
By: **Delegates O'Donnell, Dembrow, Montague, and Getty**
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Assigned to: Judiciary

Committee Report: Favorable with amendments
House action: Adopted
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CHAPTER _____

1 AN ACT concerning

2 **Children in Need of Assistance - Drug-Addicted Babies - Modifications**

3 FOR the purpose of modifying a certain presumption that a child is not receiving
4 ordinary and proper care and attention within the definition of "child in need of
5 assistance" (CINA) to apply to a child that is born exposed to certain dangerous
6 substances as evidenced by certain ~~blood or other~~ appropriate tests of the
7 mother or the child and to include a mother that refuses the recommended level
8 of drug treatment; altering certain conditions regarding the termination of
9 parental rights for certain children to apply to a child that is born exposed to
10 certain dangerous substances as evidenced by certain ~~blood or other~~ appropriate
11 tests of the mother or the child and to apply to a natural parent that refuses the
12 recommended level of drug treatment; expanding the conditions which require a
13 CINA petition to be filed in certain intervention systems developed in certain
14 counties to include a mother that refuses the recommended level of drug
15 treatment; expanding the circumstances under which a local department of
16 social services is authorized to take certain action to include a mother that
17 refuses the recommended level of drug treatment within a certain time period;
18 and generally relating to children exposed to certain dangerous substances and
19 a certain presumption, the termination of parental rights, and certain
20 intervention systems in certain counties.

21 BY repealing and reenacting, with amendments,
22 Article - Courts and Judicial Proceedings
23 Section 3-818
24 Annotated Code of Maryland
25 (1998 Replacement Volume and 2001 Supplement)

26 BY repealing and reenacting, with amendments,

1 Article - Family Law
 2 Section 5-313(d), 5-706.3, and 5-710
 3 Annotated Code of Maryland
 4 (1999 Replacement Volume and 2001 Supplement)

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

7 **Article - Courts and Judicial Proceedings**

8 3-818.

9 Within 1 year after a child's birth, there is a presumption that a child is not
 10 receiving proper care and attention from the mother for purposes of § 3-801(f)(2) of
 11 this subtitle if:

12 (1) ~~{(i)}~~ The child was born [addicted to or dependent on] EXPOSED TO
 13 cocaine, heroin, or a derivative of cocaine or heroin[]; or

14 (ii) The child was born with a significant presence of cocaine,
 15 heroin, or a derivative of cocaine or heroin in the child's blood] as evidenced by ~~A~~
 16 ~~toxicology SCREEN OF THE BLOOD OF THE MOTHER OR CHILD or other ANY~~
 17 appropriate tests OF THE MOTHER OR CHILD; OR

18 (II) UPON ADMISSION TO A HOSPITAL FOR DELIVERY OF THE
 19 CHILD, THE MOTHER TESTED POSITIVE FOR COCAINE, HEROIN, OR A DERIVATIVE OF
 20 COCAINE OR HEROIN AS EVIDENCED BY ANY APPROPRIATE TOXICOLOGY TEST; and

21 (2) Drug treatment is made available to the mother and the mother
 22 refuses THE RECOMMENDED LEVEL OF DRUG TREATMENT, or does not successfully
 23 complete the RECOMMENDED LEVEL OF drug treatment.

24 **Article - Family Law**

25 5-313.

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

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

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

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

5 (iv) 1. the child was born[:

6 A. addicted to or dependent on] EXPOSED TO cocaine, heroin,
 7 or a derivative thereof [; or

8 B. with a significant presence of cocaine, heroin, or a
 9 derivative thereof in the child's blood] as evidenced by ~~A toxicology SCREEN OF THE~~
 10 ~~BLOOD OF THE MOTHER OR CHILD~~ or other ANY appropriate tests OF THE MOTHER
 11 OR CHILD; OR

12 B. UPON ADMISSION TO A HOSPITAL FOR DELIVERY OF THE
 13 CHILD, THE MOTHER TESTED POSITIVE FOR COCAINE, HEROIN, OR A DERIVATIVE OF
 14 COCAINE OR HEROIN AS EVIDENCED BY ANY APPROPRIATE TOXICOLOGY TEST; and

15 2. the natural parent refuses [admission into a drug
 16 treatment program,] THE RECOMMENDED LEVEL OF DRUG TREATMENT, or [failed]
 17 FAILS to fully participate in [a] THE RECOMMENDED LEVEL OF drug treatment
 18 [program]; or

19 (v) the natural parent has:

20 1. subjected the child to:

21 A. torture, chronic abuse, or sexual abuse; or

22 B. chronic and life-threatening neglect;

23 2. been convicted:

24 A. in this State of a crime of violence, as defined in Article 27,
 25 § 643B of the Code, against the child, the other natural parent of the child, another
 26 child of the natural parent, or any person who resides in the household of the natural
 27 parent;

28 B. in any state or in any court of the United States of a crime
 29 that would be a crime of violence, as defined in Article 27, § 643B of the Code, if
 30 committed in this State against the child, the other natural parent of the child,
 31 another child of the natural parent, or any person who resides in the household of the
 32 natural parent; or

33 C. of aiding or abetting, conspiring, or soliciting to commit a
 34 crime described in item A or item B of this item; or

35 3. involuntarily lost parental rights of a sibling of the child.

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

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

10 (4) The court shall waive the child placement agency's obligations under
11 subsection (c) of this section if the court finds that one of the circumstances or acts
12 enumerated in paragraph (1)(v) of this subsection exists.

13 (5) If the court finds that any of the circumstances or acts enumerated in
14 paragraph (1)(v) of this subsection exists, the court shall make a specific finding,
15 based on facts in the record, as to whether or not the return of the child to the custody
16 of the natural parent poses an unacceptable risk to the future safety of the child.

17 5-706.3.

18 (a) The Department of Human Resources, in cooperation with the Department
19 of Health and Mental Hygiene, shall develop intervention systems in at least four
20 counties designated by the Secretary of Human Resources that:

21 (1) include drug treatment for a mother of a child who is born drug
22 exposed and supportive services for the family of the child; and

23 (2) serve 300 families.

24 (b) An intervention shall be initiated when:

25 (1) a child is born drug exposed; and

26 (2) medical personnel have determined that the child is at a high risk of
27 abuse or neglect.

28 (c) Subject to the provisions of subsections (a) and (b) of this section, the local
29 department of social services and the Department of Health and Mental Hygiene
30 shall assist the mother of a child who is born drug exposed in:

31 (1) obtaining drug treatment; and

32 (2) providing supportive services to maintain family unity.

33 (d) A CINA petition shall be filed on behalf of a child who is born drug
34 exposed, if:

35 (1) the mother refuses THE RECOMMENDED LEVEL OF drug treatment,
36 or does not successfully complete THE RECOMMENDED LEVEL OF drug treatment;

1 (2) the mother is unable to provide adequate care for the child; and

2 (3) the father is unable to provide adequate care for the child.

3 5-710.

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

9 (b) (1) Promptly after receiving a report from a hospital or health
10 practitioner of suspected neglect related to drug abuse and conducting an appropriate
11 investigation, the local department may:

12 (i) file a petition alleging that the child is in need of assistance
13 under Title 3, Subtitle 8 of the Courts Article; and

14 (ii) offer the mother admission into a drug treatment program.

15 (2) The local department may initiate a judicial proceeding to terminate
16 a mother's parental rights, if the local department offers the mother admission into a
17 drug treatment program under this subsection within 90 days after the birth of the
18 child and the mother:

19 (i) does not accept admission to the program or its equivalent
20 within 45 days after the offer is made; [or]

21 (ii) DOES NOT ACCEPT THE RECOMMENDED LEVEL OF DRUG
22 TREATMENT WITHIN 45 DAYS AFTER THE OFFER IS MADE; OR

23 (III) fails to fully participate in the program or its equivalent.

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

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
30 October 1, 2002.

