

Department of Legislative Services
Maryland General Assembly
2015 Session

FISCAL AND POLICY NOTE

House Bill 171
Judiciary

(Delegates Afzali and Valentino-Smith)

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: A local department of social services 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:

- 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;

- inflicted or knowingly allowed another person to inflict sexual abuse, severe physical abuse, life-threatening neglect, or torture on the child;
- engaged in a pattern of abuse of the child, a sibling of the child, or another child residing in the household;
- 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
- knowingly failed to take appropriate steps to protect the child after an individual residing in the household inflicted sexual abuse, severe physical abuse, life-threatening neglect, or torture on the child or another child residing in the household.

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.

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: SB 150 (Senators Hough and Young) - Judicial Proceedings.

Information Source(s): Department of Human Resources, Judiciary (Administrative Office of the Courts), Montgomery County, Child Welfare Information Gateway, *The Washington Post*, Department of Legislative Services

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Analysis by: Jennifer K. Botts

Direct Inquiries to:
(410) 946-5510
(301) 970-5510