
By: **Senators Garagiola, Britt, Forehand, Gladden, Hollinger, Kasemeyer,
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Introduced and read first time: February 4, 2005

Assigned to: Judicial Proceedings

Committee Report: Favorable

Senate action: Adopted

Read second time: April 1, 2005

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

1 (2002 Replacement Volume and 2004 Supplement)

2 BY repealing and reenacting, without amendments,

3 Article - Courts and Judicial Proceedings

4 Section 3-801(a), 3-815(a) and (e), 3-817(a), 3-819(a)(1), (b), (c), and (d), and

5 3-823(b)(1), (e), (g), and (h)

6 Annotated Code of Maryland

7 (2002 Replacement Volume and 2004 Supplement)

8 BY repealing and reenacting, with amendments,

9 Article - Courts and Judicial Proceedings

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

11 Annotated Code of Maryland

12 (2002 Replacement Volume and 2004 Supplement)

13 BY adding to

14 Article - Courts and Judicial Proceedings

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

16 Annotated Code of Maryland

17 (2002 Replacement Volume and 2004 Supplement)

18 BY repealing and reenacting, without amendments,

19 Article - Family Law

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

21 Annotated Code of Maryland

22 (2004 Replacement Volume)

23 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

24 MARYLAND, That Section(s) 3-801(v) through (aa), respectively, of Article - Courts

25 and Judicial Proceedings of the Annotated Code of Maryland be renumbered to be

26 Section(s) 3-801(w) through (bb), respectively.

27 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland

28 read as follows:

29 **Article - Courts and Judicial Proceedings**

30 3-801.

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

32 (V) "REASONABLE EFFORTS" MEANS EFFORTS THAT ARE REASONABLY

33 LIKELY TO ACHIEVE THE OBJECTIVES SET FORTH IN § 3-816.1(B)(1) AND (2) OF THIS

34 SUBTITLE.

1 3-802.

2 (a) The purposes of this subtitle are:

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

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

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

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

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

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

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

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

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

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

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

30 3-815.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

32 3-816.1.

33 (A) THE PROVISIONS OF THIS SECTION APPLY TO A HEARING CONDUCTED IN
34 ACCORDANCE WITH § 3-815, § 3-817, § 3-819, OR § 3-823 OF THIS SUBTITLE OR A
35 REVIEW HEARING CONDUCTED IN ACCORDANCE WITH § 5-319 OF THE FAMILY LAW

1 ARTICLE IN WHICH A CHILD IS PLACED UNDER AN ORDER OF GUARDIANSHIP,
2 COMMITMENT, OR SHELTER CARE.

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

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

11 (I) FINALIZE THE PERMANENCY PLAN IN EFFECT FOR THE CHILD;
12 AND

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 (1) THE DIRECTOR OF THE LOCAL DEPARTMENT;

14 (2) THE SOCIAL SERVICES ADMINISTRATION;

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

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

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

23 3-817.

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

26 3-819.

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

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

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

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

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

- 1 (ii) Commit the child to the custody of:
- 2 1. A parent, relative, or other individual on terms the court
3 considers appropriate; or
- 4 2. A local department, the Department of Health and Mental
5 Hygiene, or both, on terms that the court considers appropriate, including designation
6 of the type of facility where the child is to be placed.

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

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

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

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

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

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

24 3-823.

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

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

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

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

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

35 (i) Reunification with the parent or guardian;

- 1 (ii) Placement with a relative for:
- 2 1. Adoption; or
- 3 2. Custody and guardianship;
- 4 (iii) Adoption by a nonrelative;
- 5 (iv) Guardianship by a nonrelative;
- 6 (v) Continuation in a specified placement on a permanent basis
7 because of the child's special needs or circumstances;
- 8 (vi) Continuation in placement for a specified period because of the
9 child's special needs or circumstances; or
- 10 (vii) Independent living; and
- 11 (2) For a child who has attained the age of 16, determine the services
12 needed to assist the child to make the transition from placement to independent
13 living.
- 14 (g) In the case of a child for whom the court determines that the plan should
15 be changed to adoption under subsection (e)(1)(iii) of this section, the court shall:
- 16 (1) Order the local department to file a petition for guardianship in
17 accordance with Title 5, Subtitle 3 of the Family Law Article within 30 days or, if the
18 local department does not support the plan, within 60 days; and
- 19 (2) Schedule a TPR hearing instead of the next 6-month review hearing.
- 20 (h) (1) (i) Except as provided in subparagraphs (ii) and (iii) of this
21 paragraph, the court shall conduct a hearing to review the permanency plan at least
22 every 6 months until commitment is rescinded or a voluntary placement is
23 terminated.
- 24 (ii) The court shall conduct a review hearing every 12 months after
25 the court determines that the child shall be continued in out-of-home placement with
26 a specific caregiver who agrees to care for the child on a permanent basis.
- 27 (iii) 1. Unless the court finds good cause, a case shall be
28 terminated after the court grants custody and guardianship of the child to a relative
29 or other individual.
- 30 2. If the court finds good cause not to terminate a case, the
31 court shall conduct a review hearing every 12 months until the case is terminated.
- 32 (2) At the review hearing, the court shall:
- 33 (i) Determine the continuing necessity for and appropriateness of
34 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.