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Introduced and read first time: February 4, 2005

Assigned to: Judicial Proceedings

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A BILL ENTITLED

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)

27 BY repealing and reenacting, without amendments,

28 Article - Courts and Judicial Proceedings  
29 Section 3-801(a), 3-815(a) and (e), 3-817(a), 3-819(a)(1), (b), (c), and (d), and  
30 3-823(b)(1), (e), (g), and (h)  
31 Annotated Code of Maryland

1 (2002 Replacement Volume and 2004 Supplement)

2 BY repealing and reenacting, with amendments,

3 Article - Courts and Judicial Proceedings

4 Section 3-802 and 3-815(b) and (d)

5 Annotated Code of Maryland

6 (2002 Replacement Volume and 2004 Supplement)

7 BY adding to

8 Article - Courts and Judicial Proceedings

9 Section 3-801(v) and 3-816.1

10 Annotated Code of Maryland

11 (2002 Replacement Volume and 2004 Supplement)

12 BY repealing and reenacting, without amendments,

13 Article - Family Law

14 Section 5-319(b) and (f)

15 Annotated Code of Maryland

16 (2004 Replacement Volume)

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

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

23 **Article - Courts and Judicial Proceedings**

24 3-801.

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

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

29 3-802.

30 (a) The purposes of this subtitle are:

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

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

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

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

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

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

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

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

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

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

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

24 3-815.

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

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

30 (1) Placement is required to protect the child from serious immediate  
31 danger;

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

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

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

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

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

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

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

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

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

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

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

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

26 3-816.1.

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

32     (B)     (1)     IN A HEARING CONDUCTED IN ACCORDANCE WITH § 3-815, § 3-817, §  
33 3-819, OR § 3-823 OF THIS SUBTITLE, THE COURT SHALL MAKE A FINDING WHETHER  
34 THE LOCAL DEPARTMENT MADE REASONABLE EFFORTS TO PREVENT PLACEMENT  
35 OF THE CHILD INTO THE LOCAL DEPARTMENT'S CUSTODY.

36                   (2)     IN A REVIEW HEARING CONDUCTED IN ACCORDANCE WITH § 3-823  
37 OF THIS SUBTITLE OR § 5-319 OF THE FAMILY LAW ARTICLE, THE COURT SHALL

1 MAKE A FINDING WHETHER A LOCAL DEPARTMENT MADE REASONABLE EFFORTS  
2 TO:

3 (I) FINALIZE THE PERMANENCY PLAN IN EFFECT FOR THE CHILD;  
4 AND

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

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

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

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

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

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

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

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

24 (III) THE CASEWORKER IS KNOWLEDGEABLE ABOUT THE CASE AND  
25 HAS RECEIVED ON A TIMELY BASIS ALL PERTINENT FILES AND OTHER  
26 INFORMATION AFTER RECEIVING THE ASSIGNMENT FROM THE LOCAL  
27 DEPARTMENT;

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

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

35 (5) WHETHER A LOCAL DEPARTMENT NOTIFIED THE COURT AND ALL  
36 PARTIES BEFORE ANY CHANGE OF PLACEMENT FOR THE CHILD, OR, IF EMERGENCY

1 CONDITIONS MADE A CHANGE NECESSARY, AS SOON AS POSSIBLE AFTER THE  
2 CHANGE OF PLACEMENT;

3 (6) ON RECEIPT OF A REPORT OF MALTREATMENT OF A CHILD  
4 OCCURRING WHILE THE CHILD IS IN THE CUSTODY OF A LOCAL DEPARTMENT,  
5 WHETHER THE LOCAL DEPARTMENT PROVIDED THE APPROPRIATE PARTIES,  
6 INCLUDING THE CHILD'S ATTORNEY, A REPORT OR NOTICE OF A REPORT OF THE  
7 SUSPECTED MALTREATMENT OF THE CHILD AND OF THE DISPOSITION OF THE  
8 INVESTIGATION WITHIN THE TIME REQUIRED BY REGULATION AND COURT ORDER;  
9 AND

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

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

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

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

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

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

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

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

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

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

5 (1) THE DIRECTOR OF THE LOCAL DEPARTMENT;

6 (2) THE SOCIAL SERVICES ADMINISTRATION;

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

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

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

15 3-817.

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

18 3-819.

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

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

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

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

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

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

29 1. A parent, relative, or other individual on terms the court  
30 considers appropriate; or

31 2. A local department, the Department of Health and Mental  
32 Hygiene, or both, on terms that the court considers appropriate, including designation  
33 of the type of facility where the child is to be placed.

1 (c) In addition to any action under subsection (b)(2) of this section, the court  
2 may:

3 (1) (i) Place a child under the protective supervision of the local  
4 department on terms the court considers appropriate;

5 (ii) Grant limited guardianship to the department or an individual  
6 or both for specific purposes including medical and educational purposes or for other  
7 appropriate services if a parent is unavailable, unwilling, or unable to consent to  
8 services that are in the best interest of the child; or

9 (iii) Order the child and the child's parent, guardian, or custodian to  
10 participate in rehabilitative services that are in the best interest of the child and  
11 family; and

12 (2) Determine custody, visitation, support, or paternity of a child in  
13 accordance with § 3-803(b) of this subtitle.

14 (d) If guardianship of a child is awarded to the local department under this  
15 subtitle, the local department shall notify the parents of the child and their attorneys  
16 as soon as practicable of any emergency decision made by the guardian with respect  
17 to the child under § 3-801(o) of this subtitle.

18 3-823.

19 (b) (1) The court shall hold a permanency planning hearing to determine the  
20 permanency plan for a child:

21 (i) No later than 11 months after a child committed under § 3-819  
22 of this subtitle or continued in a voluntary placement under § 3-819.1(b) of this  
23 subtitle enters an out-of-home placement; or

24 (ii) Within 30 days after the court finds that reasonable efforts to  
25 reunify a child with the child's parent or guardian are not required based on a finding  
26 that a circumstance enumerated in § 3-812 of this subtitle has occurred.

27 (e) At a permanency planning hearing, the court shall:

28 (1) Determine the child's permanency plan, which may be:

29 (i) Reunification with the parent or guardian;

30 (ii) Placement with a relative for:

31 1. Adoption; or

32 2. Custody and guardianship;

33 (iii) Adoption by a nonrelative;

34 (iv) Guardianship by a nonrelative;



1 (v) Continuation in a specified placement on a permanent basis  
2 because of the child's special needs or circumstances;

3 (vi) Continuation in placement for a specified period because of the  
4 child's special needs or circumstances; or

5 (vii) Independent living; and

6 (2) For a child who has attained the age of 16, determine the services  
7 needed to assist the child to make the transition from placement to independent  
8 living.

9 (g) In the case of a child for whom the court determines that the plan should  
10 be changed to adoption under subsection (e)(1)(iii) of this section, the court shall:

11 (1) Order the local department to file a petition for guardianship in  
12 accordance with Title 5, Subtitle 3 of the Family Law Article within 30 days or, if the  
13 local department does not support the plan, within 60 days; and

14 (2) Schedule a TPR hearing instead of the next 6-month review hearing.

15 (h) (1) (i) Except as provided in subparagraphs (ii) and (iii) of this  
16 paragraph, the court shall conduct a hearing to review the permanency plan at least  
17 every 6 months until commitment is rescinded or a voluntary placement is  
18 terminated.

19 (ii) The court shall conduct a review hearing every 12 months after  
20 the court determines that the child shall be continued in out-of-home placement with  
21 a specific caregiver who agrees to care for the child on a permanent basis.

22 (iii) 1. Unless the court finds good cause, a case shall be  
23 terminated after the court grants custody and guardianship of the child to a relative  
24 or other individual.

25 2. If the court finds good cause not to terminate a case, the  
26 court shall conduct a review hearing every 12 months until the case is terminated.

27 (2) At the review hearing, the court shall:

28 (i) Determine the continuing necessity for and appropriateness of  
29 the commitment;

30 (ii) Determine and document in its order whether reasonable  
31 efforts have been made to finalize the permanency plan that is in effect;

32 (iii) Determine the extent of progress that has been made toward  
33 alleviating or mitigating the causes necessitating commitment;

34 (iv) Project a reasonable date by which a child in placement may be  
35 returned home, placed in a preadoptive home, or placed under a legal guardianship;

1 (v) Evaluate the safety of the child and take necessary measures to  
2 protect the child; and

3 (vi) Change the permanency plan if a change in the permanency  
4 plan would be in the child's best interest.

5 (3) Every reasonable effort shall be made to effectuate a permanent  
6 placement for the child within 24 months after the date of initial placement.

7 **Article - Family Law**

8 5-319.

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

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

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

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

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

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

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

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