

HOUSE BILL 833

D4

4lr1204

By: **Delegates Williams and Wilkins**

Introduced and read first time: January 31, 2024

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Children in Need of Assistance – Parents in Substance Use Disorder Treatment**

3 FOR the purpose of establishing a presumption that placement with a child's parent is in
4 the best interest of the child, the child is receiving proper care and attention, and
5 there is not a certain emergency situation if the child's parent is receiving certain
6 substance use disorder treatment; requiring a local department of social services to
7 file a certain report with a court under certain circumstances; and generally relating
8 to children in need of assistance.

9 BY repealing and reenacting, with amendments,
10 Article – Courts and Judicial Proceedings
11 Section 3–815 and 3–818
12 Annotated Code of Maryland
13 (2020 Replacement Volume and 2023 Supplement)

14 BY repealing and reenacting, with amendments,
15 Article – Family Law
16 Section 5–525(e)(4)
17 Annotated Code of Maryland
18 (2019 Replacement Volume and 2023 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 3–815.

23 (a) In accordance with regulations adopted by the Department of Human
24 Services, a local department may authorize shelter care for a child who may be in need of
25 assistance and has been taken into custody under this subtitle.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (b) A local department may place a child in emergency shelter care before a
2 hearing if:

3 (1) Placement is required to protect the child from serious immediate
4 danger;

5 (2) There is no parent, guardian, custodian, relative, or other person able
6 to provide supervision; and

7 (3) (i) 1. The child's continued placement in the child's home is
8 contrary to the welfare of the child; and

9 2. Because of an alleged emergency situation, removal from
10 the home is reasonable under the circumstances to provide for the safety of the child; or

11 (ii) 1. Reasonable efforts have been made but have been
12 unsuccessful in preventing or eliminating the need for removal from the child's home; and

13 2. As appropriate, reasonable efforts are being made to
14 return the child to the child's home.

15 (c) (1) Whenever a child is not returned to the child's parent, guardian, or
16 custodian, the local department shall immediately file a petition to authorize continued
17 shelter care.

18 (2) (i) The court shall hold a shelter care hearing on the petition before
19 disposition to determine whether the temporary placement of the child outside of the home
20 is warranted.

21 (ii) Unless extended on good cause shown, a shelter care hearing
22 shall be held not later than the next day on which the circuit court is in session.

23 (3) If the child's parents, guardian, custodian, or relatives can be located,
24 reasonable notice, oral or written, stating the time, place, and purpose of the shelter care
25 hearing shall be given.

26 (4) A court may not order shelter care for more than 30 days except that
27 shelter care may be extended for up to an additional 30 days if the court finds after a
28 hearing held as part of an adjudication that continued shelter care is needed to provide for
29 the safety of the child.

30 (5) Unless good cause is shown, a court shall give priority to the child's
31 relatives over nonrelatives when ordering shelter care for a child.

32 (d) **[A] SUBJECT TO SUBSECTION (E) OF THIS SECTION,** A court may continue
33 shelter care beyond emergency shelter care only if the court finds that:

1 (1) Return of the child to the child's home is contrary to the safety and
2 welfare of the child; and

3 (2) (i) Removal of the child from the child's home is necessary due to an
4 alleged emergency situation and in order to provide for the safety of the child; or

5 (ii) Reasonable efforts were made but were unsuccessful in
6 preventing or eliminating the need for removal of the child from the home.

7 (e) **IF A CHILD'S PARENT IS RECEIVING TREATMENT IN A RESIDENTIAL OR
8 OUTPATIENT SUBSTANCE USE DISORDER TREATMENT PROGRAM WITH BEDS OR
9 SERVICES FOR PATIENTS' CHILDREN, THERE IS A PRESUMPTION THAT:**

10 **(1) PLACEMENT WITH THE CHILD'S PARENT IS IN THE BEST INTEREST
11 OF THE CHILD; AND**

12 **(2) THERE IS NOT AN EMERGENCY SITUATION UNDER THE
13 PROVISIONS OF SUBSECTION (D)(2)(I) OF THIS SECTION.**

14 (F) (1) If the court continues shelter care on the basis of an alleged emergency,
15 the court shall assess whether the absence of efforts to prevent removal was reasonable.

16 (2) If the court finds that the absence of efforts to prevent removal was not
17 reasonable, the court shall make a written determination so stating.

18 (3) The court shall make a written determination as to whether reasonable
19 efforts are being made to make it possible to return the child to the child's home or whether
20 the absence of such efforts is reasonable.

21 [(f)] (G) (1) An alleged CINA may not be placed in:

22 (i) Detention, as defined in § 3-8A-01 of this title; or

23 (ii) A mental health facility, unless committed involuntarily in
24 accordance with §§ 10-613 through 10-619 of the Health – General Article.

25 (2) (i) If the child is alleged to be in need of assistance because of a
26 mental disorder or a developmental disability, the child may be placed in a shelter care
27 facility maintained or licensed by the Maryland Department of Health or, if no such facility
28 is available, in a private home or shelter care facility approved by the court.

29 (ii) If the child is alleged to be in need of assistance for any other
30 reason, the child may be placed in a shelter care facility maintained or approved by the
31 Social Services Administration or in a private home or shelter care facility approved by the
32 court.

1 (3) An alleged CINA may not be placed in a shelter care facility that is not
2 operating in compliance with applicable State licensing laws.

3 (4) The Secretary of Human Services, the Secretary of Juvenile Services,
4 the Secretary of Health, the State Superintendent of Schools, and the Special Secretary for
5 Children, Youth, and Families, when appropriate, shall jointly adopt regulations to ensure
6 that any child placed in shelter care in accordance with a petition filed under this section
7 is provided appropriate services, including:

8 (i) Health care services;

9 (ii) Mental health care services;

10 (iii) Counseling services;

11 (iv) Education services;

12 (v) Social work services;

13 (vi) [Drug and alcohol abuse] **SUBSTANCE USE DISORDER**
14 assessment or treatment services; and

15 (vii) Visitation with siblings and biological family.

16 (5) In addition to any other provision, the regulations shall require the
17 local department:

18 (i) Within 45 days of placement of a child in a shelter care facility,
19 to develop a plan to assess the child's treatment needs; and

20 (ii) To submit the plan to all parties to the petition and their counsel.

21 3-818.

22 (A) [Within] **EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION,**
23 **WITHIN** 1 year after a child's birth, there is a presumption that a child is not receiving
24 proper care and attention from the [mother] **PARENT** for purposes of § 3-801(f)(2) of this
25 subtitle if:

26 (1) (i) The child was born exposed to cocaine, heroin,
27 methamphetamine, or a derivative of cocaine, heroin, or methamphetamine as evidenced
28 by any appropriate tests of the [mother] **PARENT** or child; or

1 (ii) Upon admission to a hospital for delivery of the child, the
2 [mother] PARENT tested positive for cocaine, heroin, methamphetamine, or a derivative of
3 cocaine, heroin, or methamphetamine as evidenced by any appropriate toxicology test; and

4 (2) [Drug] SUBSTANCE USE DISORDER treatment is made available to
5 the [mother] PARENT and the [mother] PARENT refuses the recommended level of [drug]
6 SUBSTANCE USE DISORDER treatment, or does not successfully complete the
7 recommended level of [drug] SUBSTANCE USE DISORDER treatment.

8 (B) THERE IS A PRESUMPTION THAT A CHILD IS RECEIVING PROPER CARE
9 AND ATTENTION FROM THE PARENT FOR PURPOSES OF § 3-801(F)(2) OF THIS
10 SUBTITLE IF THE PARENT IS RECEIVING TREATMENT IN A RESIDENTIAL OR
11 OUTPATIENT SUBSTANCE USE DISORDER TREATMENT PROGRAM WITH BEDS OR
12 SERVICES FOR PATIENTS' CHILDREN.

13 Article – Family Law

14 5-525.

15 (e) (4) If continuation of reasonable efforts to reunify the child with the child's
16 parents or guardian is determined to be inconsistent with the permanency plan for the
17 child[,]:

18 (I) reasonable efforts shall be made to place the child in a timely
19 manner in accordance with the permanency plan, including consideration of both in-State
20 and out-of-state placements, and to complete the steps to finalize the permanent
21 placement of the child; AND

22 (II) IN A CASE IN WHICH THE PARENT OF THE CHILD IS
23 RECEIVING TREATMENT IN A RESIDENTIAL OR OUTPATIENT SUBSTANCE USE
24 DISORDER TREATMENT PROGRAM WITH BEDS OR SERVICES FOR PATIENTS'
25 CHILDREN, THE LOCAL DEPARTMENT SHALL FILE A REPORT WITH THE COURT THAT
26 EXPLAINS:

27 1. WHY THE CHILD WAS NOT PLACED WITH THE PARENT;

28 2. ANY EFFORTS THE LOCAL DEPARTMENT HAS MADE
29 TOWARD PLACEMENT OF THE CHILD; AND

30 3. ANY DIFFICULTIES WITH PLACING THE CHILD WITH
31 THE PARENT.

32 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
33 October 1, 2024.