

SENATE BILL 333

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CF 11r2350

By: **Senator Garagiola**

Introduced and read first time: February 2, 2011

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Children in Need of Assistance – Hearings – Written Findings**

3 FOR the purpose of requiring the juvenile court, in certain child in need of assistance
4 hearings, to send certain written findings to certain individuals and agencies if
5 the court finds that certain reasonable efforts were made but that a certain
6 condition exists; and generally relating to children in need of assistance.

7 BY repealing and reenacting, with amendments,
8 Article – Courts and Judicial Proceedings
9 Section 3–816.1
10 Annotated Code of Maryland
11 (2006 Replacement Volume and 2010 Supplement)

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

14 **Article – Courts and Judicial Proceedings**

15 3–816.1.

16 (a) The provisions of this section apply to a hearing conducted in accordance
17 with § 3–815, § 3–817, § 3–819, or § 3–823 of this subtitle or a review hearing
18 conducted in accordance with § 5–326 of the Family Law Article in which a child is
19 placed under an order of guardianship, commitment, or shelter care.

20 (b) (1) In a hearing conducted in accordance with § 3–815, § 3–817,
21 § 3–819, or § 3–823 of this subtitle, the court shall make a finding whether the local
22 department made reasonable efforts to prevent placement of the child into the local
23 department's custody.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2) In a review hearing conducted in accordance with § 3–823 of this
2 subtitle or § 5–326 of the Family Law Article, the court shall make a finding whether a
3 local department made reasonable efforts to:

4 (i) Finalize the permanency plan in effect for the child; and

5 (ii) Meet the needs of the child, including the child’s health,
6 education, safety, and preparation for independence.

7 (3) In a hearing conducted in accordance with § 3–815, § 3–817, or
8 § 3–819 of this subtitle, before determining whether a child with a developmental
9 disability or a mental illness is a child in need of assistance, the court shall make a
10 finding whether the local department made reasonable efforts to prevent placement of
11 the child into the local department’s custody by determining whether the local
12 department could have placed the child in accordance with a voluntary placement
13 agreement under § 5–525(b)(1)(i) or (iii) of the Family Law Article.

14 (4) The court shall require a local department to provide evidence of
15 its efforts before the court makes a finding required under this subsection.

16 (5) The court’s finding under this subsection shall assess the efforts
17 made since the last adjudication of reasonable efforts and may not rely on findings
18 from prior hearings.

19 (c) In making its findings in accordance with subsection (b) of this section,
20 the court shall consider:

21 (1) The extent to which a local department has complied with the law,
22 regulations, state or federal court orders, or a stipulated agreement accepted by the
23 court regarding the provision of services to a child in an out-of-home placement;

24 (2) Whether a local department has ensured that:

25 (i) A caseworker is promptly assigned to and actively
26 responsible for the case at all times;

27 (ii) The identity of the caseworker has been promptly
28 communicated to the court and the parties; and

29 (iii) The caseworker is knowledgeable about the case and has
30 received on a timely basis all pertinent files and other information after receiving the
31 assignment from the local department;

32 (3) For a hearing under § 3–823 of this subtitle, whether a local
33 department has provided appropriate services that facilitate the achievement of a
34 permanency plan for the child, including consideration of in-State and out-of-state
35 placement options;

1 (4) Whether the child's placement has been stable and in the least
2 restrictive setting appropriate, available, and accessible for the child during the period
3 since the most recent hearing held by the court;

4 (5) Whether a local department notified the court and all parties
5 before any change of placement for the child, or, if emergency conditions made a
6 change necessary, as soon as possible after the change of placement;

7 (6) On receipt of a report of maltreatment of a child occurring while
8 the child is in the custody of a local department, whether the local department
9 provided the appropriate parties, including the child's attorney, a report or notice of a
10 report of the suspected maltreatment of the child and of the disposition of the
11 investigation within the time required by regulation and court order; and

12 (7) Whether a local department has provided appropriate and timely
13 services to help maintain the child in the child's existing placement, including all
14 services and benefits available in accordance with State law, regulations, state and
15 federal court orders, stipulated agreements, or professional standards regarding the
16 provision of services to children in out-of-home placements.

17 (d) In making a finding in accordance with subsection (b) of this section, a
18 court may not consider a potential loss of federal funding for placement of a child that
19 may result from a determination that reasonable efforts were not made.

20 (e) A court shall make the findings required under subsection (b) of this
21 section in writing if it finds that reasonable efforts are being made for a child, but also
22 finds that at least one of the following conditions exists:

23 (1) A local department did not comply with law, regulations, court
24 orders, or agreements described in subsection (c)(1) of this section;

25 (2) A local department did not ensure continuity of casework as
26 described in subsection (c)(2) of this section;

27 (3) A local department did not provide the services described in
28 subsection (c)(3) of this section;

29 (4) During the period since the most recent court hearing, the child
30 has not been placed in a stable placement or in the least restrictive setting
31 appropriate, available, and accessible for the child;

32 (5) A local department failed to provide reports or notices of reports in
33 a timely manner as described in subsection (c)(5) or (6) of this section; or

34 (6) A local department has not provided the services described in
35 subsection (c)(7) of this section.

1 (f) If the court finds that reasonable efforts for a child were not made in
2 accordance with subsection (b) of this section or finds that reasonable efforts were
3 [not] made **BUT THAT ONE OF THE CONDITIONS DESCRIBED IN SUBSECTION (E)**
4 **OF THIS SECTION EXISTS**, the court promptly shall send its 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 under §
8 5-535 of the Family Law Article;

9 (4) If applicable, the local citizens review panel established under
10 § 5-539.2 of the Family Law Article; and

11 (5) Any individual or agency identified by a local department or the
12 court as responsible for monitoring the care and services provided to children in the
13 legal custody or guardianship of the local department on a systemic basis.

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