

HOUSE BILL 1382

D4, J1

0lr0917

By: **Delegates Lierman, McIntosh, Reznik, and Wilson**

Introduced and read first time: February 7, 2020

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Children in Out-of-Home Placement – Placement in Medical Facilities**

3 FOR the purpose of requiring a court to find that reasonable efforts were not made by a
4 local department of social services to prevent placing a child in the custody of the
5 department under certain circumstances and providing that the finding shall
6 continue for a certain period of time; prohibiting a court from requiring placement of
7 a child in need of assistance in a specific facility or requiring a specific facility to
8 accept placement of a child in need of assistance; prohibiting a court from committing
9 a child for inpatient care and treatment in a psychiatric facility under certain
10 circumstances; providing that certain findings of an administrative law judge are
11 admissible as evidence in certain court proceedings; prohibiting a local department
12 from placing a child in, delivering a child to, or failing to remove a child from a
13 hospital, emergency facility, or inpatient facility under certain circumstances;
14 requiring a local department to provide to a hospital, emergency facility, or inpatient
15 facility certain information regarding a certain child; requiring a local department
16 to immediately begin placement planning for a child who is evaluated for inpatient
17 care by a hospital or an emergency facility; requiring a local department to provide
18 to the court a placement plan within a certain period of time, subject to a certain
19 exception; requiring the Department of Human Services to reimburse a hospital, an
20 emergency facility, or an inpatient facility, for certain costs within a certain period
21 of time under certain circumstances; requiring each residential child care program
22 and regional institute for children and adolescents to report certain information
23 concerning certain children monthly to Disability Rights Maryland; requiring a local
24 department to report certain information concerning certain children to a court and
25 a certain attorney weekly under certain circumstances; requiring a local department
26 of social services to report certain information concerning certain children monthly
27 to the Secretary of Human Services; requiring the Department to report certain
28 information to the General Assembly on or before a certain date annually;
29 prohibiting an emergency facility from admitting or keeping a certain minor beyond
30 a certain period of time under certain circumstances; defining certain terms; and
31 generally relating to the placement of certain children in certain medical facilities.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing and reenacting, without amendments,
2 Article – Courts and Judicial Proceedings
3 Section 3–816.1(a) and (b) and 3–819(b)(1)(iii)2.C.
4 Annotated Code of Maryland
5 (2013 Replacement Volume and 2019 Supplement)

6 BY repealing and reenacting, with amendments,
7 Article – Courts and Judicial Proceedings
8 Section 3–816.1(f) and 3–819(h)
9 Annotated Code of Maryland
10 (2013 Replacement Volume and 2019 Supplement)

11 BY adding to
12 Article – Courts and Judicial Proceedings
13 Section 3–819(b)(4)
14 Annotated Code of Maryland
15 (2013 Replacement Volume and 2019 Supplement)

16 BY adding to
17 Article – Family Law
18 Section 5–533.1
19 Annotated Code of Maryland
20 (2019 Replacement Volume)

21 BY repealing and reenacting, without amendments,
22 Article – Health – General
23 Section 10–620(a) and (d) and 10–624(b)
24 Annotated Code of Maryland
25 (2019 Replacement Volume)

26 BY adding to
27 Article – Health – General
28 Section 10–624(c)
29 Annotated Code of Maryland
30 (2019 Replacement Volume)

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

33 **Article – Courts and Judicial Proceedings**

34 3–816.1.

35 (a) The provisions of this section apply to a hearing conducted in accordance with
36 § 3–815, § 3–817, § 3–819, or § 3–823 of this subtitle or a review hearing conducted in
37 accordance with § 5–326 of the Family Law Article in which a child is placed under an order

1 of guardianship, commitment, or shelter care.

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

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

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

9 (ii) Meet the needs of the child, including the child’s health,
10 education, safety, and preparation for independence; and

11 (iii) For a child who is at least 18 years of age:

12 1. Before the child is emancipated, enroll the child in health
13 insurance that will continue after the child is emancipated;

14 2. Before the child is emancipated, screen the child for
15 eligibility for public benefits and assist the child with applications for public benefits;

16 3. Work with appropriate individuals to establish a plan for
17 stable housing that is reasonably expected to remain available to the child for at least 12
18 months after the date of emancipation; and

19 4. Work with appropriate individuals to engage the child in
20 education, training, or employment activities that will prepare the child to have
21 appropriate and sufficient income to live independently after emancipation.

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

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

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

34 (f) **(1) FOR A CHILD PLACED IN A PSYCHIATRIC CARE FACILITY OR AN**

1 EMERGENCY FACILITY, THE COURT SHALL FIND THAT REASONABLE EFFORTS WERE
2 NOT MADE IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION IF THE LOCAL
3 DEPARTMENT FAILED TO IMMEDIATELY RETRIEVE THE CHILD FROM THE CARE OF
4 THE FACILITY WHEN:

5 (I) THE CHILD WAS ORDERED TO BE RELEASED FROM THE
6 FACILITY BY AN ADMINISTRATIVE LAW JUDGE;

7 (II) THE CHILD WAS DISCHARGED FROM THE CARE OF THE
8 FACILITY; OR

9 (III) A MEDICAL EVALUATION DETERMINED THAT THE CHILD
10 DID NOT REQUIRE CARE AND THE 30-HOUR EVALUATION PERIOD UNDER § 10-624
11 OF THE HEALTH – GENERAL ARTICLE ENDED.

12 (2) A FINDING UNDER THIS SUBSECTION THAT REASONABLE
13 EFFORTS WERE NOT MADE SHALL CONTINUE THROUGH THE NEXT REVIEW PERIOD.

14 (G) If the court finds that reasonable efforts for a child were not made in
15 accordance with subsection (b) OR (F) of this section or finds that reasonable efforts were
16 made but that one of the conditions described in subsection (e) of this section exists, the
17 court promptly shall send its written findings to:

18 (1) The director of the local department;

19 (2) The Social Services Administration;

20 (3) The State Citizens Review Board for Children established under §
21 5-535 of the Family Law Article;

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

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

27 3-819.

28 (b) (1) In making a disposition on a CINA petition under this subtitle, the
29 court shall:

30 (iii) Subject to paragraph (2) of this subsection, find that the child is
31 in need of assistance and:

1 **5-533.1.**

2 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
3 INDICATED.

4 (2) "EMERGENCY FACILITY" HAS THE MEANING STATED IN § 10-620
5 OF THE HEALTH – GENERAL ARTICLE.

6 (3) "INPATIENT FACILITY" MEANS AN INSTITUTION OR A UNIT OF A
7 HOSPITAL THAT PROVIDES INPATIENT, MULTIDAY PSYCHIATRIC EVALUATION,
8 TREATMENT, AND CARE.

9 (4) "RESIDENTIAL CHILD CARE PROGRAM" MEANS A PROGRAM THAT:

10 (I) PROVIDES CARE FOR CHILDREN 24 HOURS A DAY WITHIN A
11 STRUCTURED SET OF SERVICES AND ACTIVITIES DESIGNED TO ACHIEVE
12 OBJECTIVES RELATED TO THE NEEDS OF THE CHILDREN SERVED; AND

13 (II) IS LICENSED BY THE MARYLAND DEPARTMENT OF HEALTH
14 OR THE DEPARTMENT OF HUMAN SERVICES.

15 (B) (1) A LOCAL DEPARTMENT MAY NOT:

16 (I) FAIL TO REMOVE A CHILD FROM A HOSPITAL, AN
17 EMERGENCY FACILITY, OR AN INPATIENT FACILITY WITHIN 30 HOURS AFTER A
18 MEDICAL EXAMINATION OF THE CHILD THAT RESULTS IN A DETERMINATION THAT
19 THE CHILD DOES NOT REQUIRE MEDICAL INTERVENTION OR CARE; AND

20 (II) DELIVER A CHILD TO A HOSPITAL, AN EMERGENCY
21 FACILITY, OR AN INPATIENT FACILITY IF A MEDICAL EVALUATION OF THE CHILD
22 THAT RESULTED IN A DETERMINATION THAT THE CHILD DID NOT REQUIRE MEDICAL
23 INTERVENTION OR CARE HAS OCCURRED WITHIN THE PREVIOUS 7 CALENDAR DAYS
24 AND THE CHILD DOES NOT EXHIBIT NEW BEHAVIOR OR SYMPTOMS.

25 (2) A LOCAL DEPARTMENT SHALL REMOVE A CHILD FROM AN
26 INPATIENT FACILITY WITHIN 4 HOURS AFTER:

27 (I) THE MEDICAL STAFF AT THE INPATIENT FACILITY
28 DETERMINES THAT THE CHILD NO LONGER MEETS CRITERIA FOR INVOLUNTARY
29 CIVIL COMMITMENT AND DISCHARGES THE CHILD; OR

30 (II) AN ADMINISTRATIVE LAW JUDGE ORDERS THE DISCHARGE

1 AND RELEASE OF THE CHILD FOLLOWING AN INVOLUNTARY COMMITMENT HEARING.

2 (C) IF A LOCAL DEPARTMENT REQUESTS THE ADMISSION OF A CHILD IN ITS
3 CUSTODY INTO A HOSPITAL OR EMERGENCY FACILITY, THE LOCAL DEPARTMENT
4 SHALL PROVIDE TO THE HOSPITAL OR EMERGENCY FACILITY ANY INFORMATION
5 REGARDING ANY HOSPITALIZATION OR ATTEMPTED HOSPITALIZATION OF THE
6 CHILD WITHIN THE PREVIOUS 7 CALENDAR DAYS IF THE CHILD WAS RELEASED DUE
7 TO:

8 (1) THE INABILITY OF A LOCAL DEPARTMENT TO FIND ANOTHER
9 SUITABLE PLACEMENT FOR THE CHILD; OR

10 (2) A MEDICAL DETERMINATION THAT THE CHILD DID NOT REQUIRE
11 HOSPITALIZATION.

12 (D) (1) A LOCAL DEPARTMENT SHALL IMMEDIATELY BEGIN PLACEMENT
13 PLANNING FOR A CHILD WHO IS EVALUATED FOR INPATIENT MENTAL HEALTH CARE
14 BY AN EMERGENCY FACILITY OR INPATIENT FACILITY.

15 (2) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, WITHIN 7
16 CALENDAR DAYS AFTER PLACING A CHILD IN AN EMERGENCY FACILITY OR
17 INPATIENT FACILITY FOR MEDICAL EVALUATION, A LOCAL DEPARTMENT SHALL
18 PROVIDE TO THE COURT A PLACEMENT PLAN FOR THE CHILD IDENTIFYING:

19 (I) PERMANENT, CONTINGENCY, EMERGENCY, OR TEMPORARY
20 PLACEMENT PLANS THAT MAY BE IMPLEMENTED WITHIN REQUIRED TIMELINES;

21 (II) FAMILY MEMBERS WILLING TO PARTICIPATE IN CLINICAL
22 AND DISCHARGE PLANNING AND IN-PROGRAM ACTIVITIES WITH THE CHILD; AND

23 (III) IF THE CHILD HAS A DISABILITY, PROVISIONS FOR THE
24 PAYMENT OF ACCOMMODATIONS NEEDED FOR A SUCCESSFUL COMMUNITY
25 PLACEMENT OF THE CHILD.

26 (3) IF A CHILD IS DETERMINED TO REQUIRE INPATIENT
27 HOSPITALIZATION, THE COURT MAY AUTHORIZE AN EXTENSION OF THE TIME FOR
28 SUBMISSION OF THE PLACEMENT PLAN SPECIFIED IN PARAGRAPH (2) OF THIS
29 SUBSECTION.

30 (E) WITHIN 30 DAYS AFTER THE DATE THAT A CHILD WAS MEDICALLY
31 EVALUATED OR DISCHARGED, THE DEPARTMENT SHALL REIMBURSE THE
32 HOSPITAL, EMERGENCY FACILITY, OR INPATIENT FACILITY FOR ALL COSTS
33 ASSOCIATED WITH EVALUATING THE CHILD OR CONTINUING TO CARE FOR THE

1 CHILD AFTER DISCHARGE IF:

2 (1) THE HOSPITAL OR FACILITY DETERMINES THAT THE CHILD DOES
3 NOT REQUIRE INPATIENT HOSPITALIZATION; OR

4 (2) THE CHILD IS NOT REMOVED FROM THE HOSPITAL OR FACILITY
5 AFTER DISCHARGE AS REQUIRED UNDER SUBSECTION (B)(2) OF THIS SECTION.

6 (F) EACH RESIDENTIAL CHILD CARE PROGRAM AND REGIONAL INSTITUTE
7 FOR CHILDREN AND ADOLESCENTS SHALL REPORT MONTHLY TO DISABILITY
8 RIGHTS MARYLAND THE NAME OF EACH CHILD IN THE CUSTODY OF A LOCAL
9 DEPARTMENT WHO STAYED AT THE FACILITY BEYOND THE LICENSING LIMIT OF THE
10 FACILITY OR BEYOND THE TIME DETERMINED TO BE CLINICALLY NECESSARY BY
11 MEDICAL EVALUATION.

12 (G) A LOCAL DEPARTMENT SHALL:

13 (1) FOR ANY CHILD IN NEED OF ASSISTANCE THAT REMAINS
14 UNPLACED FOR MORE THAN 7 CONSECUTIVE DAYS, PROVIDE ON A WEEKLY BASIS TO
15 THE COURT AND THE CHILD'S CINA ATTORNEY, INFORMATION ON THE PLACEMENT
16 EFFORTS OF THE LOCAL DEPARTMENT; AND

17 (2) PROVIDE ON A MONTHLY BASIS TO THE SECRETARY OF HUMAN
18 SERVICES THE NAME OF EACH CHILD IN THE CUSTODY OF THE LOCAL DEPARTMENT
19 WHO WAS NOT PLACED WITH A LICENSED PROVIDER WITHIN 7 DAYS.

20 (H) (1) ON OR BEFORE DECEMBER 1 EACH YEAR, THE DEPARTMENT
21 SHALL REPORT TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2-1257 OF
22 THE STATE GOVERNMENT ARTICLE, ON THE NUMBER OF CHILDREN WHO WERE
23 KEPT AT AN EMERGENCY FACILITY OR AN INPATIENT FACILITY AFTER MEDICAL
24 STAFF DETERMINED THAT MEDICAL CARE WAS NOT REQUIRED AND REQUIREMENTS
25 FOR INVOLUNTARY CIVIL COMMITMENT WERE NOT MET.

26 (2) INFORMATION UNDER PARAGRAPH (1) OF THIS SUBSECTION
27 SHALL BE DISAGGREGATED BY:

28 (I) COUNTY;

29 (II) PLACEMENT TYPE;

30 (III) AGE;

31 (IV) SEX;

1 (V) ETHNICITY; AND

2 (VI) AMOUNT OF TIME OVERSTAYED.

3 **Article – Health – General**

4 10–620.

5 (a) In Part IV of this subtitle the following words have the meanings indicated.

6 (d) (1) “Emergency facility” means a facility that the Department designates,
7 in writing, as an emergency facility.

8 (2) “Emergency facility” includes a licensed general hospital that has an
9 emergency room, unless the Department, after consultation with the health officer,
10 exempts the hospital.

11 10–624.

12 (b) (1) If the petition is executed properly, the emergency facility shall accept
13 the emergency evaluatee.

14 (2) Within 6 hours after an emergency evaluatee is brought to an emergency
15 facility, a physician shall examine the emergency evaluatee, to determine whether the
16 emergency evaluatee meets the requirements for involuntary admission.

17 (3) Promptly after the examination, the emergency evaluatee shall be
18 released unless the emergency evaluatee:

19 (i) Asks for voluntary admission; or

20 (ii) Meets the requirements for involuntary admission.

21 (4) An emergency evaluatee may not be kept at an emergency facility for
22 more than 30 hours.

23 **(C) FOR A MINOR IN THE CUSTODY OF A LOCAL DEPARTMENT OF SOCIAL**
24 **SERVICES, AN EMERGENCY FACILITY MAY NOT:**

25 **(1) KEEP THE MINOR LONGER THAN AUTHORIZED UNDER**
26 **SUBSECTION (B) OF THIS SECTION DUE TO THE INABILITY OF THE LOCAL**
27 **DEPARTMENT TO LOCATE AN APPROPRIATE ALTERNATIVE PLACEMENT FOR THE**
28 **MINOR; OR**

29 **(2) ADMIT THE MINOR IF THE MINOR IS NOT EXHIBITING NEW**

1 **BEHAVIOR AND THE MINOR:**

2 **(I) HAS BEEN DISCHARGED FROM ANOTHER EMERGENCY**
3 **FACILITY WITHIN THE PAST 7 CALENDAR DAYS AND HAS NOT BEEN PLACED IN AN**
4 **APPROPRIATE OUT-OF-HOME PLACEMENT BY THE LOCAL DEPARTMENT;**

5 **(II) HAS BEEN RECENTLY RELEASED FROM AN INPATIENT**
6 **PSYCHIATRIC HOSPITAL BY ORDER OF AN ADMINISTRATIVE LAW JUDGE; OR**

7 **(III) HAS BEEN DISCHARGED BY THE INPATIENT PSYCHIATRIC**
8 **TREATMENT TEAM OF THE FACILITY.**

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
10 October 1, 2020.