

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

House Bill 833
Judiciary

(Delegate Williams, *et al.*)

Judicial Proceedings

Parents in Substance Use Disorder Treatment - Children in Need of Assistance
and Treatment Facilities

This bill establishes a presumption, for purposes of child in need of assistance (CINA) matters, that if a parent is receiving treatment in a residential substance use disorder (SUD) treatment program that has beds or services for patients' children and the child is in the presence of the child's parent for the duration of the parent's treatment (1) placement with the child's parent is in the best interest of the child and there is not an emergency situation that requires the removal of the child and (2) a child is receiving proper care and attention. In addition, the bill requires a local department of social services to file a report with the court in certain cases when a parent is receiving residential SUD treatment, as specified. The Behavioral Health Administration (BHA) within the Maryland Department of Health (MDH) may require a facility that provides treatment for SUD to (1) provide beds and services for patients' children and (2) 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.

Fiscal Summary

State Effect: Any potential impact on State expenditures related to out-of-home placement costs is indeterminate, as discussed below. *Potential* significant increase in State expenditures related to SUD treatment programs. Potential matching Medicaid revenues.

Local Effect: The bill is not anticipated to materially affect local government operations or finances.

Small Business Effect: Minimal.

Analysis

Bill Summary: The bill expands statutory requirements related to children in out-of-home placements (and certain reasonable efforts that are generally required for the preservation and reunification of families) to also require that a local department of social services file a report with the court in cases when a parent is receiving residential SUD treatment with beds or services for children, as specified, that explains (1) why the child was not placed with the parent; (2) any efforts made toward placement of the child; and (3) any difficulties with placing the child with the parent.

The bill may not be construed to prohibit another parent or guardian, custodian, relative, or another person who agrees and is able to provide supervision and care for the child from doing so for the duration of the child's parent's treatment in residential SUD treatment.

Current Law: A CINA is a child who requires court intervention because (1) the child has been abused or neglected, has a developmental disability, or has a mental disorder and (2) the child's parents, guardian, or custodian is unable or unwilling to give proper care and attention to the child and the child's needs.

For purposes of determining if a child is a CINA, within one year of a child's birth, there is a presumption that a child is not receiving proper care and attention from the *mother* if (1) the child was born exposed to – or the *mother* tested positive at a hospital prior to delivery for having used – cocaine, heroin, methamphetamine, or any such derivatives as evidenced by any appropriate tests and (2) *drug* treatment is made available to the *mother* and the *mother* refuses or does not successfully complete the recommended level of *drug* treatment. (The bill replaces references to “mother” with “parent” and references to “drug” with “substance use.”)

Statutory provisions outline numerous requirements for CINA proceedings and circumstances under which a child may be placed in out-of-home care prior to or after being adjudicated as a CINA. For example, a local department may authorize shelter care for a child who may be in need of assistance and has been taken into custody (in order to provide ordinary care and determine placement) in accordance with statute. A court may continue shelter care beyond emergency shelter care only if it finds that (1) return of the child to the child's home is contrary to the safety and welfare of the child and (2) removal of the child from the child's home is necessary due to an alleged emergency situation and in order to provide for the safety of the child *or* reasonable efforts were made but were unsuccessful in preventing or eliminating the need for removal of the child from the home.

Generally, subject to limited exceptions, reasonable efforts must be made to preserve and reunify families (1) prior to the placement of a child in an out-of-home placement, to prevent or eliminate the need for removing the child from the child's home and (2) to make

it possible for a child to return safely to the child's home. In determining the reasonable efforts to be made (and in making the reasonable efforts), the child's safety and health must be the primary concern.

State/Local Fiscal Effect: The presumptions established by the bill may increase placements for children within residential SUD treatment programs, to the extent that beds are available for children within such programs. The Department of Human Services advises that any potential impact associated with the department's funding of the cost of a child's placement in the family-based residential SUD treatment program *may* not be material, as it would potentially be a transfer of costs from another out-of-home placement provider in some cases. However, a precise impact on State expenditures is not possible to reliably quantify without experience under the bill.

MDH is the entity responsible for overseeing and funding SUD treatment programs (using multiple fund types). *If* the bill increases parental participation in SUD treatment programs, associated State expenditures increase, *potentially* significantly, to the extent that existing programs have capacity to serve additional families. Furthermore, the bill authorizes – but does not require – BHA to require existing SUD treatment facilities to provide beds and services for children. Based on preliminary information provided by MDH, to the extent BHA exercises this authority, additional staff within the administration may be needed to provide enhanced monitoring, assist facilities with implementation, and measure program outcomes. Overall costs associated with SUD treatment programs may likewise increase to the extent existing program operations and facilities are modified to accommodate children and families under the bill. In the absence of experience under the bill, however, the precise impact on State finances related to SUD treatment programs cannot be reliably determined at this time. To the extent Medicaid-eligible expenditures are incurred, federal fund matching revenues correspond accordingly.

The bill is not anticipated to materially impact the operations or finances of the Judiciary or the circuit courts.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Montgomery County; Judiciary (Administrative Office of the Courts); Department of Human Services; Maryland Department of Health; Department of Legislative Services

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rh/jkb

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