

SENATE BILL 1043

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By: **Senator Hough**

Introduced and read first time: March 4, 2019

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Children in Need of Assistance – Qualified Residential Treatment Programs**
3 **(Family First Prevention Services Act)**

4 FOR the purpose of requiring the juvenile court to conduct a hearing to review the status
5 of a child placed in a qualified residential treatment program and make a certain
6 determination within a certain period of time after the child enters the placement;
7 requiring the juvenile court to review a certain assessment and consider certain
8 factors at a certain hearing; requiring the juvenile court to state, in writing, the
9 reasons for its decision to approve or disapprove the continued placement of a child
10 in a qualified residential program; requiring the juvenile court to consider certain
11 factors when reviewing the permanency plan of a child placed in a qualified
12 residential treatment program; defining a certain term; and generally relating to
13 children placed in qualified residential treatment programs.

14 BY repealing and reenacting, with amendments,
15 Article – Courts and Judicial Proceedings
16 Section 3–801, 3–816.2, and 3–823(h)
17 Annotated Code of Maryland
18 (2013 Replacement Volume and 2018 Supplement)

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

21 **Article – Courts and Judicial Proceedings**

22 3–801.

23 (a) In this subtitle the following words have the meanings indicated.

24 (b) “Abuse” means:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (1) Sexual abuse of a child, whether a physical injury is sustained or not;
2 or

3 (2) Physical or mental injury of a child under circumstances that indicate
4 that the child's health or welfare is harmed or is at substantial risk of being harmed by:

5 (i) A parent or other individual who has permanent or temporary
6 care or custody or responsibility for supervision of the child; or

7 (ii) A household or family member.

8 (c) "Adjudicatory hearing" means a hearing under this subtitle to determine
9 whether the allegations in the petition, other than the allegation that the child requires the
10 court's intervention, are true.

11 (d) "Adult" means an individual who is at least 18 years old.

12 (e) "Child" means an individual under the age of 18 years.

13 (f) "Child in need of assistance" means a child who requires court intervention
14 because:

15 (1) The child has been abused, has been neglected, has a developmental
16 disability, or has a mental disorder; and

17 (2) The child's parents, guardian, or custodian are unable or unwilling to
18 give proper care and attention to the child and the child's needs.

19 (g) "CINA" means a child in need of assistance.

20 (h) "Commit" means to transfer custody.

21 (i) "Court" means the circuit court for a county sitting as the juvenile court.

22 (j) "Custodian" means a person or governmental agency to whom custody of a
23 child has been given by order of court, including a court other than the juvenile court.

24 (k) "Custody" means the right and obligation, unless otherwise determined by the
25 court, to provide ordinary care for a child and determine placement.

26 (l) "Developmental disability" means a severe chronic disability of an individual
27 that:

28 (1) Is attributable to a physical or mental impairment, other than the sole
29 diagnosis of mental illness, or to a combination of mental and physical impairments;

30 (2) Is likely to continue indefinitely;

1 (3) Results in an inability to live independently without external support
2 or continuing and regular assistance; and

3 (4) Reflects the need for a combination and sequence of special,
4 interdisciplinary, or generic care, treatment, or other services that are individually planned
5 and coordinated for the individual.

6 (m) “Disposition hearing” means a hearing under this subtitle to determine:

7 (1) Whether a child is in need of assistance; and

8 (2) If so, the nature of the court’s intervention to protect the child’s health,
9 safety, and well-being.

10 (n) “Guardian” means a person to whom guardianship of a child has been given
11 by order of court, including a court other than the juvenile court.

12 (o) “Guardianship” means an award by a court, including a court other than the
13 juvenile court, of the authority to make ordinary and emergency decisions as to the child’s
14 care, welfare, education, physical and mental health, and the right to pursue support.

15 (p) “Local department” means:

16 (1) The local department of social services for the county in which the court
17 is located; or

18 (2) In Montgomery County, the county department of health and human
19 services.

20 (q) (1) “Mental disorder” means a behavioral or emotional illness that results
21 from a psychiatric or neurological disorder.

22 (2) “Mental disorder” includes a mental illness that so substantially
23 impairs the mental or emotional functioning of an individual as to make care or treatment
24 necessary or advisable for the welfare of the individual or for the safety of the person or
25 property of another.

26 (3) “Mental disorder” does not include mental retardation.

27 (r) “Mental injury” means the observable, identifiable, and substantial
28 impairment of a child’s mental or psychological ability to function.

29 (s) “Neglect” means the leaving of a child unattended or other failure to give
30 proper care and attention to a child by any parent or individual who has permanent or
31 temporary care or custody or responsibility for supervision of the child under circumstances
32 that indicate:

1 (1) That the child's health or welfare is harmed or placed at substantial
2 risk of harm; or

3 (2) That the child has suffered mental injury or been placed at substantial
4 risk of mental injury.

5 (t) "Parent" means a natural or adoptive parent whose parental rights have not
6 been terminated.

7 (u) (1) "Party" means:

8 (i) A child who is the subject of a petition;

9 (ii) The child's parent, guardian, or custodian;

10 (iii) The petitioner; or

11 (iv) An adult who is charged under § 3-828 of this subtitle.

12 (2) "Party" does not include a foster parent.

13 (V) **"QUALIFIED RESIDENTIAL TREATMENT PROGRAM" MEANS A PROGRAM**
14 **WITHIN A LICENSED CHILD CARE INSTITUTION THAT PROVIDES CONTINUOUS,**
15 **24-HOUR CARE AND SUPPORTIVE SERVICES TO CHILDREN IN A RESIDENTIAL,**
16 **NONFAMILY HOME SETTING THAT:**

17 (1) **HAS A TRAUMA-INFORMED TREATMENT MODEL THAT IS**
18 **DESIGNED TO ADDRESS THE CLINICAL AND OTHER NEEDS OF CHILDREN WITH**
19 **SERIOUS EMOTIONAL OR BEHAVIORAL DISORDERS OR DISTURBANCES;**

20 (2) **IS ABLE TO IMPLEMENT THE SPECIFIC TREATMENT**
21 **RECOMMENDED IN AN ASSESSMENT COMPLETED BY A QUALIFIED INDIVIDUAL;**

22 (3) **HAS REGISTERED OR LICENSED NURSING STAFF AND OTHER**
23 **LICENSED CLINICAL STAFF WHO ARE:**

24 (I) **ON SITE ACCORDING TO THE TREATMENT MODEL AND**
25 **DURING BUSINESS HOURS; AND**

26 (II) **AVAILABLE 24 HOURS A DAY, 7 DAYS A WEEK;**

27 (4) **APPROPRIATELY FACILITATES OUTREACH TO FAMILY MEMBERS**
28 **AND INTEGRATES THE FAMILY MEMBERS INTO THE TREATMENT OF THE CHILDREN;**
29 **AND**

1 **(5) IS ABLE TO PROVIDE DISCHARGE PLANNING THAT:**

2 **(I) PROVIDES FAMILY-BASED AFTERCARE SUPPORT FOR AT**
3 **LEAST 6 MONTHS FOLLOWING DISCHARGE;**

4 **(II) IS LICENSED IN ACCORDANCE WITH § 471(A)(10) OF THE**
5 **SOCIAL SECURITY ACT; AND**

6 **(III) IS ACCREDITED BY AN APPROVED INDEPENDENT**
7 **NONPROFIT ORGANIZATION.**

8 **[(v)] (W)** “Reasonable efforts” means efforts that are reasonably likely to achieve
9 the objectives set forth in § 3–816.1(b)(1) and (2) of this subtitle.

10 **[(w)] (X)** “Relative” means an individual who is:

11 (1) Related to the child by blood or marriage within five degrees of
12 consanguinity or affinity under the civil law; and

13 (2) (i) At least 21 years old; or

14 (ii) 1. At least 18 years old; and

15 2. Lives with a spouse who is at least 21 years old.

16 **[(x)] (Y)** “Sex trafficking” means the recruitment, harboring, transportation,
17 provision, obtaining, patronizing, or soliciting of a child for the purpose of a commercial sex
18 act.

19 **[(y)] (Z)** “Sexual abuse” means an act that involves:

20 (1) Sexual molestation or exploitation of a child by:

21 (i) A parent or other individual who has permanent or temporary
22 care or custody or responsibility for supervision of the child; or

23 (ii) A household or family member; or

24 (2) Sex trafficking of a child by any individual.

25 **[(z)] (AA)** “Sexual molestation or exploitation” includes:

26 (1) Allowing or encouraging a child to engage in:

27 (i) Obscene photography, films, poses, or similar activity;

- 1 (ii) Pornographic photography, films, poses, or similar activity; or
 2 (iii) Prostitution;
- 3 (2) Incest;
- 4 (3) Rape;
- 5 (4) Sexual offense in any degree;
- 6 (5) Sodomy; and
- 7 (6) Unnatural or perverted sexual practices.

8 [(aa)] **(BB)** “Shelter care” means a temporary placement of a child outside of the
 9 home at any time before disposition.

10 [(bb)] **(CC)** “Shelter care hearing” means a hearing held before disposition to
 11 determine whether the temporary placement of the child outside of the home is warranted.

12 [(cc)] **(DD)** “TPR proceeding” means a proceeding to terminate parental rights.

13 [(dd)] **(EE)** “Voluntary placement” means a placement in accordance with §
 14 5–525(b)(1)(i) or (iii) or (3) of the Family Law Article.

15 [(ee)] **(FF)** “Voluntary placement hearing” means a hearing to obtain a judicial
 16 determination as to whether continuing a voluntary placement is in the best interests of
 17 the child.

18 3–816.2.

19 (a) (1) **[The] EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION,**
 20 **THE** court shall conduct a hearing to review the status of each child under its jurisdiction
 21 within 6 months after the filing of the first petition under this subtitle and at least every 6
 22 months thereafter.

23 (2) At a review hearing under this section, the court shall:

24 (i) Evaluate the safety of the child;

25 (ii) Determine the continuing necessity for and appropriateness of
 26 any out-of-home placement;

27 (iii) Determine the appropriateness of and extent of compliance with
 28 the case plan for the child;

1 (iv) Determine the extent of progress that has been made toward
2 alleviating or mitigating the causes necessitating the court's jurisdiction; and

3 (v) Project a reasonable date by which the child may be returned to
4 and safely maintained in the home or placed for adoption or under a legal guardianship.

5 **(B) (1) THE COURT SHALL CONDUCT A HEARING TO REVIEW THE STATUS**
6 **OF A CHILD PLACED IN A QUALIFIED RESIDENTIAL TREATMENT PROGRAM AND**
7 **DETERMINE THE APPROPRIATENESS OF PLACEMENT WITHIN 60 DAYS AFTER THE**
8 **CHILD ENTERS THE PLACEMENT.**

9 **(2) AT A HEARING UNDER THIS SUBSECTION, THE COURT SHALL:**

10 **(I) REVIEW THE ASSESSMENT OF THE CHILD CONDUCTED BY A**
11 **QUALIFIED INDIVIDUAL;**

12 **(II) CONSIDER WHETHER THE NEEDS OF THE CHILD CAN BE**
13 **MET THROUGH PLACEMENT IN A FOSTER FAMILY HOME;**

14 **(III) CONSIDER WHETHER PLACEMENT OF THE CHILD IN A**
15 **QUALIFIED RESIDENTIAL TREATMENT PROGRAM PROVIDES THE MOST EFFECTIVE**
16 **AND APPROPRIATE CARE FOR THE CHILD IN THE LEAST RESTRICTIVE**
17 **ENVIRONMENT; AND**

18 **(IV) CONSIDER WHETHER PLACEMENT OF THE CHILD IN A**
19 **QUALIFIED RESIDENTIAL TREATMENT PROGRAM IS CONSISTENT WITH THE**
20 **SHORT-TERM AND LONG-TERM GOALS FOR THE CHILD AS SPECIFIED IN THE**
21 **PERMANENCY PLAN.**

22 **(3) THE COURT SHALL STATE, IN WRITING, THE REASONS FOR ITS**
23 **DECISION TO APPROVE OR DISAPPROVE THE CONTINUED PLACEMENT OF A CHILD**
24 **IN A QUALIFIED RESIDENTIAL TREATMENT PROGRAM UNDER THIS SUBSECTION.**

25 **[(b)] (C)** If a permanency plan for the child has been determined under § 3-823
26 of this subtitle, a review hearing conducted by the court under § 3-823(h) of this subtitle
27 shall satisfy the requirements of this section.

28 3-823.

29 (h) (1) (i) Except as provided in subparagraphs (ii) and (iii) of this
30 paragraph, the court shall conduct a hearing to review the permanency plan at least every
31 6 months until commitment is rescinded or a voluntary placement is terminated.

32 (ii) The court shall conduct a review hearing every 12 months after

1 the court determines that the child shall be continued in out-of-home placement with a
2 specific caregiver who agrees to care for the child on a permanent basis.

3 (iii) 1. Unless the court finds good cause, a case shall be
4 terminated after the court grants custody and guardianship of the child to a relative or
5 other individual.

6 2. If the court finds good cause not to terminate a case, the
7 court shall conduct a review hearing every 12 months until the case is terminated.

8 3. The court may not conclude a review hearing under
9 subsubparagraph 2 of this subparagraph unless the court has seen the child in person.

10 (2) At the review hearing, the court shall:

11 (i) Determine the continuing necessity for and appropriateness of
12 the commitment;

13 (ii) Determine and document in its order whether reasonable efforts
14 have been made to finalize the permanency plan that is in effect;

15 (iii) Determine the extent of progress that has been made toward
16 alleviating or mitigating the causes necessitating commitment;

17 (iv) Project a reasonable date by which a child in placement may be
18 returned home, placed in a preadoptive home, or placed under a legal guardianship;

19 (v) Evaluate the safety of the child and take necessary measures to
20 protect the child;

21 (vi) Change the permanency plan if a change in the permanency plan
22 would be in the child's best interest; and

23 (vii) For a child with a developmental disability, direct the provision
24 of services to obtain ongoing care, if any, needed after the court's jurisdiction ends.

25 **(3) (I) FOR A CHILD PLACED IN A QUALIFIED RESIDENTIAL**
26 **TREATMENT PROGRAM, THE COURT SHALL:**

27 **1. DETERMINE WHETHER THE ONGOING NEEDS**
28 **ASSESSMENTS OF THE CHILD SUPPORT CONTINUED PLACEMENT OF THE CHILD IN A**
29 **QUALIFIED RESIDENTIAL TREATMENT PROGRAM;**

30 **2. DETERMINE WHETHER PLACEMENT IN A QUALIFIED**
31 **RESIDENTIAL TREATMENT PROGRAM PROVIDES THE MOST EFFECTIVE AND**
32 **APPROPRIATE LEVEL OF CARE FOR THE CHILD IN THE LEAST RESTRICTIVE**

1 ENVIRONMENT; AND

2 **3. DETERMINE WHETHER THE CONTINUED PLACEMENT**
3 **IN A QUALIFIED RESIDENTIAL TREATMENT PROGRAM IS CONSISTENT WITH THE**
4 **SHORT-TERM AND LONG-TERM GOALS FOR THE CHILD AS SPECIFIED IN THE**
5 **PERMANENCY PLAN.**

6 **(II) THE COURT SHALL STATE, IN WRITING, THE REASONS FOR**
7 **ITS DECISION TO APPROVE OR DISAPPROVE THE CONTINUED PLACEMENT OF A**
8 **CHILD IN A QUALIFIED RESIDENTIAL TREATMENT PROGRAM UNDER THIS**
9 **PARAGRAPH.**

10 **[(3)] (4)** Every reasonable effort shall be made to effectuate a permanent
11 placement for the child within 24 months after the date of initial placement.

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
13 October 1, 2019.