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By: **Delegate Rosenberg**  
Introduced and read first time: February 11, 2005  
Assigned to: Judiciary

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Committee Report: Favorable  
House action: Adopted  
Read second time: March 31, 2005

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CHAPTER\_\_\_\_\_

1 AN ACT concerning

2 **Juvenile Causes - Child in Need of Assistance - Court Hearings and Findings**

3 FOR the purpose of authorizing a court, in certain proceedings concerning a child in  
4 need of assistance, to direct the local department of social services to provide  
5 certain services to a child, child's family, or child's caretaker to a certain extent  
6 and for the purpose of protecting and advancing a child's best interests;  
7 requiring a juvenile court in a certain hearing concerning a child in need of  
8 assistance to make certain findings whether reasonable efforts were made by a  
9 local department of social services to prevent placement of the child in the local  
10 department's custody; requiring the court in certain review hearings to make  
11 certain findings whether reasonable efforts were made by a local department to  
12 finalize a permanency plan and provide for certain needs of the child;  
13 authorizing a court to require a local department to produce certain evidence in  
14 a certain hearing; requiring the court to consider certain actions of a local  
15 department in making certain findings; requiring a court to consider certain  
16 factors in making a certain finding; requiring a court to make written findings if  
17 the court determines reasonable efforts were made but that a local department  
18 did not take certain actions; requiring a court that finds reasonable efforts were  
19 not made to send the written findings to certain persons; defining a certain  
20 term; and generally relating to children in need of assistance hearings.

21 BY renumbering  
22 Article - Courts and Judicial Proceedings  
23 Section 3-801(v) through (aa), respectively  
24 to be Section 3-801(w) through (bb), respectively  
25 Annotated Code of Maryland  
26 (2002 Replacement Volume and 2004 Supplement)

1 BY repealing and reenacting, without amendments,  
2 Article - Courts and Judicial Proceedings  
3 Section 3-801(a), 3-815(a) and (e), 3-817(a), 3-819(a)(1), (b), (c), and (d), and  
4 3-823(b)(1), (e), (g), and (h)  
5 Annotated Code of Maryland  
6 (2002 Replacement Volume and 2004 Supplement)

7 BY repealing and reenacting, with amendments,  
8 Article - Courts and Judicial Proceedings  
9 Section 3-802 and 3-815(b) and (d)  
10 Annotated Code of Maryland  
11 (2002 Replacement Volume and 2004 Supplement)

12 BY adding to  
13 Article - Courts and Judicial Proceedings  
14 Section 3-801(v) and 3-816.1  
15 Annotated Code of Maryland  
16 (2002 Replacement Volume and 2004 Supplement)

17 BY repealing and reenacting, without amendments,  
18 Article - Family Law  
19 Section 5-319(b) and (f)  
20 Annotated Code of Maryland  
21 (2004 Replacement Volume)

22 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
23 MARYLAND, That Section(s) 3-801(v) through (aa), respectively, of Article - Courts  
24 and Judicial Proceedings of the Annotated Code of Maryland be renumbered to be  
25 Section(s) 3-801(w) through (bb), respectively.

26 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland  
27 read as follows:

28 **Article - Courts and Judicial Proceedings**

29 3-801.

30 (a) In this subtitle the following words have the meanings indicated.

31 (V) "REASONABLE EFFORTS" MEANS EFFORTS THAT ARE REASONABLY  
32 LIKELY TO ACHIEVE THE OBJECTIVES SET FORTH IN § 3-816.1(B)(1) AND (2) OF THIS  
33 SUBTITLE.

34 3-802.

35 (a) The purposes of this subtitle are:

1 (1) To provide for the care, protection, safety, and mental and physical  
2 development of any child coming within the provisions of this subtitle;

3 (2) To provide for a program of services and treatment consistent with  
4 the child's best interests and the promotion of the public interest;

5 (3) To conserve and strengthen the child's family ties and to separate a  
6 child from the child's parents only when necessary for the child's welfare;

7 (4) To hold parents of children found to be in need of assistance  
8 responsible for remedying the circumstances that required the court's intervention;

9 (5) Except as otherwise provided by law, to hold the local department of  
10 social services responsible for providing services to assist the parents with remedying  
11 the circumstances that required the court's intervention;

12 (6) If necessary to remove a child from the child's home, to secure for the  
13 child custody, care, and discipline as nearly as possible equivalent to that which the  
14 child's parents should have given;

15 (7) To achieve a timely, permanent placement for the child consistent  
16 with the child's best interests; and

17 (8) To provide judicial procedures for carrying out the provisions of this  
18 subtitle.

19 (b) This subtitle shall be construed liberally to effectuate these purposes.

20 (C) (1) IN ALL JUDICIAL PROCEEDINGS CONDUCTED IN ACCORDANCE WITH  
21 THIS SUBTITLE OR § 5-319 OF THE FAMILY LAW ARTICLE, THE COURT MAY DIRECT  
22 THE LOCAL DEPARTMENT TO PROVIDE SERVICES TO A CHILD, THE CHILD'S FAMILY,  
23 OR THE CHILD'S CAREGIVER TO THE EXTENT THAT THE LOCAL DEPARTMENT IS  
24 AUTHORIZED UNDER STATE LAW.

25 (2) THE COURT SHALL EXERCISE THE AUTHORITY DESCRIBED IN  
26 PARAGRAPH (1) OF THIS SUBSECTION TO PROTECT AND ADVANCE A CHILD'S BEST  
27 INTERESTS.

28 3-815.

29 (a) In accordance with regulations adopted by the Department of Human  
30 Resources, a local department may authorize shelter care for a child who may be in  
31 need of assistance and has been taken into custody under this subtitle.

32 (b) A local department may place a child in emergency shelter care before a  
33 hearing if:

34 (1) Placement is required to protect the child from serious immediate  
35 danger;

1 (2) There is no parent, guardian, custodian, or other person able to  
2 provide supervision; and

3 (3) (i) 1. The child's continued placement in the child's home is  
4 contrary to the welfare of the child; and

5 2. Because of an alleged emergency situation, removal from  
6 the home is reasonable under the circumstances to provide for the safety of the child;  
7 or

8 (ii) 1. Reasonable [but unsuccessful] efforts have been made [to  
9 prevent or eliminate] BUT HAVE BEEN UNSUCCESSFUL IN PREVENTING OR  
10 ELIMINATING the need for removal from the child's home; and

11 2. As appropriate, reasonable efforts are being made to  
12 return the child to the child's home.

13 (d) A court may continue shelter care beyond emergency shelter care only if  
14 the court finds that:

15 (1) Return of the child to the child's home is contrary to the safety and  
16 welfare of the child; and

17 (2) (i) Removal of the child from the child's home is necessary due to  
18 an alleged emergency situation and in order to provide for the safety of the child; or

19 (ii) Reasonable [but unsuccessful] efforts were made [to prevent or  
20 eliminate] BUT WERE UNSUCCESSFUL IN PREVENTING OR ELIMINATING the need for  
21 removal of the child from the home.

22 (e) (1) If the court continues shelter care on the basis of an alleged  
23 emergency, the court shall assess whether the absence of efforts to prevent removal  
24 was reasonable.

25 (2) If the court finds that the absence of efforts to prevent removal was  
26 not reasonable, the court shall make a written determination so stating.

27 (3) The court shall make a written determination as to whether  
28 reasonable efforts are being made to make it possible to return the child to the child's  
29 home or whether the absence of such efforts is reasonable.

30 3-816.1.

31 (A) THE PROVISIONS OF THIS SECTION APPLY TO A HEARING CONDUCTED IN  
32 ACCORDANCE WITH § 3-815, § 3-817, § 3-819, OR § 3-823 OF THIS SUBTITLE OR A  
33 REVIEW HEARING CONDUCTED IN ACCORDANCE WITH § 5-319 OF THE FAMILY LAW  
34 ARTICLE IN WHICH A CHILD IS PLACED UNDER AN ORDER OF GUARDIANSHIP,  
35 COMMITMENT, OR SHELTER CARE.

1 (B) (1) IN A HEARING CONDUCTED IN ACCORDANCE WITH § 3-815, § 3-817, §  
2 3-819, OR § 3-823 OF THIS SUBTITLE, THE COURT SHALL MAKE A FINDING WHETHER  
3 THE LOCAL DEPARTMENT MADE REASONABLE EFFORTS TO PREVENT PLACEMENT  
4 OF THE CHILD INTO THE LOCAL DEPARTMENT'S CUSTODY.

5 (2) IN A REVIEW HEARING CONDUCTED IN ACCORDANCE WITH § 3-823  
6 OF THIS SUBTITLE OR § 5-319 OF THE FAMILY LAW ARTICLE, THE COURT SHALL  
7 MAKE A FINDING WHETHER A LOCAL DEPARTMENT MADE REASONABLE EFFORTS  
8 TO:

9 (I) FINALIZE THE PERMANENCY PLAN IN EFFECT FOR THE CHILD;  
10 AND

11 (II) MEET THE NEEDS OF THE CHILD, INCLUDING THE CHILD'S  
12 HEALTH, EDUCATION, SAFETY, AND PREPARATION FOR INDEPENDENCE.

13 (3) THE COURT SHALL REQUIRE A LOCAL DEPARTMENT TO PROVIDE  
14 EVIDENCE OF ITS EFFORTS BEFORE THE COURT MAKES A FINDING REQUIRED  
15 UNDER THIS SUBSECTION.

16 (4) THE COURT'S FINDING UNDER THIS SUBSECTION SHALL ASSESS THE  
17 EFFORTS MADE SINCE THE LAST ADJUDICATION OF REASONABLE EFFORTS AND MAY  
18 NOT RELY ON FINDINGS FROM PRIOR HEARINGS.

19 (C) IN MAKING ITS FINDINGS IN ACCORDANCE WITH SUBSECTION (B) OF THIS  
20 SECTION, THE COURT SHALL CONSIDER:

21 (1) THE EXTENT TO WHICH A LOCAL DEPARTMENT HAS COMPLIED WITH  
22 THE LAW, REGULATIONS, STATE OR FEDERAL COURT ORDERS, OR A STIPULATED  
23 AGREEMENT ACCEPTED BY THE COURT REGARDING THE PROVISION OF SERVICES TO  
24 A CHILD IN AN OUT-OF-HOME PLACEMENT;

25 (2) WHETHER A LOCAL DEPARTMENT HAS ENSURED THAT:

26 (I) A CASEWORKER IS PROMPTLY ASSIGNED TO AND ACTIVELY  
27 RESPONSIBLE FOR THE CASE AT ALL TIMES;

28 (II) THE IDENTITY OF THE CASEWORKER HAS BEEN PROMPTLY  
29 COMMUNICATED TO THE COURT AND THE PARTIES; AND

30 (III) THE CASEWORKER IS KNOWLEDGEABLE ABOUT THE CASE AND  
31 HAS RECEIVED ON A TIMELY BASIS ALL PERTINENT FILES AND OTHER  
32 INFORMATION AFTER RECEIVING THE ASSIGNMENT FROM THE LOCAL  
33 DEPARTMENT;

34 (3) FOR A HEARING UNDER § 3-823 OF THIS SUBTITLE, WHETHER A  
35 LOCAL DEPARTMENT HAS PROVIDED APPROPRIATE SERVICES THAT FACILITATE THE  
36 ACHIEVEMENT OF A PERMANENCY PLAN FOR THE CHILD;

1           (4)     WHETHER THE CHILD'S PLACEMENT HAS BEEN STABLE AND IN THE  
2 LEAST RESTRICTIVE SETTING APPROPRIATE, AVAILABLE, AND ACCESSIBLE FOR THE  
3 CHILD DURING THE PERIOD SINCE THE MOST RECENT HEARING HELD BY THE  
4 COURT;

5           (5)     WHETHER A LOCAL DEPARTMENT NOTIFIED THE COURT AND ALL  
6 PARTIES BEFORE ANY CHANGE OF PLACEMENT FOR THE CHILD, OR, IF EMERGENCY  
7 CONDITIONS MADE A CHANGE NECESSARY, AS SOON AS POSSIBLE AFTER THE  
8 CHANGE OF PLACEMENT;

9           (6)     ON RECEIPT OF A REPORT OF MALTREATMENT OF A CHILD  
10 OCCURRING WHILE THE CHILD IS IN THE CUSTODY OF A LOCAL DEPARTMENT,  
11 WHETHER THE LOCAL DEPARTMENT PROVIDED THE APPROPRIATE PARTIES,  
12 INCLUDING THE CHILD'S ATTORNEY, A REPORT OR NOTICE OF A REPORT OF THE  
13 SUSPECTED MALTREATMENT OF THE CHILD AND OF THE DISPOSITION OF THE  
14 INVESTIGATION WITHIN THE TIME REQUIRED BY REGULATION AND COURT ORDER;  
15 AND

16           (7)     WHETHER A LOCAL DEPARTMENT HAS PROVIDED APPROPRIATE AND  
17 TIMELY SERVICES TO HELP MAINTAIN THE CHILD IN THE CHILD'S EXISTING  
18 PLACEMENT, INCLUDING ALL SERVICES AND BENEFITS AVAILABLE IN ACCORDANCE  
19 WITH STATE LAW, REGULATIONS, STATE AND FEDERAL COURT ORDERS, STIPULATED  
20 AGREEMENTS, OR PROFESSIONAL STANDARDS REGARDING THE PROVISION OF  
21 SERVICES TO CHILDREN IN OUT-OF-HOME PLACEMENTS.

22     (D)     IN MAKING A FINDING IN ACCORDANCE WITH SUBSECTION (B) OF THIS  
23 SECTION, A COURT MAY NOT CONSIDER A POTENTIAL LOSS OF FEDERAL FUNDING  
24 FOR PLACEMENT OF A CHILD THAT MAY RESULT FROM A DETERMINATION THAT  
25 REASONABLE EFFORTS WERE NOT MADE.

26     (E)     A COURT SHALL MAKE THE FINDINGS REQUIRED UNDER SUBSECTION (B)  
27 OF THIS SECTION IN WRITING IF IT FINDS THAT REASONABLE EFFORTS ARE BEING  
28 MADE FOR A CHILD, BUT ALSO FINDS THAT AT LEAST ONE OF THE FOLLOWING  
29 CONDITIONS EXISTS:

30           (1)     A LOCAL DEPARTMENT DID NOT COMPLY WITH LAW, REGULATIONS,  
31 COURT ORDERS, OR AGREEMENTS DESCRIBED IN SUBSECTION (C)(1) OF THIS  
32 SECTION;

33           (2)     A LOCAL DEPARTMENT DID NOT ENSURE CONTINUITY OF  
34 CASEWORK AS DESCRIBED IN SUBSECTION (C)(2) OF THIS SECTION;

35           (3)     A LOCAL DEPARTMENT DID NOT PROVIDE THE SERVICES DESCRIBED  
36 IN SUBSECTION (C)(3) OF THIS SECTION;

37           (4)     DURING THE PERIOD SINCE THE MOST RECENT COURT HEARING,  
38 THE CHILD HAS NOT BEEN PLACED IN A STABLE PLACEMENT OR IN THE LEAST  
39 RESTRICTIVE SETTING APPROPRIATE, AVAILABLE, AND ACCESSIBLE FOR THE CHILD;

1 (5) A LOCAL DEPARTMENT FAILED TO PROVIDE REPORTS OR NOTICES  
2 OF REPORTS IN A TIMELY MANNER AS DESCRIBED IN SUBSECTION (C)(5) OR (6) OF  
3 THIS SECTION; OR

4 (6) A LOCAL DEPARTMENT HAS NOT PROVIDED THE SERVICES  
5 DESCRIBED IN SUBSECTION (C)(7) OF THIS SECTION.

6 (F) IF THE COURT FINDS THAT REASONABLE EFFORTS FOR A CHILD WERE  
7 NOT MADE IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION OR FINDS THAT  
8 REASONABLE EFFORTS WERE NOT MADE, THE COURT PROMPTLY SHALL SEND ITS  
9 WRITTEN FINDINGS TO:

10 (1) THE DIRECTOR OF THE LOCAL DEPARTMENT;

11 (2) THE SOCIAL SERVICES ADMINISTRATION;

12 (3) THE STATE CITIZENS REVIEW BOARD FOR CHILDREN ESTABLISHED  
13 UNDER § 5-535 OF THE FAMILY LAW ARTICLE;

14 (4) IF APPLICABLE, THE LOCAL CITIZENS REVIEW PANEL ESTABLISHED  
15 UNDER § 5-539.2 OF THE FAMILY LAW ARTICLE; AND

16 (5) ANY INDIVIDUAL OR AGENCY IDENTIFIED BY A LOCAL DEPARTMENT  
17 OR THE COURT AS RESPONSIBLE FOR MONITORING THE CARE AND SERVICES  
18 PROVIDED TO CHILDREN IN THE LEGAL CUSTODY OR GUARDIANSHIP OF THE LOCAL  
19 DEPARTMENT ON A SYSTEMIC BASIS.

20 3-817.

21 (a) After a CINA petition is filed under this subtitle, the court shall hold an  
22 adjudicatory hearing.

23 3-819.

24 (a) (1) Unless a CINA petition under this subtitle is dismissed, the court  
25 shall hold a separate disposition hearing after an adjudicatory hearing to determine  
26 whether the child is a CINA.

27 (b) In making a disposition on a CINA petition under this subtitle, the court  
28 shall:

29 (1) Find that the child is not in need of assistance and, except as  
30 provided in subsection (e) of this section, dismiss the case; or

31 (2) Find that the child is in need of assistance and:

32 (i) Not change the child's custody status; or

33 (ii) Commit the child to the custody of:





1. Adoption; or
  2. Custody and guardianship;
  - (iii) Adoption by a nonrelative;
  - (iv) Guardianship by a nonrelative;
  - (v) Continuation in a specified placement on a permanent basis because of the child's special needs or circumstances;
  - (vi) Continuation in placement for a specified period because of the child's special needs or circumstances; or
  - (vii) Independent living; and
- (2) For a child who has attained the age of 16, determine the services needed to assist the child to make the transition from placement to independent living.
- (g) In the case of a child for whom the court determines that the plan should be changed to adoption under subsection (e)(1)(iii) of this section, the court shall:
- (1) Order the local department to file a petition for guardianship in accordance with Title 5, Subtitle 3 of the Family Law Article within 30 days or, if the local department does not support the plan, within 60 days; and
  - (2) Schedule a TPR hearing instead of the next 6-month review hearing.
- (h) (1) (i) Except as provided in subparagraphs (ii) and (iii) of this paragraph, the court shall conduct a hearing to review the permanency plan at least every 6 months until commitment is rescinded or a voluntary placement is terminated.
- (ii) The court shall conduct a review hearing every 12 months after the court determines that the child shall be continued in out-of-home placement with a specific caregiver who agrees to care for the child on a permanent basis.
- (iii) 1. Unless the court finds good cause, a case shall be terminated after the court grants custody and guardianship of the child to a relative or other individual.
2. If the court finds good cause not to terminate a case, the court shall conduct a review hearing every 12 months until the case is terminated.
- (2) At the review hearing, the court shall:
- (i) Determine the continuing necessity for and appropriateness of the commitment;

- 1 (ii) Determine and document in its order whether reasonable  
2 efforts have been made to finalize the permanency plan that is in effect;
- 3 (iii) Determine the extent of progress that has been made toward  
4 alleviating or mitigating the causes necessitating commitment;
- 5 (iv) Project a reasonable date by which a child in placement may be  
6 returned home, placed in a preadoptive home, or placed under a legal guardianship;
- 7 (v) Evaluate the safety of the child and take necessary measures to  
8 protect the child; and
- 9 (vi) Change the permanency plan if a change in the permanency  
10 plan would be in the child's best interest.
- 11 (3) Every reasonable effort shall be made to effectuate a permanent  
12 placement for the child within 24 months after the date of initial placement.

13 **Article - Family Law**

14 5-319.

15 (b) Except as provided in subsection (g) of this section, a guardian with the  
16 right to consent to adoption, including a guardian with the right to consent to  
17 adoption who was appointed without the consent of the natural parents, shall file a  
18 written report with the court and give notice of the child's status to each natural  
19 parent of the child under the guardianship and to the child's court-appointed counsel  
20 if:

21 (1) a placement for adoption is not made within 9 months of the decree of  
22 guardianship;

23 (2) a placement for adoption is made within 9 months of the decree of  
24 guardianship, but there is a disrupted placement, and a new placement is not made  
25 within 120 days of the disrupted placement; or

26 (3) a final decree of adoption is not entered within 2 years after  
27 placement for adoption.

28 (f) On receipt of the guardian's report under subsection (b) of this section, and  
29 every 12 months thereafter, the court:

30 (1) shall hold a hearing to review the progress which has been made  
31 toward the child's adoption and to review whether the child's current placement and  
32 circumstances are in the child's best interest; and

33 (2) shall then take whatever action the court considers appropriate in  
34 the child's best interest.

1 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
2 October 1, 2005.