

HOUSE BILL 833

D4

(4lr1204)

ENROLLED BILL

— Judiciary/Judicial Proceedings —

Introduced by ~~Delegates Williams and Wilkins~~, Wilkins, Simmons, Phillips, Arikan, Taylor, Grammer, and Kaufman

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this _____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 ~~Children in Need of Assistance~~ **Parents in Substance Use Disorder**
3 **Treatment – Children in Need of Assistance and Treatment Facilities**

4 FOR the purpose of establishing a presumption that placement with a child's parent is in
5 the best interest of the child, the child is receiving proper care and attention, and
6 there is not a certain emergency situation if the child's parent is receiving certain
7 substance use disorder treatment and the child is in the presence of the child's parent
8 for the duration of the child's parent's treatment; requiring a local department of
9 social services to file a certain report with a court under certain circumstances;
10 authorizing the Behavioral Health Administration to require a facility that provides
11 treatment for substance use disorder to provide beds and services to patients'
12 children and allow patients' children to be in the presence of the child's parent for
13 the duration of treatment; and generally relating to children in need of assistance
14 and substance use disorder treatment.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber/conference committee amendments.



1 BY repealing and reenacting, with amendments,
2 Article – Courts and Judicial Proceedings
3 Section 3–815 and 3–818
4 Annotated Code of Maryland
5 (2020 Replacement Volume and 2023 Supplement)

6 BY repealing and reenacting, with amendments,
7 Article – Family Law
8 Section 5–525(e)(4)
9 Annotated Code of Maryland
10 (2019 Replacement Volume and 2023 Supplement)

11 BY repealing and reenacting, with amendments,
12 Article – Health – General
13 Section 8–401
14 Annotated Code of Maryland
15 (2023 Replacement Volume)

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

18 **Article – Courts and Judicial Proceedings**

19 3–815.

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

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

25 (1) Placement is required to protect the child from serious immediate
26 danger;

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

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

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

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

1 2. As appropriate, reasonable efforts are being made to
2 return the child to the child’s home.

3 (c) (1) Whenever a child is not returned to the child’s parent, guardian, or
4 custodian, the local department shall immediately file a petition to authorize continued
5 shelter care.

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

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

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

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

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

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

22 (1) Return of the child to the child’s home is contrary to the safety and
23 welfare of the child; and

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

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

28 (e) **(1) IF A CHILD’S PARENT IS RECEIVING TREATMENT IN A**
29 **RESIDENTIAL ~~OR OUTPATIENT~~ SUBSTANCE USE DISORDER TREATMENT PROGRAM**
30 **WITH BEDS OR SERVICES FOR PATIENTS’ CHILDREN AND THE CHILD IS IN THE**
31 **PRESENCE OF THE CHILD’S PARENT FOR THE DURATION OF THE CHILD’S PARENT’S**
32 **TREATMENT, THERE IS A PRESUMPTION THAT:**

1 ~~(1)~~ (I) PLACEMENT WITH THE CHILD'S PARENT IS IN THE BEST
2 INTEREST OF THE CHILD; AND

3 ~~(2)~~ (II) THERE IS NOT AN EMERGENCY SITUATION UNDER THE
4 PROVISIONS OF SUBSECTION (D)(2)(I) OF THIS SECTION.

5 (2) THIS SUBSECTION MAY NOT BE CONSTRUED TO PROHIBIT
6 ANOTHER PARENT OR A GUARDIAN, A CUSTODIAN, A RELATIVE, OR ANOTHER
7 PERSON ABLE TO PROVIDE SUPERVISION AND CARE FROM PROVIDING SUPERVISION
8 AND CARE FOR A CHILD FOR THE DURATION OF THE CHILD'S PARENT'S TREATMENT
9 IF THE OTHER PARENT, GUARDIAN, CUSTODIAN, RELATIVE, OR OTHER PERSON
10 AGREES TO PROVIDE SUPERVISION AND CARE.

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

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

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

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

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

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

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

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

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

32 (4) The Secretary of Human Services, the Secretary of Juvenile Services,
33 the Secretary of Health, the State Superintendent of Schools, and the Special Secretary for
34 Children, Youth, and Families, when appropriate, shall jointly adopt regulations to ensure

1 that any child placed in shelter care in accordance with a petition filed under this section
2 is provided appropriate services, including:

3 (i) Health care services;

4 (ii) Mental health care services;

5 (iii) Counseling services;

6 (iv) Education services;

7 (v) Social work services;

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

10 (vii) Visitation with siblings and biological family.

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

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

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

16 3–818.

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

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

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

27 (2) [Drug] **SUBSTANCE USE DISORDER** treatment is made available to
28 the [mother] **PARENT** and the [mother] **PARENT** refuses the recommended level of [drug]
29 **SUBSTANCE USE DISORDER** treatment, or does not successfully complete the
30 recommended level of [drug] **SUBSTANCE USE DISORDER** treatment.

1 (B) (1) THERE IS A PRESUMPTION THAT A CHILD IS RECEIVING PROPER
 2 CARE AND ATTENTION FROM THE PARENT FOR PURPOSES OF § 3-801(F)(2) OF THIS
 3 SUBTITLE IF:

4 ~~(1)~~ (I) THE PARENT IS RECEIVING TREATMENT IN A RESIDENTIAL
 5 ~~OR-OUTPATIENT~~ SUBSTANCE USE DISORDER TREATMENT PROGRAM WITH BEDS OR
 6 SERVICES FOR PATIENTS' CHILDREN; AND

7 ~~(2)~~ (II) THE CHILD IS IN THE PRESENCE OF THE CHILD'S PARENT
 8 FOR THE DURATION OF THE CHILD'S PARENT'S TREATMENT.

9 (2) THIS SUBSECTION MAY NOT BE CONSTRUED TO PROHIBIT
 10 ANOTHER PARENT OR A GUARDIAN, A CUSTODIAN, A RELATIVE, OR ANOTHER
 11 PERSON ABLE TO PROVIDE SUPERVISION AND CARE FROM PROVIDING SUPERVISION
 12 AND CARE FOR A CHILD FOR THE DURATION OF THE CHILD'S PARENT'S TREATMENT
 13 IF THE OTHER PARENT, GUARDIAN, CUSTODIAN, RELATIVE, OR OTHER PERSON
 14 AGREES TO PROVIDE SUPERVISION AND CARE.

15 Article – Family Law

16 5-525.

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

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

24 (II) IN A CASE IN WHICH THE PARENT OF THE CHILD IS
 25 RECEIVING TREATMENT IN A RESIDENTIAL ~~OR-OUTPATIENT~~ SUBSTANCE USE
 26 DISORDER TREATMENT PROGRAM WITH BEDS OR SERVICES FOR PATIENTS'
 27 CHILDREN AND THE CHILD IS IN THE PRESENCE OF THE CHILD'S PARENT FOR THE
 28 DURATION OF THE CHILD'S PARENT'S TREATMENT, THE LOCAL DEPARTMENT SHALL
 29 FILE A REPORT WITH THE COURT THAT EXPLAINS:

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

31 2. ANY EFFORTS THE LOCAL DEPARTMENT HAS MADE
 32 TOWARD PLACEMENT OF THE CHILD; AND

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

Article - Health - General

8-401.

(a) (1) The Administration shall:

(i) Promote, develop, establish, conduct, certify, and monitor programs for the prevention, treatment, and rehabilitation related to the misuse of alcohol and drugs; and

(ii) Promote and conduct training and research related to the misuse of alcohol and drugs.

(2) (i) In cooperation with the Motor Vehicle Administration, courts, police, and other agencies, the Administration shall approve appropriate programs of alcohol and drug abuse education or treatment for individuals who are convicted under § 21-902 of the Transportation Article.

(ii) The programs under this paragraph shall be coordinated with and integrated into broad planning for comprehensive community health and welfare services.

(3) The Administration shall:

(i) Review and, in accordance with regulations that the Administration shall adopt, approve or disapprove each program that a public or private agency wants to offer under § 6-219(c) or § 6-220(e) of the Criminal Procedure Article;

(ii) Promptly give the Administrative Office of the Courts notice of each program approved under this paragraph;

(iii) Monitor and biennially review each program approved under this paragraph;

(iv) Investigate each complaint made in connection with a program; and

(v) Promptly give the Administrative Office of the Courts notice if the Department withdraws its approval of any program.

(b) The Administration may:

(1) Develop pilot programs;

(2) For these purposes and notwithstanding any other law, establish, direct, and conduct any experimental pilot clinical program for the treatment of alcohol or drug abusers, including any program to administer, under medical supervision and control, maintenance dosages of prescribed drugs;

(3) Either alone or with other public or private agencies, direct and conduct basic research in alcohol or drug abuse, including clinical epidemiological, social science, and statistical research; [and]

(4) In cooperation with the Department of Public Safety and Correctional Services or any other appropriate correctional agency, establish and maintain, in any correctional institution in this State, programs for the prevention and treatment of alcohol and drug abuse and for the rehabilitation of alcohol and drug abusers; AND

(5) REQUIRE A FACILITY THAT PROVIDES TREATMENT FOR SUBSTANCE USE DISORDER TO:

(I) PROVIDE BEDS AND SERVICES FOR PATIENTS' CHILDREN; AND

(II) ALLOW A PATIENT'S CHILD TO BE IN THE PRESENCE OF THE CHILD'S PARENT FOR THE DURATION OF THE CHILD'S PARENT'S TREATMENT.

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

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.