

SENATE BILL 495

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2002 Regular Session  
2lr1437  
CF 2lr2754

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By: **Senators Hoffman, Blount, Colburn, Forehand, Green, Kittleman,  
Lawlah, Mooney, Munson, Pinsky, Roesser, Ruben, Teitelbaum, and Van  
Hollen**

Introduced and read first time: February 1, 2002  
Assigned to: Judicial Proceedings

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Committee Report: Favorable with amendments  
Senate action: Adopted  
Read second time: March 13, 2002

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CHAPTER 320

1 AN ACT concerning

2 **Children in Need of Assistance - Drug-Addicted Babies - Modifications**

3 FOR the purpose of modifying a certain presumption that a child is not receiving  
4 ordinary and proper care and attention within the definition of "child in need of  
5 assistance" (CINA) to apply to a child that is born exposed to certain dangerous  
6 substances as evidenced by certain ~~blood or other~~ appropriate tests of the  
7 mother or the child and to include a mother that refuses the recommended level  
8 of drug treatment; altering certain conditions regarding the termination of  
9 parental rights for certain children to apply to a child that is born exposed to  
10 certain dangerous substances as evidenced by certain ~~blood or other~~ appropriate  
11 tests of the mother or the child and to apply to a natural parent that refuses the  
12 recommended level of drug treatment; expanding the conditions which require a  
13 CINA petition to be filed in certain intervention systems developed in certain  
14 counties to include a mother that refuses the recommended level of drug  
15 treatment; expanding the circumstances under which a local department of  
16 social services is authorized to take certain action to include a mother that  
17 refuses the recommended level of drug treatment within a certain time period;  
18 and generally relating to children exposed to certain dangerous substances and  
19 a certain presumption, the termination of parental rights, and certain  
20 intervention systems in certain counties.

21 BY repealing and reenacting, with amendments,  
22 Article - Courts and Judicial Proceedings  
23 Section 3-818  
24 Annotated Code of Maryland

1 (1998 Replacement Volume and 2001 Supplement)

2 BY repealing and reenacting, with amendments,

3 Article - Family Law

4 Section 5-313(d), 5-706.3, and 5-710

5 Annotated Code of Maryland

6 (1999 Replacement Volume and 2001 Supplement)

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

9 **Article - Courts and Judicial Proceedings**

10 3-818.

11 Within 1 year after a child's birth, there is a presumption that a child is not  
12 receiving proper care and attention from the mother for purposes of § 3-801(f)(2) of  
13 this subtitle if:

14 (1) (i) The child was born [addicted to or dependent on] EXPOSED TO  
15 cocaine, heroin, or a derivative of cocaine or heroin[; or

16 (ii) The child was born with a significant presence of cocaine,  
17 heroin, or a derivative of cocaine or heroin in the child's blood] as evidenced by A  
18 ~~toxicology SCREEN OF THE BLOOD OF THE MOTHER OR CHILD or other~~ ANY  
19 appropriate tests OF THE MOTHER OR CHILD; OR

20 (II) UPON ADMISSION TO A HOSPITAL FOR DELIVERY OF THE  
21 CHILD. THE MOTHER TESTED POSITIVE FOR COCAINE, HEROIN, OR A DERIVATIVE OF  
22 COCAINE OR HEROIN AS EVIDENCED BY ANY APPROPRIATE TOXICOLOGY TEST; and

23 (2) Drug treatment is made available to the mother and the mother  
24 refuses THE RECOMMENDED LEVEL OF DRUG TREATMENT, or does not successfully  
25 complete the RECOMMENDED LEVEL OF drug treatment.

26 **Article - Family Law**

27 5-313.

28 (d) (1) In determining whether it is in the best interest of the child to  
29 terminate a natural parent's rights as to the child in a case involving a child who has  
30 been adjudicated to be a child in need of assistance, a neglected child, an abused child,  
31 or a dependent child, the court shall consider the factors in subsection (c) of this  
32 section and whether any of the following continuing or serious conditions or acts exist:

33 (i) the natural parent has a disability that renders the natural  
34 parent consistently unable to care for the immediate and ongoing physical or  
35 psychological needs of the child for long periods of time;

1 (ii) the natural parent has committed acts of abuse or neglect  
2 toward any child in the family;

3 (iii) the natural parent has failed repeatedly to give the child  
4 adequate food, clothing, shelter, and education or any other care or control necessary  
5 for the child's physical, mental, or emotional health, even though the natural parent  
6 is physically and financially able;

7 (iv) 1. the child was born[:

8 A. addicted to or dependent on] EXPOSED TO cocaine, heroin,  
9 or a derivative thereof [; or

10 B. with a significant presence of cocaine, heroin, or a  
11 derivative thereof in the child's blood] as evidenced by ~~A toxicology SCREEN OF THE~~  
12 ~~BLOOD OF THE MOTHER OR CHILD or other ANY~~ appropriate tests OF THE MOTHER  
13 OR CHILD; OR

14 B. UPON ADMISSION TO A HOSPITAL FOR DELIVERY OF THE  
15 CHILD, THE MOTHER TESTED POSITIVE FOR COCAINE, HEROIN, OR A DERIVATIVE OF  
16 COCAINE OR HEROIN AS EVIDENCED BY ANY APPROPRIATE TOXICOLOGY TEST; and

17 2. the natural parent refuses [admission into a drug  
18 treatment program,] THE RECOMMENDED LEVEL OF DRUG TREATMENT, or [failed]  
19 FAILS to fully participate in [a] THE RECOMMENDED LEVEL OF drug treatment  
20 [program]; or

21 (v) the natural parent has:

22 1. subjected the child to:

23 A. torture, chronic abuse, or sexual abuse; or

24 B. chronic and life-threatening neglect;

25 2. been convicted:

26 A. in this State of a crime of violence, as defined in Article 27,  
27 § 643B of the Code, against the child, the other natural parent of the child, another  
28 child of the natural parent, or any person who resides in the household of the natural  
29 parent;

30 B. in any state or in any court of the United States of a crime  
31 that would be a crime of violence, as defined in Article 27, § 643B of the Code, if  
32 committed in this State against the child, the other natural parent of the child,  
33 another child of the natural parent, or any person who resides in the household of the  
34 natural parent; or

35 C. of aiding or abetting, conspiring, or soliciting to commit a  
36 crime described in item A or item B of this item; or



- 1 (1) the mother refuses THE RECOMMENDED LEVEL OF drug treatment,  
2 or does not successfully complete THE RECOMMENDED LEVEL OF drug treatment;
- 3 (2) the mother is unable to provide adequate care for the child; and
- 4 (3) the father is unable to provide adequate care for the child.

5 5-710.

6 (a) Based on its findings and treatment plan, the local department shall  
7 render the appropriate services in the best interests of the child, including, when  
8 indicated, petitioning the juvenile court on behalf of the child for appropriate relief,  
9 including the added protection to the child that either commitment or custody would  
10 provide.

11 (b) (1) Promptly after receiving a report from a hospital or health  
12 practitioner of suspected neglect related to drug abuse and conducting an appropriate  
13 investigation, the local department may:

14 (i) file a petition alleging that the child is in need of assistance  
15 under Title 3, Subtitle 8 of the Courts Article; and

16 (ii) offer the mother admission into a drug treatment program.

17 (2) The local department may initiate a judicial proceeding to terminate  
18 a mother's parental rights, if the local department offers the mother admission into a  
19 drug treatment program under this subsection within 90 days after the birth of the  
20 child and the mother:

21 (i) does not accept admission to the program or its equivalent  
22 within 45 days after the offer is made; [or]

23 (ii) DOES NOT ACCEPT THE RECOMMENDED LEVEL OF DRUG  
24 TREATMENT WITHIN 45 DAYS AFTER THE OFFER IS MADE; OR

25 (III) fails to fully participate in the program or its equivalent.

26 (c) If a report has been made to the State's Attorney's office under § 5-706(i) of  
27 this subtitle and the State's Attorney's office is not satisfied with the recommendation  
28 of the local department, the State's Attorney's office may petition the court, at the  
29 time of the report by the representative, to remove the child, if the State's Attorney  
30 concludes that the child is in serious physical danger and that an emergency exists.

31 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
32 October 1, 2002.

