH THE ADA AMENDMENTS ACT OF 2008, P.L. 110-325.~~

~~(III) “SUPPORTIVE PARENTING SERVICES” MEANS SERVICES THAT MAY ASSIST A BLIND INDIVIDUAL IN THE EFFECTIVE USE OF NONVISUAL TECHNIQUES AND OTHER ALTERNATIVE METHODS TO ENABLE THE INDIVIDUAL TO DISCHARGE THE INDIVIDUAL’S RESPONSIBILITIES TO A CHILD AS SUCCESSFULLY AS AN INDIVIDUAL WHO IS NOT BLIND.~~

1 (2) ~~(1)~~ In ruling on an adoption petition under this subtitle, a court may
2 not deny the petition solely because the petitioner:

3 ~~{(i)}~~ ~~1.~~ is single or unmarried; or

4 ~~{(ii)}~~ ~~2.~~ has a disability.

5 ~~(H) 1. THIS SUBPARAGRAPH APPLIES TO A PETITIONER~~
6 ~~WHO IS BLIND.~~

7 ~~2. THE PETITIONER SHALL HAVE THE OPPORTUNITY TO~~
8 ~~PROVE THAT SUPPORTIVE PARENTING SERVICES WOULD PREVENT A DENIAL OF A~~
9 ~~PETITION UNDER THIS SECTION.~~

10 ~~3. IF THE COURT DENIES THE PETITION, THE COURT~~
11 ~~SHALL SPECIFICALLY STATE IN WRITING:~~

12 ~~A. THE BASIS FOR THE DENIAL; AND~~

13 ~~B. THE REASON THAT THE PROVISION OF SUPPORTIVE~~
14 ~~PARENTING SERVICES IS NOT A REASONABLE ACCOMMODATION TO PREVENT THE~~
15 ~~DENIAL.~~

16 5-525.

17 (a) (1) In this section, "disability" means: ~~THE FOLLOWING WORDS HAVE~~
18 ~~THE MEANINGS INDICATED.~~

19 [(i) a physical disability, infirmity, malformation, or
20 disfigurement that is caused by bodily injury, birth defect, or illness, including epilepsy;

21 (ii) a mental impairment or deficiency;

22 (iii) a record of having a physical or mental impairment as
23 defined under this subsection; or

24 (iv) being regarded as having a physical or mental impairment
25 as defined under this subsection.

26 (2) "Disability" includes:

27 (i) any degree of paralysis or amputation;

28 (ii) blindness or visual impairment;

29 (iii) deafness or hearing impairment;

1 (iv) muteness or speech impediment;

2 (v) physical reliance on a service animal or a wheelchair or other
3 remedial appliance or device; and

4 (vi) intellectual disability, as defined in § 7-101 of the Health –
5 General Article, and any other mental impairment or deficiency that may have necessitated
6 remedial or special education and related services.]

7 ~~(2) “DISABILITY” MEANS:~~

8 (I) A PHYSICAL OR MENTAL IMPAIRMENT THAT
9 SUBSTANTIALLY LIMITS ONE OR MORE OF AN INDIVIDUAL’S MAJOR LIFE ACTIVITIES;

10 (II) A RECORD OF HAVING A PHYSICAL OR MENTAL IMPAIRMENT
11 THAT SUBSTANTIALLY LIMITS ONE OR MORE OF AN INDIVIDUAL’S MAJOR LIFE
12 ACTIVITIES; OR

13 (III) BEING REGARDED AS HAVING A PHYSICAL OR MENTAL
14 IMPAIRMENT THAT SUBSTANTIALLY LIMITS ONE OR MORE OF AN INDIVIDUAL’S
15 MAJOR LIFE ACTIVITIES.

16 (2) “DISABILITY” SHALL BE CONSTRUED IN ACCORDANCE WITH THE
17 ADA AMENDMENTS ACT OF 2008, P.L. 110-325.

18 ~~(3) “SUPPORTIVE PARENTING SERVICES” MEANS SERVICES THAT~~
19 ~~MAY ASSIST A BLIND INDIVIDUAL IN THE EFFECTIVE USE OF NONVISUAL~~
20 ~~TECHNIQUES AND OTHER ALTERNATIVE METHODS TO ENABLE THE INDIVIDUAL TO~~
21 ~~DISCHARGE THE INDIVIDUAL’S RESPONSIBILITIES TO A CHILD AS SUCCESSFULLY AS~~
22 ~~AN INDIVIDUAL WHO IS NOT BLIND.~~

23 (d) (1) The local department shall provide 24-hour a day care and supportive
24 services for a child who is committed to its custody or guardianship in an out-of-home
25 placement on a short-term basis or placed in accordance with a voluntary placement
26 agreement.

27 (2) (i) A child may not be committed to the custody or guardianship of
28 a local department and placed in an out-of-home placement solely because the child’s
29 parent or guardian lacks shelter or has a disability or solely because the child’s parents are
30 financially unable to provide treatment or care for a child with a developmental disability
31 or mental illness.

32 (ii) The local department shall make appropriate referrals to
33 emergency shelter services and other services for the homeless family with a child which
34 lacks shelter.

1 ~~(3) (i) THIS PARAGRAPH APPLIES TO A PARENT OR GUARDIAN~~
2 ~~WHO IS BLIND.~~

3 ~~(ii) THE PARENT OR GUARDIAN SHALL HAVE THE~~
4 ~~OPPORTUNITY TO PROVE THAT SUPPORTIVE PARENTING SERVICES WOULD~~
5 ~~PREVENT A DETERMINATION TO COMMIT THE CHILD TO THE CUSTODY OR~~
6 ~~GUARDIANSHIP OF A LOCAL DEPARTMENT AND PLACE THE CHILD IN AN~~
7 ~~OUT OF HOME PLACEMENT.~~

8 ~~(iii) IF THE LOCAL DEPARTMENT COMMITS THE CHILD TO THE~~
9 ~~CUSTODY OR GUARDIANSHIP OF A LOCAL DEPARTMENT AND PLACES THE CHILD IN~~
10 ~~AN OUT OF HOME PLACEMENT, THE LOCAL DEPARTMENT SHALL SPECIFICALLY~~
11 ~~STATE IN WRITING:~~

12 ~~1. THE BASIS FOR THE DETERMINATION; AND~~

13 ~~2. THE REASON THAT THE PROVISION OF SUPPORTIVE~~
14 ~~PARENTING SERVICES IS NOT A REASONABLE ACCOMMODATION TO PREVENT THE~~
15 ~~DETERMINATION.~~

16 (j) The Administration shall adopt regulations that:

17 (1) establish goals and specify permanency planning procedures that:

18 (i) maximize the prospect for reducing length of stay in out-of-home
19 placement in the best interests of children; and

20 (ii) implement the intent of this section;

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

26 ~~(ii) FOR A PARENT OR GUARDIAN WHO IS BLIND:~~

27 ~~1. PROVIDE AN OPPORTUNITY FOR THE PARENT OR~~
28 ~~GUARDIAN TO PROVE THAT SUPPORTIVE PARENTING SERVICES WOULD PREVENT~~
29 ~~THE CHILD FROM BEING COMMITTED TO THE CUSTODY OR GUARDIANSHIP OF A~~
30 ~~LOCAL DEPARTMENT AND PLACED IN AN OUT OF HOME PLACEMENT; AND~~

31 ~~2. REQUIRE THE LOCAL DEPARTMENT TO SPECIFICALLY~~
32 ~~STATE IN WRITING THE BASIS FOR A DETERMINATION TO COMMIT THE CHILD TO THE~~

~~CUSTODY OR GUARDIANSHIP OF A LOCAL DEPARTMENT AND PLACE THE CHILD IN AN OUT OF HOME PLACEMENT AND THE REASON THAT THE PROVISION OF SUPPORTIVE PARENTING SERVICES IS NOT A REASONABLE ACCOMMODATION TO PREVENT THE DETERMINATION;~~

(3) specify the compelling reasons for placing a child in a local jurisdiction other than the local jurisdiction where the child's parent or guardian resides, under subsection (f)(3)(ii) of this section;

(4) require the local department to make appropriate referrals to emergency shelter and other services for families with children who lack shelter;

(5) establish criteria for investigating and approving foster homes, including requirements for window coverings in accordance with § 5-505 of this subtitle;

(6) for cases in which the permanency plan recommended by the local department or under consideration by the court includes appointment of a guardian and rescission of the local department's custody or guardianship of a child:

(i) establish criteria for investigating and determining the suitability of prospective relative or nonrelative guardians; and

(ii) require the filing of a report with the court as provided in § 3-819.2 of the Courts Article; and

(7) ensure that all children in foster care who are at least 18 years of age have a birth certificate, a Social Security card, health insurance information, medical records, and a driver's license or State-issued identification card at emancipation.

9-107.

(a) (1) In this section[, "disability" means:] **THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**

[(i) a physical disability, infirmity, malformation, or disfigurement that is caused by bodily injury, birth defect, or illness, including epilepsy;

(ii) a mental impairment or deficiency;

(iii) a record of having a physical or mental impairment as defined under this subsection; or

(iv) being regarded as having a physical or mental impairment as defined under this subsection.

(2) "Disability" includes:

- 1 (i) any degree of paralysis or amputation;
- 2 (ii) blindness or visual impairment;
- 3 (iii) deafness or hearing impairment;
- 4 (iv) muteness or speech impediment;
- 5 (v) physical reliance on a service animal or a wheelchair or other
6 remedial appliance or device; and
- 7 (vi) intellectual disability, as defined in § 7-101 of the Health –
8 General Article, and any other mental impairment or deficiency that may have necessitated
9 remedial or special education and related services.]

10 (2) (I) **“DISABILITY” MEANS:**

11 ~~(I)~~ **1. A PHYSICAL OR MENTAL IMPAIRMENT THAT**
12 **SUBSTANTIALLY LIMITS ONE OR MORE OF AN INDIVIDUAL’S MAJOR LIFE ACTIVITIES;**

13 ~~(II)~~ **2. A RECORD OF HAVING A PHYSICAL OR MENTAL**
14 **IMPAIRMENT THAT SUBSTANTIALLY LIMITS ONE OR MORE OF AN INDIVIDUAL’S**
15 **MAJOR LIFE ACTIVITIES; OR**

16 ~~(III)~~ **3. BEING REGARDED AS HAVING A PHYSICAL OR MENTAL**
17 **IMPAIRMENT THAT SUBSTANTIALLY LIMITS ONE OR MORE OF AN INDIVIDUAL’S**
18 **MAJOR LIFE ACTIVITIES.**

19 (II) **“DISABILITY” SHALL BE CONSTRUED IN ACCORDANCE WITH**
20 **THE ADA AMENDMENTS ACT OF 2008, P.L. 110-325.**

21 (3) **“SUPPORTIVE PARENTING SERVICES” MEANS SERVICES THAT**
22 **MAY ASSIST ~~A BLIND INDIVIDUAL~~ AN INDIVIDUAL WITH A DISABILITY IN THE**
23 **EFFECTIVE USE OF ~~NONVISUAL~~ TECHNIQUES AND OTHER ALTERNATIVE METHODS**
24 **TO ENABLE THE INDIVIDUAL TO DISCHARGE THE INDIVIDUAL’S RESPONSIBILITIES**
25 **TO A CHILD AS SUCCESSFULLY AS AN INDIVIDUAL WHO ~~IS NOT BLIND~~ DOES NOT HAVE**
26 **A DISABILITY, INCLUDING NONVISUAL TECHNIQUES FOR INDIVIDUALS WHO ARE**
27 **BLIND.**

28 (b) (1) ~~[In] SUBJECT TO THE PROVISIONS OF PARAGRAPH (2) OF THIS~~
29 ~~SUBSECTION, IN any custody or visitation proceeding, a disability of a party is relevant~~
30 ~~only to the extent that the court finds, based on evidence in the record, that the disability~~
31 ~~affects the best interest of the child.~~

1 ~~(2) (i) THIS PARAGRAPH APPLIES ONLY IF A PARTY IS BLIND.~~

2 ~~(H)~~ IN ANY CUSTODY OR VISITATION PROCEEDING, THE
3 ~~BLINDNESS~~ DISABILITY OF A PARTY IS RELEVANT ONLY TO THE EXTENT THAT THE
4 COURT FINDS, BASED ON ~~CLEAR AND CONVINCING~~ EVIDENCE IN THE RECORD, THAT
5 THE DISABILITY AFFECTS THE BEST INTEREST OF THE CHILD.

6 ~~(H)~~ (2) THE PARTY ALLEGING THAT THE ~~BLINDNESS~~
7 DISABILITY OF THE OTHER PARTY AFFECTS THE BEST INTEREST OF THE CHILD
8 BEARS THE BURDEN OF PROVING ~~BY CLEAR AND CONVINCING EVIDENCE~~ THAT THE
9 ~~BLINDNESS~~ DISABILITY OF THE OTHER PARTY AFFECTS THE BEST INTEREST OF THE
10 CHILD.

11 ~~(IV)~~ (3) IF THE BURDEN OF PROOF IS MET, THE ~~BLIND~~ PARTY
12 WHO HAS A DISABILITY SHALL HAVE THE OPPORTUNITY TO PROVE THAT
13 SUPPORTIVE PARENTING SERVICES WOULD PREVENT A FINDING THAT THE
14 ~~BLINDNESS~~ DISABILITY AFFECTS THE BEST INTEREST OF THE CHILD.

15 ~~(V)~~ (4) IF THE COURT FINDS THAT THE ~~BLINDNESS~~
16 DISABILITY OF A PARTY AFFECTS THE BEST INTEREST OF THE CHILD AND DENIES
17 OR LIMITS CUSTODY OR VISITATION, THE COURT SHALL SPECIFICALLY STATE IN
18 WRITING:

19 ~~1=~~ (I) THE BASIS FOR THE FINDING; AND

20 ~~2=~~ (II) THE REASON THAT THE PROVISION OF
21 SUPPORTIVE PARENTING SERVICES IS NOT A REASONABLE ACCOMMODATION TO
22 PREVENT THE FINDING.

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
24 October 1, 2016.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.