

Department of Legislative Services
Maryland General Assembly
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FISCAL NOTE
Revised

Senate Bill 495

(Senator Hoffman, *et al.*)

Judicial Proceedings

Judiciary

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

This bill modifies a presumption that a child is not receiving proper care and attention from the mother for purposes of determining whether the child is a “child in need of assistance” (CINA). Under the bill, the presumption would apply if the child was exposed to cocaine, heroin, or their derivatives, drug treatment is made available to the mother, and the mother either refuses the recommended level of drug treatment or does not successfully complete the recommended level of drug treatment. The evidence of exposure may be derived from any appropriate tests of the mother or child.

Fiscal Summary

State Effect: While it is anticipated that the number of CINA petitions will increase as a result of this legislation, it is anticipated that bill’s requirements could be handled within existing resources.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: This bill modifies an existing presumption under the CINA statute. The bill provides that, within one year after a child’s birth, there is a presumption that the child is not receiving proper care and attention if the child was exposed to cocaine, heroin, or their derivatives and the mother either refuses the recommended level of drug treatment or does not successfully complete the recommended level of drug treatment.

The evidence of exposure may be provided through any appropriate tests of the mother or child, or upon admission to the hospital for delivery, a positive toxicology test of the mother for cocaine, heroin, or its derivatives. The bill provides that evidence of a child's exposure to cocaine, heroin, or their derivatives is a factor the court must consider in determining whether a natural parent's rights should be terminated if the natural parent refuses the recommended level of drug treatment or fails to fully participate in the recommended level of drug treatment. A CINA petition must be filed on behalf of a child who is born drug exposed if the mother refuses the recommended level of drug treatment or does not successfully complete the recommended level of drug treatment. A local department of social services may initiate a judicial proceeding to terminate a mother's parental rights within 90 days of a drug-exposed child's birth if the mother refuses admission into a drug treatment program or does not accept the recommended level of drug treatment within 45 days after the offer is made or fails to fully participate in the drug treatment program.

Current Law: Within one year after a child's birth, there is a presumption that a child is not receiving proper care and attention if the child was born addicted to or dependent on cocaine, heroin, or their derivatives and the mother refuses or does not successfully complete drug treatment. The presumption also applies to a child born with a significant presence of cocaine, heroin, or their derivatives in his or her blood. The evidence of addiction, dependency, or a significant presence of these drugs is determined by toxicology or other appropriate tests.

If a child is addicted to, dependent on, or has a significant presence of cocaine, heroin, or their derivatives and the natural parent refused admission into or failed to complete a drug treatment program, then the court must consider that factor when determining the termination of the natural parent's rights. A CINA petition must be filed on behalf of a drug-exposed child if the mother refuses or does not successfully complete drug treatment. The local department of social services and the Department of Health and Mental Hygiene are required to assist drug dependent mothers in obtaining treatment.

A local department of social services may initiate a judicial proceeding to terminate a mother's parental rights if, within 90 days after the birth of the child, the local department offers admission into a drug treatment program and the mother does not accept admission to the program or an equivalent program within 45 days after the offer or the mother fails to fully participate in the drug program.

Background: Chapters 367 and 368 of 1997 (SB 512/HB 1209), established a pilot program to identify and treat pregnant and postpartum women who require drug treatment. The pilot program began in October 1997 in seven jurisdictions: Baltimore

City and Dorchester, Prince George's, Somerset, Washington, Wicomico, and Worcester counties. The program is now operating in an eighth jurisdiction, Howard County.

The bill arises from the recommendations of the SB 512 Workgroup. The workgroup identified terms that need additional clarification to improve program effectiveness. The workgroup recommended that the term "exposed" be used to describe the standard for intervention, rather than more ambiguous terms like "addicted" or "with a significant presence." The workgroup also recommended that the evidence of exposure include a mother's as well as a baby's toxicology screen. The workgroup noted that although mothers enter treatment, they are often not compliant with the level of recommended care. They recommended that an evaluation of the baby's care and the initiation of legal proceedings should be based on whether the mother refuses the "recommended" level of drug treatment, in addition to whether the mother enters a drug treatment program or fails to participate.

The pilot program's focus is identifying cocaine and heroin-exposed newborns, obtaining substance abuse treatment for the mothers, and providing supportive family services. According to the Department of Human Resources (DHR), six residential substance abuse treatment facilities contracted to supply 27 residential treatment beds in July 2000. The beds were dedicated to SB 512 mothers. Levels of care included sub-acute detoxification, 28-day intermediate care, long-term residential care, and halfway housing. To establish "treatment on demand," DHR combined reserved treatment slots in outpatient substance abuse treatment programs.

In fiscal 2001, 284 parents were assessed for substance abuse treatment services; 267 of the parents were mothers and 17 were fathers. Out of the group of 284, 18 refused services. Of the remaining 266 parents referred to substance abuse treatment, 163 entered residential treatment and 62 were assigned to outpatient treatment. Forty-one of the parents did not follow through with treatment. DHR reports that the entry rate into treatment for SB 512 parents is about twice the national average for entry into drug abuse treatment programs.

In the first quarter of fiscal 2002, substance abuse treatment addiction specialists assessed 51 parents. Forty-eight parents were mothers and three were fathers. Thirty-seven assessments were provided in Baltimore City, seven in Prince George's County, two in Washington County, one on the lower Eastern Shore, and the remaining four in Howard County. Of the 51 parents, 3 refused services. Out of the remaining 48 parents, 28 entered residential treatment, 10 went to outpatient programs, and 10 did not follow through and enter treatment. Of the 28 parents in residential treatment, 19 successfully completed and are currently active in residential treatment, according to DHR.

State Expenditures: The Administrative Office of the Courts advises that the fiscal impact of this bill is difficult to determine, although additional CINA petitions are likely to be filed and could have a material impact on State operations. However, the first point of contact for the mothers and children would be DHR, before any CINA petitions are filed. DHR has advised that this bill will not have a fiscal impact as the interaction with mothers and any additional CINA activity can be handled within existing resources. The Office of the Public Defender has also advised that this bill would not have a fiscal impact upon its operations.

Additional Information

Prior Introductions: None.

Cross File: HB 1142 (Delegate O'Donnell, *et al.*) – Judiciary.

Information Source(s): Department of Human Resources, Judiciary (Administrative Office of the Courts), Office of the Public Defender, Department of Legislative Services

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Analysis by: Karen D. Morgan

Direct Inquiries to:
John Rixey, Coordinating Analyst
(410) 946-5510
(301) 970-5510