

Department of Legislative Services
Maryland General Assembly
2002 Session

FISCAL NOTE

House Bill 1438

(Delegate Redmer, *et al.*)

Judiciary

Family Law - Adoption - Child Abuse

This bill provides that one of the factors a court must consider, when deciding whether to grant a decree of adoption without the natural parent's consent, is whether the court finds, by clear and convincing evidence, that the natural parent has been convicted of child abuse against any child.

Fiscal Summary

State Effect: None. The change is procedural in nature and would not directly affect governmental finances.

Local Effect: None -- see above.

Small Business Effect: None.

Analysis

Current Law: Without the consent of the child's natural parent, a court may grant a decree of adoption to a stepparent, relative, or other individual who has exercised physical care, custody, or control of the child for at least six months. The court must find 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;
- the child has been out of the custody of the natural parent for at least one year;

- the child has developed significant feelings and emotional ties to the petitioner; and
- the natural parent has:
 - not maintained meaningful contact despite the chance to do so, has repeatedly failed to contribute to the child's physical care and support although financially able, has been convicted of child abuse of the child or another child of the natural parent, or has subjected the child to torture, chronic abuse, sexual abuse, or chronic and life-threatening neglect;
 - been convicted in Maryland of a violent crime against the child, against the other natural parent of the child, against another child of the natural parent, or any person who resides in the household of the natural parent; or has been convicted of aiding, abetting, conspiring, or soliciting to commit such a crime;
 - been convicted in any state or any United States court of a crime that would be a crime of violence, if committed in Maryland against the child, the other natural parent of the child, another child of the natural parent, or any person who resides in the household of the natural parent; or has been convicted of aiding, abetting, conspiring, or soliciting to commit such a crime; or
 - involuntarily lost the parental rights of a sibling of the child.

If the court finds that any of the above-mentioned circumstances relating to abuse, torture, neglect, violent crime, or involuntary loss of parental rights exist, the court must make a specific finding, based on the facts in the record, as to whether or not the return of the child to the custody of the natural parent poses an unacceptable risk to the future safety of the child.

In determining whether it is in the child's best interest to terminate a natural parent's rights, the court shall give primary consideration to the child's safety and health. The court must request an investigation by an appropriate agency and a report that summarizes the child's feelings toward and emotional ties with the natural parents, siblings, the petitioner, and any other individual who may significantly affect the child's best interest. The report must summarize the child's adjustment to home, school, and

community and, if the natural parent is absent, evaluate the petitioner's attempts to locate the natural parent.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Human Resources, Department of Legislative Services

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