

SENATE BILL 333

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CF HB 1118

By: **Senator Garagiola**

Introduced and read first time: February 2, 2011

Assigned to: Judicial Proceedings

Committee Report: Favorable

Senate action: Adopted

Read second time: March 11, 2011

CHAPTER _____

1 AN ACT concerning

2 **Children in Need of Assistance – Hearings – Written Findings**

3 FOR the purpose of requiring the juvenile court, in certain child in need of assistance
4 hearings, to send certain written findings to certain individuals and agencies if
5 the court finds that certain reasonable efforts were made but that a certain
6 condition exists; and generally relating to children in need of assistance.

7 BY repealing and reenacting, with amendments,
8 Article – Courts and Judicial Proceedings
9 Section 3–816.1
10 Annotated Code of Maryland
11 (2006 Replacement Volume and 2010 Supplement)

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

14 **Article – Courts and Judicial Proceedings**

15 3–816.1.

16 (a) The provisions of this section apply to a hearing conducted in accordance
17 with § 3–815, § 3–817, § 3–819, or § 3–823 of this subtitle or a review hearing
18 conducted in accordance with § 5–326 of the Family Law Article in which a child is
19 placed under an order of guardianship, commitment, or shelter care.

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 (b) (1) In a hearing conducted in accordance with § 3–815, § 3–817,
2 § 3–819, or § 3–823 of this subtitle, the court shall make a finding whether the local
3 department made reasonable efforts to prevent placement of the child into the local
4 department’s custody.

5 (2) In a review hearing conducted in accordance with § 3–823 of this
6 subtitle or § 5–326 of the Family Law Article, the court shall make a finding whether a
7 local department made reasonable efforts to:

8 (i) Finalize the permanency plan in effect for the child; and

9 (ii) Meet the needs of the child, including the child’s health,
10 education, safety, and preparation for independence.

11 (3) In a hearing conducted in accordance with § 3–815, § 3–817, or
12 § 3–819 of this subtitle, before determining whether a child with a developmental
13 disability or a mental illness is a child in need of assistance, the court shall make a
14 finding whether the local department made reasonable efforts to prevent placement of
15 the child into the local department’s custody by determining whether the local
16 department could have placed the child in accordance with a voluntary placement
17 agreement under § 5–525(b)(1)(i) or (iii) of the Family Law Article.

18 (4) The court shall require a local department to provide evidence of
19 its efforts before the court makes a finding required under this subsection.

20 (5) The court’s finding under this subsection shall assess the efforts
21 made since the last adjudication of reasonable efforts and may not rely on findings
22 from prior hearings.

23 (c) In making its findings in accordance with subsection (b) of this section,
24 the court shall consider:

25 (1) The extent to which a local department has complied with the law,
26 regulations, state or federal court orders, or a stipulated agreement accepted by the
27 court regarding the provision of services to a child in an out-of-home placement;

28 (2) Whether a local department has ensured that:

29 (i) A caseworker is promptly assigned to and actively
30 responsible for the case at all times;

31 (ii) The identity of the caseworker has been promptly
32 communicated to the court and the parties; and

33 (iii) The caseworker is knowledgeable about the case and has
34 received on a timely basis all pertinent files and other information after receiving the
35 assignment from the local department;

1 (3) For a hearing under § 3–823 of this subtitle, whether a local
2 department has provided appropriate services that facilitate the achievement of a
3 permanency plan for the child, including consideration of in–State and out–of–state
4 placement options;

5 (4) Whether the child’s placement has been stable and in the least
6 restrictive setting appropriate, available, and accessible for the child during the period
7 since the most recent hearing held by the court;

8 (5) Whether a local department notified the court and all parties
9 before any change of placement for the child, or, if emergency conditions made a
10 change necessary, as soon as possible after the change of placement;

11 (6) On receipt of a report of maltreatment of a child occurring while
12 the child is in the custody of a local department, whether the local department
13 provided the appropriate parties, including the child’s attorney, a report or notice of a
14 report of the suspected maltreatment of the child and of the disposition of the
15 investigation within the time required by regulation and court order; and

16 (7) Whether a local department has provided appropriate and timely
17 services to help maintain the child in the child’s existing placement, including all
18 services and benefits available in accordance with State law, regulations, state and
19 federal court orders, stipulated agreements, or professional standards regarding the
20 provision of services to children in out–of–home placements.

21 (d) In making a finding in accordance with subsection (b) of this section, a
22 court may not consider a potential loss of federal funding for placement of a child that
23 may result from a determination that reasonable efforts were not made.

24 (e) A court shall make the findings required under subsection (b) of this
25 section in writing if it finds that reasonable efforts are being made for a child, but also
26 finds that at least one of the following conditions exists:

27 (1) A local department did not comply with law, regulations, court
28 orders, or agreements described in subsection (c)(1) of this section;

29 (2) A local department did not ensure continuity of casework as
30 described in subsection (c)(2) of this section;

31 (3) A local department did not provide the services described in
32 subsection (c)(3) of this section;

33 (4) During the period since the most recent court hearing, the child
34 has not been placed in a stable placement or in the least restrictive setting
35 appropriate, available, and accessible for the child;

1 (5) A local department failed to provide reports or notices of reports in
2 a timely manner as described in subsection (c)(5) or (6) of this section; or

3 (6) A local department has not provided the services described in
4 subsection (c)(7) of this section.

5 (f) If the court finds that reasonable efforts for a child were not made in
6 accordance with subsection (b) of this section or finds that reasonable efforts were
7 [not] made **BUT THAT ONE OF THE CONDITIONS DESCRIBED IN SUBSECTION (E)**
8 **OF THIS SECTION EXISTS**, the court promptly shall send its written findings to:

9 (1) The director of the local department;

10 (2) The Social Services Administration;

11 (3) The State Citizens Review Board for Children established under §
12 5-535 of the Family Law Article;

13 (4) If applicable, the local citizens review panel established under
14 § 5-539.2 of the Family Law Article; and

15 (5) Any individual or agency identified by a local department or the
16 court as responsible for monitoring the care and services provided to children in the
17 legal custody or guardianship of the local department on a systemic basis.

18 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
19 October 1, 2011.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.