

HB0646/672819/1

BY: House Judiciary Committee

AMENDMENTS TO HOUSE BILL 646

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 6, after “individual” insert “convicted of or”; in line 7, after “child;” insert “prohibiting the court from terminating parental rights under certain circumstances;”; strike beginning with “authorizing” in line 9 down through “circumstances;” in line 10; in line 14, after “child;” insert “specifying that a party’s testimony in a certain termination of parental rights proceeding is inadmissible as evidence in a criminal proceeding against that party under certain circumstances; requiring the Office of the Public Defender to represent certain respondents in a proceeding under this Act;”; and after line 15, insert:

“BY repealing and reenacting, with amendments,

Article – Criminal Procedure

Section 16-204(b)(1)

Annotated Code of Maryland

(2008 Replacement Volume and 2015 Supplement)”.

AMENDMENT NO. 2

On page 2, strike in their entirety lines 9 through 16, inclusive; in line 17, strike “(C)” and substitute “(B)”; and strike beginning with “VAGINAL” in line 17 down through “INDIVIDUAL” in line 24 and substitute “AN ACT THAT IS PROHIBITED UNDER § 3-303, § 3-304(A)(1) OR (2), OR § 3-323 OF THE CRIMINAL LAW ARTICLE”.

On pages 2 and 3, strike beginning with “(D)” in line 25 on page 2 down through “(E)” in line 4 on page 3 and substitute “(C)”; strike beginning with “ALLEGED” in line 4 down through “ACTION” in line 6 and substitute “AGAINST WHOM AN ACTION FOR

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TERMINATION OF PARENTAL RIGHTS IS FILED"; and strike in their entirety lines 7 through 15, inclusive.

AMENDMENT NO. 3

On page 3, in line 23, after "**(2)**" insert "**(I) FINDS THAT THE RESPONDENT HAS BEEN CONVICTED OF AN ACT OF NONCONSENSUAL SEXUAL CONDUCT AGAINST THE OTHER PARENT THAT RESULTED IN THE CONCEPTION OF THE CHILD AT ISSUE IN AN ACTION UNDER THIS SUBTITLE; OR**

(II)".

AMENDMENT NO. 4

On page 3, in line 27, strike "A PREPONDERANCE OF THE" and substitute "**CLEAR AND CONVINCING**".

AMENDMENT NO. 5

On page 3, in line 17, strike "AFTER" and substitute "**EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, AFTER**".

On page 4, in line 1, after "**(B)**" insert "**THE COURT MAY NOT TERMINATE PARENTAL RIGHTS UNDER SUBSECTION (A) OF THIS SECTION IF THE PARENTS WERE MARRIED AT THE TIME OF THE CONCEPTION OF THE CHILD AT ISSUE, UNLESS THE RESPONDENT HAS BEEN CONVICTED OF AN ACT OF NONCONSENSUAL SEXUAL CONDUCT AGAINST THE OTHER PARENT THAT RESULTED IN THE CONCEPTION OF THE CHILD.**

(C)".

AMENDMENT NO. 6

On page 4, strike in their entirety lines 4 through 9, inclusive.

AMENDMENT NO. 7

On page 4, in lines 18 and 28, in each instance, strike “15” and substitute “60”.

AMENDMENT NO. 8

On page 5, in line 4, after “(A)” insert “(1)”; in the same line, strike “SUBSECTION (B) OF THIS SECTION” and substitute “PARAGRAPH (3) OF THIS SUBSECTION”; in lines 11 and 13, strike “(B)” and “(C)”, respectively, and substitute “(2)” and “(3)”, respectively; and after line 14, insert:

“(B) A PARTY’S TESTIMONY IN A PROCEEDING UNDER THIS SUBTITLE IS INADMISSIBLE AS EVIDENCE IN A CRIMINAL PROCEEDING AGAINST THAT PARTY IF:

(1) THE CRIMINAL PROCEEDING INVOLVES THE SAME UNDERLYING FACTS; AND

(2) THE EVIDENCE IS OFFERED FOR A PURPOSE OTHER THAN IMPEACHMENT.”

AMENDMENT NO. 9

On page 2, after line 3, insert:

“Article – Criminal Procedure

16–204.

(b) (1) Indigent defendants or parties shall be provided representation under this title in:

(i) a criminal or juvenile proceeding in which a defendant or party is alleged to have committed a serious offense;

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(ii) a criminal or juvenile proceeding in which an attorney is constitutionally required to be present prior to presentment being made before a commissioner or judge;

(iii) a postconviction proceeding for which the defendant has a right to an attorney under Title 7 of this article;

(iv) any other proceeding in which confinement under a judicial commitment of an individual in a public or private institution may result;

(v) a proceeding involving children in need of assistance under § 3–813 of the Courts Article; [or]

(vi) a family law proceeding under Title 5, Subtitle 3, Part II or Part III of the Family Law Article, including:

1. for a parent, a hearing in connection with guardianship or adoption;

2. a hearing under § 5–326 of the Family Law Article for which the parent has not waived the right to notice; and

3. an appeal; OR

(VII) FOR A RESPONDENT, AS DEFINED IN § 5-1401 OF THE FAMILY LAW ARTICLE, A PROCEEDING UNDER TITLE 5, SUBTITLE 14 OF THE FAMILY LAW ARTICLE TO TERMINATE THE RESPONDENT’S PARENTAL RIGHTS.”