

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE

House Bill 139 (Chair, Judiciary Committee)(By Request - Departmental
- Human Resources)

Judiciary

Child Abuse and Neglect - Waiver of Reunification Services

This departmental bill expands the circumstances under which the requirement that a local department of social services provide reasonable family reunification services may be waived so that the waiver applies to any child, rather than only the child who is the subject of a child in need of assistance (CINA) or a termination of parental rights (TPR) proceeding.

Fiscal Summary

State Effect: Although a reduction in general fund expenditures for family reunification services may be offset by an increase in general fund expenditures for permanency planning hearings, it is expected that the Department of Human Resources (DHR) and the Judiciary can meet the bill's requirements with existing resources.

Local Effect: It is anticipated that the circuit courts can handle any increase in permanency planning hearings and otherwise meet the bill's requirements with existing resources.

Small Business Effect: DHR has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment.

Analysis

Bill Summary: In a CINA proceeding, the bill authorizes a local department of social services to request a waiver from its obligation to provide reasonable family reunification services if the local department concludes that a parent or guardian has subjected a child

to chronic abuse, chronic and life-threatening neglect, sexual abuse, or torture. If the court finds, by clear and convincing evidence, that any of these acts were committed, the court is required to grant the waiver.

In a TPR proceeding, the bill requires the juvenile court to give primary consideration to specified factors, including, whether the parent or guardian subjected a child to chronic abuse, chronic and life-threatening neglect, sexual abuse, or torture. If the juvenile court finds that any of the chronic abusive or neglectful acts or circumstances exists, then the juvenile court must make a specific finding, based on the record, as to whether return of a child to a parent's custody poses an unacceptable risk to the child's future safety.

However, if a juvenile court waives the reunification service requirement for a child pursuant to a request of a local department in a CINA petition, the juvenile court may not consider the impact of an evaluation of services offered to the parent before the child's placement, the impact of reunification services, and the extent to which a local department and parent have fulfilled obligations under a social services agreement.

Current Law: A CINA is a child who requires court intervention because the child was abused or neglected or has a developmental disability or a mental disorder, and the child's parents, guardian, or custodian are unable or unwilling to give proper care and attention to the child and the child's needs.

In a CINA petition, a local department may ask the court for a waiver from the obligation to make reasonable efforts to reunify a child with the child's parents or guardian if the local department concludes that a parent or guardian has (1) subjected the child to chronic abuse, chronic and life-threatening neglect, sexual abuse, or torture; (2) been convicted of specified crimes of violence against a minor offspring of the parent or guardian, the child, or another parent or guardian of the child or aiding, abetting, conspiring, or soliciting to commit these crimes; or (3) involuntarily lost parental rights of a child.

On a finding that any of these circumstances exists, the local department may immediately request the court to find that reasonable efforts to reunify the child with the child's parent or guardian are not required. If the court finds, by clear and convincing evidence, that any of these circumstances exists, the court must grant the local department waiver request. If the court grants the waiver, the local department must request that a permanency planning hearing be held within 30 days after the court makes the finding that reunification services are not required. The local department is then required to make reasonable efforts to secure a placement for the subject child, as specified by the permanency plan, and complete the necessary steps to finalize the child's permanent placement.

In a TPR proceeding, after the consideration of certain factors as required by law, if a juvenile court finds by clear and convincing evidence that a parent is unfit to remain in a parental relationship or that exceptional circumstances exist that would make continuation detrimental to the best interests of the child, such that termination of parental rights is in a child's best interests, the court may grant guardianship of the child without parental consent and over the child's objections.

In ruling on a petition for nonconsensual guardianship of a child, a juvenile court must give primary consideration to the health and safety of the child and consideration to all other factors needed to determine whether the termination of parental rights is in a child's best interests. Such factors include:

- an evaluation of any services offered to the parent before the child's placement, the impact of reunification services, and the extent to which a local department of social services and parent have fulfilled their obligations under any social services agreement;
- the results of the parent's effort to adjust the factors necessary to make it in the child's best interests for the child to return to the parent's home, including the extent to which a parent has maintained regular contact with the child and made contributions to the child's care and support;
- any abuse or neglect of the child or a minor, including any exposure of the child to drugs during the mother's pregnancy;
- whether the parent subjected the child to chronic abuse, chronic and life-threatening neglect, sexual abuse, or torture or been convicted of a violent crime against the child, a minor offspring, another parent of the child or aided, conspired or solicited such an act;
- whether the parent has involuntarily lost parental rights to a sibling of the child; and
- the child's emotional ties to the child's parents and siblings, the likely impact of terminating parental rights on the child's well-being, and the child's adjustment to community, home, placement, and school.

However, if a juvenile court waives the reunification service requirement for the child pursuant to a request of a local department in a CINA petition, the juvenile court may not consider the impact of an evaluation of services offered to the parent before the child's placement, the impact of reunification services, and the extent to which a local department and parent have fulfilled obligations under a social services agreement.

Background: DHR advises that this bill is intended to authorize a waiver from providing reasonable reunification services if a parent has committed chronic abuse, chronic and life-threatening neglect, sexual abuse, or torture against a child, thereby

expanding application of the waiver to the siblings of a child who is the subject of a CINA petition or a TPR proceeding. If DHR is excused from the obligation to make a reasonable attempt to provide family reunification services to all children in the home of a chronically abusive or neglectful parent, then permanency placement is expedited not only for the child who is the subject of the proceeding, but the child's siblings also.

According to DHR, longstanding federal and State case law and Maryland statutes have recognized that a parent or guardian who commits these kinds of aggravated offenses is not likely to change the egregious behavior through reunification services, which are, by their very nature, time-limited. Such a parent or guardian is likely to continue to commit these acts in the future. The bill is intended to acknowledge that a parent or guardian who commits these acts against one child presents an unreasonably high risk of harm to all children with whom that person comes into contact.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Harford and Montgomery counties, Baltimore City, Department of Human Resources, Judiciary (Administrative Office of the Courts), Department of Legislative Services

Fiscal Note History: First Reader - February 8, 2011
mc/kdm

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Child Abuse and Neglect – Waiver of Reunification Services

BILL NUMBER: HB 139

PREPARED BY: Department of Human Resources

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

The proposed legislation will have no impact on small business in Maryland.