

BY: House Judiciary Committee

AMENDMENTS TO HOUSE BILL NO. 1209
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, strike in its entirety line 2 and substitute:

“Children in Need of Assistance - Drug-Addicted Babies”;

and strike in their entirety lines 3 through 15, inclusive, and substitute:

“FOR the purpose of establishing that there is a presumption that a child is not receiving ordinary and proper care and attention within the definition of “child in need of assistance” if the child is born addicted to or dependent on certain controlled dangerous substances or born with a significant presence of certain controlled dangerous substances in the blood; altering certain conditions regarding the termination of certain parental rights for certain children to include children born addicted to, dependent on, or with a significant presence in the child’s blood of certain controlled dangerous substances and the parent refuses admission or fails to fully participate in certain drug treatment programs; requiring the Department of Human Resources, in cooperation with the Department of Health and Mental Hygiene, to develop certain intervention systems in at least a certain number of counties designated by the Secretary of Human Resources that include certain drug treatment for certain mothers; requiring the initiation of certain intervention under certain circumstances; requiring a CINA petition to be filed on behalf of certain children under certain circumstances; authorizing a local department of social services to take certain actions under certain circumstances; making this Act subject to a certain contingency; and generally relating to children born addicted to, dependent on, or with a significant presence in the child’s blood of certain controlled dangerous substances.

BY repealing and reenacting, without amendments,
Article - Courts and Judicial Proceedings

(Over)

Section 3-801(a)
Annotated Code of Maryland
(1995 Replacement Volume and 1996 Supplement)

BY repealing and reenacting, with amendments,
Article - Courts and Judicial Proceedings
Section 3-801(e)
Annotated Code of Maryland
(1995 Replacement Volume and 1996 Supplement)

BY adding to
Article - Courts and Judicial Proceedings
Section 3-801.1
Annotated Code of Maryland
(1995 Replacement Volume and 1996 Supplement)

BY repealing and reenacting, without amendments,
Article - Family Law
Section 5-313(a) and (c) and 5-704(a)
Annotated Code of Maryland
(1991 Replacement Volume and 1996 Supplement)

BY repealing and reenacting, with amendments,
Article - Family Law
Section 5-313(d) and 5-710
Annotated Code of Maryland
(1991 Replacement Volume and 1996 Supplement)

BY adding to
Article - Family Law
Section 5-706.3
Annotated Code of Maryland
(1991 Replacement Volume and 1996 Supplement)”.

AMENDMENT NO. 2

On pages 1 and 2, strike in their entirety the lines beginning with line 18 on page 1 through line 34 on page 2, inclusive, and substitute:

“Article - Courts and Judicial Proceedings

3-801.

(a) In this subtitle, the following words have the meanings indicated, unless the context of their use indicates otherwise.

(e) “Child in need of assistance” is a child who requires the assistance of the court because:

(1) [He] THE CHILD is mentally handicapped or is not receiving ordinary and proper care and attention, and

(2) [His] THE CHILD'S parents, guardian, or custodian are unable or unwilling to give proper care and attention to the child and [his] THE CHILD'S problems provided, however, a child shall not be deemed to be in need of assistance for the sole reason [he] THAT THE CHILD is being furnished nonmedical remedial care and treatment recognized by State law.

3-801.1.

THERE IS A PRESUMPTION THAT A CHILD IS NOT RECEIVING ORDINARY AND PROPER CARE AND ATTENTION UNDER § 3-801(E)(1) OF THIS SUBTITLE IF THE CHILD:

(1) WAS BORN ADDICTED TO OR DEPENDENT ON COCAINE, HEROIN, OR A DERIVATIVE THEREOF; OR

(2) WAS BORN WITH A SIGNIFICANT PRESENCE OF COCAINE, HEROIN, OR A DERIVATIVE THEREOF IN THE CHILD’S BLOOD AS EVIDENCED BY TOXICOLOGY OR OTHER APPROPRIATE TESTS.

Article - Family Law

5-313.

(Over)

(a) A court may grant a decree of adoption or a decree of guardianship, without the consent of a natural parent otherwise required by §§ 5-311 and 5-317 of this subtitle, if the court finds by clear and convincing evidence that it is in the best interest of the child to terminate the natural parent's rights as to the child and that:

(1) the child is abandoned as provided in subsection (b) of this section;

(2) in a prior juvenile proceeding, the child has been adjudicated to be a child in need of assistance, a neglected child, an abused child, or a dependent child; or

(3) the following set of circumstances exists:

(i) the child has been continuously out of the custody of the natural parent and in the custody of a child placement agency for at least 1 year;

(ii) the conditions that led to the separation from the natural parent still exist or similar conditions of a potentially harmful nature still exist;

(iii) there is little likelihood that those conditions will be remedied at an early date so that the child can be returned to the natural parent in the immediate future; and

(iv) a continuation of the relationship between the natural parent and the child would diminish greatly the child's prospects for early integration into a stable and permanent family.

(c) In determining whether it is in the best interest of the child to terminate a natural parent's rights as to the child in any case, except the case of an abandoned child, the court shall consider:

(1) the timeliness, nature, and extent of the services offered by the child placement agency to facilitate reunion of the child with the natural parent;

(2) any social service agreement between the natural parent and the child placement agency, and the extent to which all parties have fulfilled their obligations under the agreement;

(3) the child's feelings toward and emotional ties with the child's natural parents, the

child's siblings, and any other individuals who may significantly affect the child's best interest;

(4) the child's adjustment to home, school, and community;

(5) the effort the natural parent has made to adjust the natural parent's circumstances, conduct, or conditions to make it in the best interest of the child to be returned to the natural parent's home, including:

(i) the extent to which the natural parent has maintained regular contact with the child under a plan to reunite the child with the natural parent, but the court may not give significant weight to any incidental visit, communication, or contribution;

(ii) if the natural parent is financially able, the payment of a reasonable part of the child's substitute physical care and maintenance;

(iii) the maintenance of regular communication by the natural parent with the custodian of the child; and

(iv) whether additional services would be likely to bring about a lasting parental adjustment so that the child could be returned to the natural parent within an ascertainable time, not exceeding 18 months from the time of placement, but the court may not consider whether the maintenance of the parent-child relationship may serve as an inducement for the natural parent's rehabilitation; and

(6) all services offered to the natural parent before the placement of the child, whether offered by the agency to which the child is committed or by other agencies or professionals.

(d) (1) In determining whether it is in the best interest of the child to terminate a natural parent's rights as to the child in a case involving a child who has been adjudicated to be a child in need of assistance, a neglected child, an abused child, or a dependent child, the court shall consider the factors in subsection (c) of this section and whether any of the following continuing or serious conditions or acts exist:

(Over)

(i) the natural parent has a disability that renders the natural parent consistently unable to care for the immediate and ongoing physical or psychological needs of the child for long periods of time;

(ii) the natural parent has committed acts of abuse or neglect toward any child in the family; [or]

(iii) the natural parent has failed repeatedly to give the child adequate food, clothing, shelter, and education or any other care or control necessary for the child's physical, mental, or emotional health, even though the natural parent is physically and financially able[.]; OR

(IV) 1. THE CHILD WAS BORN:

A. ADDICTED TO OR DEPENDENT ON COCAINE, HEROIN, OR A DERIVATIVE THEREOF; OR

B. WITH A SIGNIFICANT PRESENCE OF COCAINE, HEROIN, OR A DERIVATIVE THEREOF IN THE CHILD'S BLOOD AS EVIDENCED BY TOXICOLOGY OR OTHER APPROPRIATE TESTS; AND

2. THE NATURAL PARENT REFUSES ADMISSION INTO A DRUG TREATMENT PROGRAM OR FAILED TO FULLY PARTICIPATE IN A DRUG TREATMENT PROGRAM.

(2) If a natural parent does not provide specified medical treatment for a child because the natural parent is legitimately practicing religious beliefs, that reason alone does not make the natural parent a negligent parent.

(3) The court shall consider the evidence under paragraph (1) of this subsection regarding continuing or serious conditions or acts and may waive the child placement agency's obligations under subsection (c) of this section if the court, after appropriate evaluation of efforts made and services rendered, finds by clear and convincing evidence that the waiver of those obligations is in the best interest of the child.

5-704.

(a) Notwithstanding any other provision of law, including any law on privileged communications, each health practitioner, police officer, or educator or human service worker, acting in a professional capacity, who has reason to believe that a child has been subjected to:

(1) (i) abuse, shall notify the local department or the appropriate law enforcement agency; or

(ii) neglect, shall notify the local department; and

(2) if acting as a staff member of a hospital, public health agency, child care institution, juvenile detention center, school, or similar institution, immediately notify and give all information required by this section to the head of the institution or the designee of the head.

5-706.3.

(A) THE DEPARTMENT OF HUMAN RESOURCES, IN COOPERATION WITH THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE, SHALL DEVELOP INTERVENTION SYSTEMS IN AT LEAST FOUR COUNTIES DESIGNATED BY THE SECRETARY OF HUMAN RESOURCES THAT:

(1) INCLUDE DRUG TREATMENT FOR A MOTHER OF A CHILD WHO IS BORN DRUG EXPOSED AND SUPPORTIVE SERVICES FOR THE FAMILY OF THE CHILD; AND

(2) SERVE 300 FAMILIES.

(B) AN INTERVENTION SHALL BE INITIATED WHEN:

(1) A CHILD IS BORN DRUG EXPOSED; AND

(2) MEDICAL PERSONNEL HAVE DETERMINED THAT THE CHILD IS AT A

(Over)

HIGH RISK OF ABUSE OR NEGLECT.

(C) SUBJECT TO THE PROVISIONS OF SUBSECTIONS (A) AND (B) OF THIS SECTION, THE LOCAL DEPARTMENT OF SOCIAL SERVICES AND THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE SHALL ASSIST THE MOTHER OF A CHILD WHO IS BORN DRUG EXPOSED IN:

(1) OBTAINING DRUG TREATMENT; AND

(2) PROVIDING SUPPORTIVE SERVICES TO MAINTAIN FAMILY UNITY.

(D) A CINA PETITION SHALL BE FILED ON BEHALF OF A CHILD WHO IS BORN DRUG EXPOSED, IF:

(1) THE MOTHER REFUSES DRUG TREATMENT OR DOES NOT SUCCESSFULLY COMPLETE DRUG TREATMENT;

(2) THE MOTHER IS UNABLE TO PROVIDE ADEQUATE CARE FOR THE CHILD; AND

(3) THE FATHER IS UNABLE TO PROVIDE ADEQUATE CARE FOR THE CHILD.

5-710.

(a) Based on its findings and treatment plan, the local department shall render the appropriate services in the best interests of the child, including, when indicated, petitioning the juvenile court on behalf of the child for appropriate relief, including the added protection to the child that either commitment or custody would provide.

(B) (1) PROMPTLY AFTER RECEIVING A REPORT FROM A HOSPITAL OR HEALTH PRACTITIONER OF SUSPECTED NEGLECT RELATED TO DRUG ABUSE AND CONDUCTING AN APPROPRIATE INVESTIGATION, THE LOCAL DEPARTMENT MAY:

(I) FILE A PETITION ALLEGING THAT THE CHILD IS IN NEED OF ASSISTANCE UNDER TITLE 3, SUBTITLE 8 OF THE COURTS ARTICLE; AND

(II) OFFER THE MOTHER ADMISSION INTO A DRUG TREATMENT PROGRAM.

(2) THE LOCAL DEPARTMENT MAY INITIATE A JUDICIAL PROCEEDING TO TERMINATE A MOTHER'S PARENTAL RIGHTS, IF THE LOCAL DEPARTMENT OFFERS THE MOTHER ADMISSION INTO A DRUG TREATMENT PROGRAM UNDER THIS SUBSECTION WITHIN 90 DAYS AFTER THE BIRTH OF THE CHILD AND THE MOTHER:

(I) DOES NOT ACCEPT ADMISSION TO THE PROGRAM OR ITS EQUIVALENT WITHIN 45 DAYS AFTER THE OFFER IS MADE; OR

(II) FAILS TO FULLY PARTICIPATE IN THE PROGRAM OR ITS EQUIVALENT.

[(b)] (C) If a report has been made to the State's Attorney's office under § 5-706(i) of this subtitle and the State's Attorney's office is not satisfied with the recommendation of the local department, the State's Attorney's office may petition the court, at the time of the report by the representative, to remove the child, if the State's Attorney concludes that the child is in serious physical danger and that an emergency exists.”.

AMENDMENT NO. 3

On page 2, after line 34, insert:

“SECTION 2. AND BE IT FURTHER ENACTED, That this Act is contingent on the inclusion in the operating budget for Fiscal Year 1998 of \$1,700,000 for drug abuse treatment for mothers of children born drug exposed, and if that amount is not included in the budget, this Act shall be null and void without the necessity of further action by the General Assembly.”;

in line 35, strike “2.” and substitute “3.”; and in the same line, after “That” insert “, subject to the provisions of Section 2 of this Act.”.

(Over)