

Article - Courts and Judicial Proceedings

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§3–816.1.

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

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

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

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

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

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

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

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

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

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

(2) Whether a local department has ensured that:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(f) If the court finds that reasonable efforts for a child were not made in accordance with subsection (b) of this section or finds that reasonable efforts were made but that one of the conditions described in subsection (e) of this section exists, the court promptly shall send its written findings to:

(1) The director of the local department;

(2) The Social Services Administration;

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

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

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

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