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By: Chair, Judiciary Committee (By Request – Departmental – Human Resources)

Introduced and read first time: January 25, 2011 Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 Child Abuse and Neglect – Waiver of Reunification Services

- FOR the purpose of altering the circumstances under which a local department of social services may ask the court in a child in need of assistance proceeding to find that reasonable reunification efforts are not required; altering the factors that a juvenile court is required to consider in ruling on a petition for guardianship of a child; altering the circumstances under which a juvenile court may waive a local department's obligations to provide certain services to a parent; and generally relating to child abuse and neglect.
- 10 BY repealing and reenacting, with amendments,
- 11 Article Courts and Judicial Proceedings
- 12 Section 3–812
- 13 Annotated Code of Maryland
- 14 (2006 Replacement Volume and 2010 Supplement)
- 15 BY repealing and reenacting, with amendments,
- 16 Article Family Law
- 17 Section 5–323
- 18 Annotated Code of Maryland
- 19 (2006 Replacement Volume and 2010 Supplement)

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF 21 MARYLAND, That the Laws of Maryland read as follows:

Article – Courts and Judicial Proceedings

- 23 3-812.

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$egin{array}{c} 1 \ 2 \end{array}$	(a) (1) In this section the following words have the meanings indicated, unless the context of their use indicates otherwise.				
3		(2)	"Crin	ne of violence":	
45	Article; or		(i)	Has the meaning stated in § 14–101 of the Criminal Law	
6 7 8	(ii) As to a crime committed in another state, means a crime that, if committed in this State, would be a crime of violence as defined in § 14–101 of the Criminal Law Article.				
9 10	of punishme	(3) ent or e		ure" means to cause intense pain to body or mind for purposes ion of information or for sadistic purposes.	
11 12 13	(b) In a petition under this subtitle, a local department may ask the court to find that reasonable efforts to reunify a child with the child's parent or guardian are not required if the local department concludes that a parent or guardian has:				
14		(1)	Subje	cted [the] A child to:	
15			(i)	Chronic abuse;	
16			(ii)	Chronic and life-threatening neglect;	
17			(iii)	Sexual abuse; or	
18			(iv)	Torture;	
19		(2)	Been	convicted, in any state or any court of the United States, of:	
20			(i)	A crime of violence against:	
21				1. A minor offspring of the parent or guardian;	
22				2. The child; or	
23				3. Another parent or guardian of the child; or	
$\begin{array}{c} 24 \\ 25 \end{array}$					
26		(3)	Invol	untarily lost parental rights of a sibling of a child.	
$\begin{array}{c} 27\\ 28 \end{array}$	(c) If the local department determines after the initial petition is filed that any of the circumstances specified in subsection (b) of this section exists, the local				

1 department may immediately request the court to find that reasonable efforts to 2 reunify the child with the child's parent or guardian are not required.

3 (d) If the court finds by clear and convincing evidence that any of the 4 circumstances specified in subsection (b) of this section exists, the court shall waive 5 the requirement that reasonable efforts be made to reunify the child with the child's 6 parent or guardian.

7 (e) If the court finds that reasonable efforts are not required, the local 8 department shall:

9 (1) Request that a permanency planning hearing be held in accordance 10 with § 3–823 of this subtitle within 30 days after the court makes the finding; and

11 (2) Make reasonable efforts to place the child in a timely manner in 12 accordance with the permanency plan and complete the steps necessary to finalize the 13 permanent placement of the child.

14 (f) If a parent consents to guardianship or adoption in accordance with 15 § 5–320 or § 5–338 of the Family Law Article, loss of parental rights shall be 16 considered voluntary.

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Article – Family Law

18 5–323.

19 (a) In this section, "drug" means cocaine, heroin, methamphetamine, or a 20 derivative of cocaine, heroin, or methamphetamine.

(b) If, after consideration of factors as required in this section, a juvenile court finds by clear and convincing evidence that a parent is unfit to remain in a parental relationship with the child or that exceptional circumstances exist that would make a continuation of the parental relationship detrimental to the best interests of the child such that terminating the rights of the parent is in a child's best interests, the juvenile court may grant guardianship of the child without consent otherwise required under this subtitle and over the child's objection.

(c) A juvenile court need not consider any factor listed in subsection (d) of
this section in determining a child's best interests if, after a thorough investigation by
a local department, the juvenile court finds that:

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(1) the identities of the child's parents are unknown; and

32 (2) during the 60 days immediately after the child's adjudication as a 33 child in need of assistance, no one has claimed to be the child's parent.

34 (d) Except as provided in subsection (c) of this section, in ruling on a petition 35 for guardianship of a child, a juvenile court shall give primary consideration to the

$egin{array}{c} 1 \\ 2 \\ 3 \end{array}$	health and safety of the child and consideration to all other factors needed to determine whether terminating a parent's rights is in the child's best interests, including:				
4 5	(1) (i) all services offered to the parent before the child's placement, whether offered by a local department, another agency, or a professional;				
$6 \\ 7$	(ii) the extent, nature, and timeliness of services offered by a local department to facilitate reunion of the child and parent; and				
8 9	(iii) the extent to which a local department and parent have fulfilled their obligations under a social services agreement, if any;				
$10 \\ 11 \\ 12$	(2) the results of the parent's effort to adjust the parent's circumstances, condition, or conduct to make it in the child's best interests for the child to be returned to the parent's home, including:				
$\begin{array}{c} 13\\14 \end{array}$	(i) the extent to which the parent has maintained regular contact with:				
15	1. the child;				
$\begin{array}{c} 16 \\ 17 \end{array}$	2. the local department to which the child is committed; and				
18	3. if feasible, the child's caregiver;				
19 20	(ii) the parent's contribution to a reasonable part of the child's care and support, if the parent is financially able to do so;				
21 22 23	(iii) the existence of a parental disability that makes the parent consistently unable to care for the child's immediate and ongoing physical or psychological needs for long periods of time; and				
24 25 26 27 28	(iv) whether additional services would be likely to bring about a lasting parental adjustment so that the child could be returned to the parent within an ascertainable time not to exceed 18 months from the date of placement unless the juvenile court makes a specific finding that it is in the child's best interests to extend the time for a specified period;				
29	(3) whether:				
30 31	(i) the parent has abused or neglected the child or a minor and the seriousness of the abuse or neglect;				
$\frac{32}{33}$	(ii) 1. A. on admission to a hospital for the child's delivery, the mother tested positive for a drug as evidenced by a positive toxicology				

34 test; or

1 2	for a drug as evidenced b	B. upon the birth of the child, the child tested positive by a positive toxicology test; and
$3 \\ 4 \\ 5$		2. the mother refused the level of drug treatment if addictions specialist, as defined in § $5-1201$ of this title, chologist, as defined in the Health Occupations Article;
6	(iii)	the parent subjected [the] A child to:
7		1. chronic abuse;
8		2. chronic and life–threatening neglect;
9		3. sexual abuse; or
10		4. torture;
$\begin{array}{c} 11 \\ 12 \end{array}$	(iv) the United States, of:	the parent has been convicted, in any state or any court of
13		1. a crime of violence against:
14		A. a minor offspring of the parent;
15		B. the child; or
16		C. another parent of the child; or
17 18	a crime described in iten	2. aiding or abetting, conspiring, or soliciting to commit n 1 of this item; and
19 20	(v) of the child; and	the parent has involuntarily lost parental rights to a sibling
21 22 23	(4) (i) child's parents, the child significantly;	the child's emotional ties with and feelings toward the 's siblings, and others who may affect the child's best interests
24	(ii)	the child's adjustment to:
25		1. community;
26		2. home;
27		3. placement; and

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4. school;

2 (iii) the child's feelings about severance of the parent-child 3 relationship; and

4 (iv) the likely impact of terminating parental rights on the 5 child's well-being.

6 (e) (1) A juvenile court shall consider the evidence under subsection 7 (d)(3)(i) and (ii) of this section as to a continuing or serious act or condition and may 8 waive a local department's obligations for services described in subsection (d)(1) of this 9 section if, after appropriate evaluation of efforts made and services offered, the 10 juvenile court finds by clear and convincing evidence that a waiver is in the child's 11 best interests.

12 (2) A juvenile court may waive a local department's obligations for 13 services described in subsection (d)(1) of this section if the juvenile court finds by clear 14 and convincing evidence that one or more of the acts or circumstances listed in 15 subsection (d)(3)(iii), (iv), or (v) of this section exists.

16 (3) If a juvenile court waives reunification efforts under § 3–812(d) of 17 the Courts Article, the juvenile court may not consider any factor under subsection 18 (d)(1) of this section.

19 (f) If a juvenile court finds that an act or circumstance listed in subsection 20 (d)(3)(iii), (iv), or (v) of this section exists, the juvenile court shall make a specific 21 finding, based on facts in the record, whether return of the child to a parent's custody 22 poses an unacceptable risk to the child's future safety.

23 (g) If a parent has consented to guardianship in accordance with 5-320(a)(1)(iii)1 of this subtitle, the loss of parental rights shall be considered voluntary.

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect 27 October 1, 2011.