

SENATE BILL 150

D3, D4

5lr1670
CF HB 171

By: ~~Senators Hough and Young~~ **Hough, Young, Zirkin, Brochin, Cassilly, Gladden,
Lee, Muse, Norman, Ramirez, Raskin, and Ready**

Introduced and read first time: January 29, 2015

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 24, 2015

CHAPTER _____

AN ACT concerning

Courts – Child Abuse and Neglect – Waiver of Reunification Efforts (Anayah’s Law)

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~~ efforts to reunify the child with the child’s parent or guardian are not required; defining a certain term; making a stylistic change; and generally relating to child abuse and neglect.

~~BY repealing and reenacting, without amendments,
Article – Courts and Judicial Proceedings
Section 3–801(a) and (b)
Annotated Code of Maryland
(2013 Replacement Volume and 2014 Supplement)~~

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 3–812
Annotated Code of Maryland
(2013 Replacement Volume and 2014 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



Article – Courts and Judicial Proceedings

~~§ 801.~~

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

(b) ~~“Abuse” means:~~

~~(1) Sexual abuse of a child, whether a physical injury is sustained or not;~~

~~or~~

~~(2) Physical or mental injury of a child under circumstances that indicate that the child’s health or welfare is harmed or is at substantial risk of being harmed by:~~

~~(i) A parent or other individual who has permanent or temporary care or custody or responsibility for supervision of the child; or~~

~~(ii) A household or family member.~~

~~§ 812.~~

(a) ~~(1) In this section the following words have the meanings indicated, unless the context of their use indicates otherwise.~~

~~(2) “Crime of violence”:~~

~~(i) Has the meaning stated in § 14-101 of the Criminal Law Article;~~

~~or~~

~~(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.~~

~~(3) “Torture” means to cause intense pain to body or mind for purposes of punishment or extraction of information or for sadistic purposes.~~

(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:~~

~~[(1) Subjected the child to:~~

~~(i) Chronic abuse;~~

~~(ii) Chronic and life threatening neglect;~~

~~(iii) Sexual abuse; or~~

~~(iv) Torture;~~

~~(1) (i) LEFT THE CHILD WITHOUT ANY PROVISION FOR SUPPORT AND WITHOUT ANY PERSON WHO HAS ACCEPTED LEGAL RESPONSIBILITY FOR THE CARE, CUSTODY, AND CONTROL OF THE CHILD, WHEN THE WHEREABOUTS OF THE PARENT OR GUARDIAN ARE UNKNOWN AND REASONABLE EFFORTS TO LOCATE THE PARENT OR GUARDIAN HAVE BEEN UNSUCCESSFUL;~~

~~(ii) INFLECTED OR KNOWINGLY ALLOWED ANOTHER PERSON TO INFLECT SEXUAL ABUSE, SEVERE PHYSICAL ABUSE, LIFE THREATENING NEGLECT, OR TORTURE ON THE CHILD;~~

~~(iii) ENGAGED IN A PATTERN OF ABUSE OF THE CHILD, A SIBLING OF THE CHILD, OR ANOTHER CHILD RESIDING IN THE HOUSEHOLD;~~

~~(iv) ALLOWED THE CHILD TO REMAIN IN A SITUATION IN WHICH THE CHILD, A SIBLING OF THE CHILD, OR ANOTHER CHILD IN THE HOUSEHOLD SUFFERED UNEXPLAINED SERIOUS PHYSICAL INJURY, DEATH, OR NEAR DEATH UNDER CIRCUMSTANCES THAT INDICATE THAT THE INJURY, DEATH, OR NEAR DEATH RESULTED FROM THE INTENTIONAL OR RECKLESS CONDUCT OF, OR WILLFUL NEGLECT BY, AN INDIVIDUAL RESIDING IN THE HOUSEHOLD; OR~~

~~(v) KNOWINGLY FAILED TO TAKE APPROPRIATE STEPS TO PROTECT THE CHILD AFTER AN INDIVIDUAL RESIDING IN THE HOUSEHOLD INFLECTED SEXUAL ABUSE, SEVERE PHYSICAL ABUSE, LIFE THREATENING NEGLECT, OR TORTURE ON THE CHILD OR ANOTHER CHILD RESIDING IN THE HOUSEHOLD;~~

~~(2) Been convicted, in any state or any court of the United States, of:~~

~~(i) A crime of violence against:~~

~~1. A minor offspring of the parent or guardian;~~

~~2. The child; or~~

~~3. Another parent or guardian of the child; or~~

~~(ii) Aiding or abetting, conspiring, or soliciting to commit a crime described in item (i) of this item; or~~

~~(3) Involuntarily lost parental rights of a sibling of a child.~~

(a) (1) In this section the following words have the meanings indicated, unless the context of their use indicates otherwise.

(2) “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:

(I) THE WHEREABOUTS OF THE PARENT OR GUARDIAN ARE UNKNOWN; AND

(II) THE LOCAL DEPARTMENT HAS MADE REASONABLE EFFORTS TO LOCATE THE PARENT OR GUARDIAN OVER A PERIOD OF AT LEAST 6 MONTHS AND HAS BEEN UNSUCCESSFUL.

(3) “Crime of violence”:

(i) Has the meaning stated in § 14–101 of the Criminal Law Article;
or

(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.

~~[(3)]~~ (4) “Torture” means to cause intense pain to body or mind for purposes of punishment or extraction of information or for sadistic purposes.

(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]:

~~[(1)]~~ (1) Subjected the child to:

(i) Chronic abuse;

(ii) Chronic and life-threatening neglect;

(iii) Sexual abuse; or

(iv) Torture;]

(1) HAS SUBJECTED THE CHILD TO ANY OF THE FOLLOWING AGGRAVATED CIRCUMSTANCES:

(I) THE PARENT OR GUARDIAN HAS ENGAGED IN OR FACILITATED:

1. CHRONIC OR SEVERE PHYSICAL ABUSE OF THE CHILD, A SIBLING OF THE CHILD, OR ANOTHER CHILD IN THE HOUSEHOLD;

2. CHRONIC AND LIFE-THREATENING NEGLECT OF THE CHILD, A SIBLING OF THE CHILD, OR ANOTHER CHILD IN THE HOUSEHOLD;

3. SEXUAL ABUSE OF THE CHILD, A SIBLING OF THE CHILD, OR ANOTHER CHILD IN THE HOUSEHOLD; OR

4. TORTURE OF THE CHILD, A SIBLING OF THE CHILD, OR ANOTHER CHILD IN THE HOUSEHOLD;

(II) THE PARENT OR GUARDIAN KNOWINGLY FAILED TO TAKE APPROPRIATE STEPS TO PROTECT THE CHILD AFTER A PERSON IN THE HOUSEHOLD INFLICTED SEXUAL ABUSE, SEVERE PHYSICAL ABUSE, LIFE-THREATENING NEGLECT, OR TORTURE ON THE CHILD OR ANOTHER CHILD IN THE HOUSEHOLD;

(III) THE CHILD, A SIBLING OF THE CHILD, OR ANOTHER CHILD IN THE HOUSEHOLD HAS SUFFERED SEVERE PHYSICAL ABUSE OR DEATH RESULTING FROM ABUSE BY THE PARENT OR GUARDIAN OR ANOTHER ADULT IN THE HOUSEHOLD AND ALL PERSONS WHO COULD HAVE INFLICTED THE ABUSE OR CAUSED THE DEATH REMAIN IN THE HOUSEHOLD; OR

(IV) THE PARENT OR GUARDIAN HAS ABANDONED THE CHILD;

(2) [Been] HAS BEEN convicted, in any state or any court of the United States, of:

(i) A crime of violence against:

1. A minor offspring of the parent or guardian;

2. The child; or

3. Another parent or guardian of the child; or

(ii) Aiding or abetting, conspiring, or soliciting to commit a crime described in item (i) of this item; or

(3) [Involuntarily] HAS INVOLUNTARILY lost parental rights of a sibling of [a] THE child.

(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 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.

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

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

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

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

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

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2015.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.