

Department of Legislative Services
Maryland General Assembly
2015 Session

FISCAL AND POLICY NOTE

House Bill 347
Judiciary

(Delegates Valentino-Smith and Afzali)

Courts - Child Abuse and Neglect - Waiver of Reunification Efforts

This bill expands the circumstances under which a local department of social services may ask the court in a child in need of assistance (CINA) proceeding to find that reasonable efforts to reunify a child with the child's parent or guardian are not required.

Fiscal Summary

State Effect: The bill does not materially impact the workload of the Judiciary. **The Department of Human Resources (DHR) did not provide requested information necessary to develop a complete fiscal estimate for this bill.** Accordingly, any potential fiscal impact on DHR, which has the primary responsibility for investigating families subject to reunification efforts, cannot be reliably estimated.

Local Effect: The bill does not materially impact the workload of the circuit courts.

Small Business Effect: None.

Analysis

Bill Summary: 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 subjected the child to specified aggravated circumstances. Aggravated circumstances exist when a parent or guardian has engaged in or facilitated against the child, a sibling of the child, or another child in the household (1) chronic or extreme physical abuse; (2) chronic and life-threatening neglect; (3) sexual abuse; or (4) torture. Aggravated circumstances also include (1) situations in which the child, a sibling of the child, or another child in the household has suffered extreme bodily harm or death resulting from abuse by the parent

or guardian or another adult in the household and all persons who could have inflicted the harm or caused the death remain in the household; (2) when the parent or guardian has abandoned the child; or (3) when a parent or guardian is required to register as a sex offender.

“Abandon” means to leave a child without any provision for support and without any person who has accepted long-term responsibility to maintain care and have custody and control of the child when the whereabouts of the parent or guardian are unknown and the local department of social services has made reasonable efforts to locate the parent or guardian over a period of at least six months and has been unsuccessful.

The bill also repeals the more general statutory provisions stating that reunification efforts are not required if the parent or guardian has subjected the child to chronic abuse, chronic and life-threatening neglect, sexual abuse, or torture.

Statutory provisions authorizing a court to waive reunification efforts for violent crime convictions, as specified, or when a parent or guardian has involuntarily lost parental rights of a sibling of a child, remain the same.

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’s 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 child in a timely manner, as specified by the permanency plan, and complete the necessary steps to finalize the child’s permanent placement.

Sex Offender Registry

Generally, a person convicted of a sex crime or other specified crime in Maryland, including kidnapping and false imprisonment, is required to register with the State sex offender registry upon release from prison or release from court if the person did not receive a prison sentence. Offenders who are required to register in other states and who come to Maryland are required to register upon entering Maryland. Offenders from other states who may not be required to register in the home state are required to register in Maryland if the crime would have required registration in Maryland if committed in Maryland.

Background: In 2012, a Maryland infant entered foster care after she suffered a fractured skull and rib. An investigation did not find sufficient evidence to show who was responsible for the child's injuries, and no one was criminally charged. Accordingly, the case did not meet the criteria for waiving reunification, and the infant was subsequently returned to her parents. Soon after being reunited with her family, the child died after sustaining additional injuries. Her parents have been indicted in relation to her death.

Federal law requires State agencies to demonstrate that reasonable efforts have been made to provide assistance and services to prevent the removal of a child from his or her home and to make it possible for a child who has been placed in out-of-home care to be reunited with his or her family. However, while reasonable efforts are required, the child's health and safety constitute the primary concern in determining the extent to which reasonable efforts should be made. Pursuant to the Adoption and Safe Families Act of 1997, one exception to the reasonable efforts requirement is when the court has determined that the parent subjected the child to "aggravated circumstances" as defined by State law. The definition of "aggravated circumstances" may include, but is not limited to, abandonment, torture, chronic abuse, and sexual abuse.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland State Commission on Criminal Sentencing Policy, Department of Human Resources, Judiciary (Administrative Office of the Courts), Montgomery County, *The Washington Post*, Child Welfare Information Gateway, Department of Legislative Services

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