

SENATE BILL 495

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2002 Regular Session
2r1437
CF 2r2754

By: **Senators Hoffman, Blount, Colburn, Forehand, Green, Kittleman,
Lawlah, Mooney, Munson, Pinsky, Roesser, Ruben, Teitelbaum, and Van
Hollen**

Introduced and read first time: February 1, 2002
Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: March 13, 2002

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

1 (1998 Replacement Volume and 2001 Supplement)

2 BY repealing and reenacting, with amendments,

3 Article - Family Law

4 Section 5-313(d), 5-706.3, and 5-710

5 Annotated Code of Maryland

6 (1999 Replacement Volume and 2001 Supplement)

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

9 **Article - Courts and Judicial Proceedings**

10 3-818.

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

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

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

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

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

26 **Article - Family Law**

27 5-313.

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

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

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

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

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

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

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

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

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

21 (v) the natural parent has:

22 1. subjected the child to:

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

24 B. chronic and life-threatening neglect;

25 2. been convicted:

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

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

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

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

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

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

5 5-710.

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

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

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

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

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

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

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

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

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

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

