

Article - Courts and Judicial Proceedings

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§3–819.

(a) (1) Unless a CINA petition under this subtitle is dismissed, the court shall hold a separate disposition hearing after an adjudicatory hearing to determine whether the child is a CINA.

(2) The disposition hearing shall be held on the same day as the adjudicatory hearing unless on its own motion or motion of a party, the court finds that there is good cause to delay the disposition hearing to a later day.

(3) If the court delays a disposition hearing, it shall be held no later than 30 days after the conclusion of the adjudicatory hearing unless good cause is shown.

(b) (1) In making a disposition on a CINA petition under this subtitle, the court shall:

(i) Find that the child is not in need of assistance and, except as provided in subsection (e) of this section, dismiss the case;

(ii) Hold in abeyance a finding on whether a child with a developmental disability or a mental illness is a child in need of assistance and:

1. Order the local department to assess or reassess the family's and child's eligibility for placement of the child in accordance with a voluntary placement agreement under § 5–525(b)(1)(i) of the Family Law Article;

2. Order the local department to report back to the court in writing within 30 days unless the court extends the time period for good cause shown;

3. If the local department does not find the child eligible for placement in accordance with a voluntary placement agreement, hold a hearing to determine whether the family and child are eligible for placement of the child in accordance with a voluntary placement agreement; and

4. After the hearing:

A. Find that the child is not in need of assistance and order the local department to offer to place the child in accordance with a voluntary placement agreement under § 5–525(b)(1)(i) of the Family Law Article;

B. Find that the child is in need of assistance; or

C. Dismiss the case; or

(iii) Subject to paragraph (2) of this subsection, find that the child is

in need of assistance and:

1. Not change the child’s custody status; or
2. Commit the child on terms the court considers appropriate to the custody of:
 - A. A parent;
 - B. Subject to § 3–819.2 of this subtitle, a relative, or other individual; or
 - C. A local department, the Department of Health and Mental Hygiene, or both, including designation of the type of facility where the child is to be placed.

(2) (i) 1. In this paragraph, “disability” means:

- A. A physical disability, infirmity, malformation, or 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.

(ii) In making a disposition on a CINA petition under this subtitle, a disability of the child’s parent, guardian, or custodian is relevant only to the extent that

the court finds, based on evidence in the record, that the disability affects the ability of the parent, guardian, or custodian to give proper care and attention to the child and the child's needs.

(3) Unless good cause is shown, a court shall give priority to the child's relatives over nonrelatives when committing the child to the custody of an individual other than a parent.

(b-1) (1) If the court finds that a child enrolled in a public elementary or secondary school is in need of assistance and commits the child to the custody of a local department, the court may notify the county superintendent, the supervisor of pupil personnel, or any other official designated by the county superintendent of the fact that the child has been found to be in need of assistance and has been committed to the custody of a local department.

(2) If the court rescinds the commitment order for a child enrolled in a public elementary or secondary school, the court may notify the county superintendent, the supervisor of pupil personnel, or any other official designated by the county superintendent of the fact that the child is no longer committed to the custody of a local department of social services.

(3) The notice authorized under paragraphs (1) and (2) of this subsection may not include any order or pleading related to the child in need of assistance case.

(c) In addition to any action under subsection (b)(1)(iii) of this section, the court may:

(1) (i) Place a child under the protective supervision of the local department on terms the court considers appropriate;

(ii) Grant limited guardianship to the department or an individual or both for specific purposes including medical and educational purposes or for other appropriate services if a parent is unavailable, unwilling, or unable to consent to services that are in the best interest of the child; or

(iii) Order the child and the child's parent, guardian, or custodian to participate in rehabilitative services that are in the best interest of the child and family; and

(2) Determine custody, visitation, support, or paternity of a child in accordance with § 3-803(b) of this subtitle.

(d) If guardianship of a child is awarded to the local department under this subtitle, the local department shall notify the parents of the child and their attorneys as soon as practicable of any emergency decision made by the guardian with respect to the child under § 3-801(o) of this subtitle.

(e) If the allegations in the petition are sustained against only one parent of

a child, and there is another parent available who is able and willing to care for the child, the court may not find that the child is a child in need of assistance, but, before dismissing the case, the court may award custody to the other parent.

(f) If the disposition removes a child from the child's home, the order shall:

(1) Set forth specific findings of fact as to the circumstances that caused the need for the removal; and

(2) Inform the parents, custodian, or guardian, if any, that the person or agency to which the child is committed may change the permanency plan of reunification to another permanency plan, which may include the filing of a petition for termination of parental rights if the parents:

(i) Have not made significant progress to remedy the circumstances that caused the need for the removal as specified in the court order; and

(ii) Are unwilling or unable to give the child proper care and attention within a reasonable period of time.

(g) A guardian appointed under this section has no control over the property of the child unless the court expressly grants that authority.

(h) The court may not commit a child for inpatient care and treatment in a psychiatric facility unless the court finds on the record based on clear and convincing evidence that:

(1) The child has a mental disorder;

(2) The child needs inpatient medical care or treatment for the protection of the child or others;

(3) The child is unable or unwilling to be voluntarily admitted to such facility; and

(4) There is no less restrictive form of intervention available that is consistent with the child's condition and welfare.

(i) The court may not commit a child for inpatient care and treatment in a facility for the developmentally disabled unless the court finds on the record based on clear and convincing evidence that:

(1) The child is developmentally disabled;

(2) The condition is of such a nature that for the adequate care or protection of the child or others, the child needs in-residence care or treatment; and

(3) There is no less restrictive form of care and treatment available that

is consistent with the child's welfare and safety.

(j) (1) (i) Each commitment order issued under subsection (h) or (i) of this section shall require the custodian to file progress reports with the court at intervals no greater than every 6 months during the life of the order.

(ii) The custodian shall provide each party or attorney of record with a copy of each report, which shall be considered at the next scheduled hearing.

(iii) After the first 6 months of the commitment and at 6-month intervals thereafter, on the request of any party, the custodian, or the facility, the court shall hold a hearing to determine whether the standards specified in subsection (h) or (i) of this section continue to be met.

(2) (i) If an individualized treatment plan developed under § 10-706 of the Health – General Article recommends that a child no longer meets the standards specified in subsection (h) of this section, the court shall grant a hearing to review the commitment order.

(ii) The court may grant a hearing at any other time to determine whether the standards specified in subsection (h) of this section continue to be met.

(3) (i) If an individualized plan of habilitation developed under § 7-1006 of the Health – General Article recommends that a child no longer meets the standards specified in subsection (i) of this section, the court shall grant a hearing to review the commitment order.

(ii) The court may grant a hearing at any other time to determine whether the standards specified in subsection (i) of this section continue to be met.

(k) An order vesting legal custody of a child in a person or agency is effective for an indeterminate period of time, but is not effective after the child reaches the age of 21.

(l) After giving the parent a reasonable opportunity to be heard, and determining the income of the parent, the court may order either parent or both parents to pay a sum in the amount the court directs to cover wholly or partly the support of the child under this subtitle.

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