

HOUSE BILL 833

D4

4lr1204

By: ~~Delegates Williams and Wilkins~~, Wilkins, Simmons, Phillips, Arikan, Taylor,
Grammer, and Kaufman

Introduced and read first time: January 31, 2024

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 5, 2024

CHAPTER _____

1 AN ACT concerning

2 ~~Children in Need of Assistance~~ – Parents in Substance Use Disorder
3 Treatment – Children in Need of Assistance and Treatment Facilities

4 FOR the purpose of establishing a presumption that placement with a child’s parent is in
5 the best interest of the child, the child is receiving proper care and attention, and
6 there is not a certain emergency situation if the child’s parent is receiving certain
7 substance use disorder treatment and the child is in the presence of the child’s parent
8 for the duration of the child’s parent’s treatment; requiring a local department of
9 social services to file a certain report with a court under certain circumstances;
10 authorizing the Behavioral Health Administration to require a facility that provides
11 treatment for substance use disorder to provide beds and services to patients’
12 children and allow patients’ children to be in the presence of the child’s parent for
13 the duration of treatment; and generally relating to children in need of assistance
14 and substance use disorder treatment.

15 BY repealing and reenacting, with amendments,
16 Article – Courts and Judicial Proceedings
17 Section 3–815 and 3–818
18 Annotated Code of Maryland
19 (2020 Replacement Volume and 2023 Supplement)

20 BY repealing and reenacting, with amendments,
21 Article – Family Law
22 Section 5–525(e)(4)

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.



1 Annotated Code of Maryland
2 (2019 Replacement Volume and 2023 Supplement)

3 BY repealing and reenacting, with amendments,
4 Article – Health – General
5 Section 8–401
6 Annotated Code of Maryland
7 (2023 Replacement Volume)

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

10 **Article – Courts and Judicial Proceedings**

11 3–815.

12 (a) In accordance with regulations adopted by the Department of Human
13 Services, a local department may authorize shelter care for a child who may be in need of
14 assistance and has been taken into custody under this subtitle.

15 (b) A local department may place a child in emergency shelter care before a
16 hearing if:

17 (1) Placement is required to protect the child from serious immediate
18 danger;

19 (2) There is no parent, guardian, custodian, relative, or other person able
20 to provide supervision; and

21 (3) (i) 1. The child's continued placement in the child's home is
22 contrary to the welfare of the child; and

23 2. Because of an alleged emergency situation, removal from
24 the home is reasonable under the circumstances to provide for the safety of the child; or

25 (ii) 1. Reasonable efforts have been made but have been
26 unsuccessful in preventing or eliminating the need for removal from the child's home; and

27 2. As appropriate, reasonable efforts are being made to
28 return the child to the child's home.

29 (c) (1) Whenever a child is not returned to the child's parent, guardian, or
30 custodian, the local department shall immediately file a petition to authorize continued
31 shelter care.

1 (2) (i) The court shall hold a shelter care hearing on the petition before
2 disposition to determine whether the temporary placement of the child outside of the home
3 is warranted.

4 (ii) Unless extended on good cause shown, a shelter care hearing
5 shall be held not later than the next day on which the circuit court is in session.

6 (3) If the child's parents, guardian, custodian, or relatives can be located,
7 reasonable notice, oral or written, stating the time, place, and purpose of the shelter care
8 hearing shall be given.

9 (4) A court may not order shelter care for more than 30 days except that
10 shelter care may be extended for up to an additional 30 days if the court finds after a
11 hearing held as part of an adjudication that continued shelter care is needed to provide for
12 the safety of the child.

13 (5) Unless good cause is shown, a court shall give priority to the child's
14 relatives over nonrelatives when ordering shelter care for a child.

15 (d) **[A] SUBJECT TO SUBSECTION (E) OF THIS SECTION,** A court may continue
16 shelter care beyond emergency shelter care only if the court finds that:

17 (1) Return of the child to the child's home is contrary to the safety and
18 welfare of the child; and

19 (2) (i) Removal of the child from the child's home is necessary due to an
20 alleged emergency situation and in order to provide for the safety of the child; or

21 (ii) Reasonable efforts were made but were unsuccessful in
22 preventing or eliminating the need for removal of the child from the home.

23 (e) **IF A CHILD'S PARENT IS RECEIVING TREATMENT IN A RESIDENTIAL ~~OR~~**
24 **~~OUTPATIENT~~ SUBSTANCE USE DISORDER TREATMENT PROGRAM WITH BEDS OR**
25 **SERVICES FOR PATIENTS' CHILDREN AND THE CHILD IS IN THE PRESENCE OF THE**
26 **CHILD'S PARENT FOR THE DURATION OF THE CHILD'S PARENT'S TREATMENT,**
27 **THERE IS A PRESUMPTION THAT:**

28 (1) **PLACEMENT WITH THE CHILD'S PARENT IS IN THE BEST INTEREST**
29 **OF THE CHILD; AND**

30 (2) **THERE IS NOT AN EMERGENCY SITUATION UNDER THE**
31 **PROVISIONS OF SUBSECTION (D)(2)(I) OF THIS SECTION.**

32 (F) (1) If the court continues shelter care on the basis of an alleged emergency,
33 the court shall assess whether the absence of efforts to prevent removal was reasonable.

1 (2) If the court finds that the absence of efforts to prevent removal was not
2 reasonable, the court shall make a written determination so stating.

3 (3) The court shall make a written determination as to whether reasonable
4 efforts are being made to make it possible to return the child to the child's home or whether
5 the absence of such efforts is reasonable.

6 **[(f)] (G)** (1) An alleged CINA may not be placed in:

7 (i) Detention, as defined in § 3–8A–01 of this title; or

8 (ii) A mental health facility, unless committed involuntarily in
9 accordance with §§ 10–613 through 10–619 of the Health – General Article.

10 (2) (i) If the child is alleged to be in need of assistance because of a
11 mental disorder or a developmental disability, the child may be placed in a shelter care
12 facility maintained or licensed by the Maryland Department of Health or, if no such facility
13 is available, in a private home or shelter care facility approved by the court.

14 (ii) If the child is alleged to be in need of assistance for any other
15 reason, the child may be placed in a shelter care facility maintained or approved by the
16 Social Services Administration or in a private home or shelter care facility approved by the
17 court.

18 (3) An alleged CINA may not be placed in a shelter care facility that is not
19 operating in compliance with applicable State licensing laws.

20 (4) The Secretary of Human Services, the Secretary of Juvenile Services,
21 the Secretary of Health, the State Superintendent of Schools, and the Special Secretary for
22 Children, Youth, and Families, when appropriate, shall jointly adopt regulations to ensure
23 that any child placed in shelter care in accordance with a petition filed under this section
24 is provided appropriate services, including:

25 (i) Health care services;

26 (ii) Mental health care services;

27 (iii) Counseling services;

28 (iv) Education services;

29 (v) Social work services;

30 (vi) **[Drug and alcohol abuse] SUBSTANCE USE DISORDER**
31 assessment or treatment services; and

32 (vii) Visitation with siblings and biological family.

1 (5) In addition to any other provision, the regulations shall require the
2 local department:

3 (i) Within 45 days of placement of a child in a shelter care facility,
4 to develop a plan to assess the child's treatment needs; and

5 (ii) To submit the plan to all parties to the petition and their counsel.

6 3-818.

7 (A) [Within] **EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION,**
8 **WITHIN** 1 year after a child's birth, there is a presumption that a child is not receiving
9 proper care and attention from the [mother] **PARENT** for purposes of § 3-801(f)(2) of this
10 subtitle if:

11 (1) (i) The child was born exposed to cocaine, heroin,
12 methamphetamine, or a derivative of cocaine, heroin, or methamphetamine as evidenced
13 by any appropriate tests of the [mother] **PARENT** or child; or

14 (ii) Upon admission to a hospital for delivery of the child, the
15 [mother] **PARENT** tested positive for cocaine, heroin, methamphetamine, or a derivative of
16 cocaine, heroin, or methamphetamine as evidenced by any appropriate toxicology test; and

17 (2) [Drug] **SUBSTANCE USE DISORDER** treatment is made available to
18 the [mother] **PARENT** and the [mother] **PARENT** refuses the recommended level of [drug]
19 **SUBSTANCE USE DISORDER** treatment, or does not successfully complete the
20 recommended level of [drug] **SUBSTANCE USE DISORDER** treatment.

21 (B) **THERE IS A PRESUMPTION THAT A CHILD IS RECEIVING PROPER CARE**
22 **AND ATTENTION FROM THE PARENT FOR PURPOSES OF § 3-801(F)(2) OF THIS**
23 **SUBTITLE IF:**

24 (1) **THE PARENT IS RECEIVING TREATMENT IN A RESIDENTIAL ~~OR~~**
25 **~~OUTPATIENT~~ SUBSTANCE USE DISORDER TREATMENT PROGRAM WITH BEDS OR**
26 **SERVICES FOR PATIENTS' CHILDREN; AND**

27 (2) **THE CHILD IS IN THE PRESENCE OF THE CHILD'S PARENT FOR THE**
28 **DURATION OF THE CHILD'S PARENT'S TREATMENT.**

29 **Article - Family Law**

30 5-525.

(e) (4) If continuation of reasonable efforts to reunify the child with the child's parents or guardian is determined to be inconsistent with the permanency plan for the child[,]:

(I) reasonable efforts shall be made to place the child in a timely manner in accordance with the permanency plan, including consideration of both in-State and out-of-state placements, and to complete the steps to finalize the permanent placement of the child; AND

(II) IN A CASE IN WHICH THE PARENT OF THE CHILD IS RECEIVING TREATMENT IN A RESIDENTIAL ~~OR OUTPATIENT~~ SUBSTANCE USE DISORDER TREATMENT PROGRAM WITH BEDS OR SERVICES FOR PATIENTS' CHILDREN AND THE CHILD IS IN THE PRESENCE OF THE CHILD'S PARENT FOR THE DURATION OF THE CHILD'S PARENT'S TREATMENT, THE LOCAL DEPARTMENT SHALL FILE A REPORT WITH THE COURT THAT EXPLAINS:

1. WHY THE CHILD WAS NOT PLACED WITH THE PARENT;

2. ANY EFFORTS THE LOCAL DEPARTMENT HAS MADE TOWARD PLACEMENT OF THE CHILD; AND

3. ANY DIFFICULTIES WITH PLACING THE CHILD WITH THE PARENT.

Article – Health – General

8-401.

(a) (1) The Administration shall:

(i) Promote, develop, establish, conduct, certify, and monitor programs for the prevention, treatment, and rehabilitation related to the misuse of alcohol and drugs; and

(ii) Promote and conduct training and research related to the misuse of alcohol and drugs.

(2) (i) In cooperation with the Motor Vehicle Administration, courts, police, and other agencies, the Administration shall approve appropriate programs of alcohol and drug abuse education or treatment for individuals who are convicted under § 21-902 of the Transportation Article.

(ii) The programs under this paragraph shall be coordinated with and integrated into broad planning for comprehensive community health and welfare services.

1 (3) The Administration shall:

2 (i) Review and, in accordance with regulations that the
3 Administration shall adopt, approve or disapprove each program that a public or private
4 agency wants to offer under § 6–219(c) or § 6–220(e) of the Criminal Procedure Article;

5 (ii) Promptly give the Administrative Office of the Courts notice of
6 each program approved under this paragraph;

7 (iii) Monitor and biennially review each program approved under this
8 paragraph;

9 (iv) Investigate each complaint made in connection with a program;
10 and

11 (v) Promptly give the Administrative Office of the Courts notice if
12 the Department withdraws its approval of any program.

13 (b) The Administration may:

14 (1) Develop pilot programs;

15 (2) For these purposes and notwithstanding any other law, establish,
16 direct, and conduct any experimental pilot clinical program for the treatment of alcohol or
17 drug abusers, including any program to administer, under medical supervision and control,
18 maintenance dosages of prescribed drugs;

19 (3) Either alone or with other public or private agencies, direct and conduct
20 basic research in alcohol or drug abuse, including clinical epidemiological, social science,
21 and statistical research; [and]

22 (4) In cooperation with the Department of Public Safety and Correctional
23 Services or any other appropriate correctional agency, establish and maintain, in any
24 correctional institution in this State, programs for the prevention and treatment of alcohol
25 and drug abuse and for the rehabilitation of alcohol and drug abusers; AND

26 **(5) REQUIRE A FACILITY THAT PROVIDES TREATMENT FOR**
27 **SUBSTANCE USE DISORDER TO:**

28 **(I) PROVIDE BEDS AND SERVICES FOR PATIENTS' CHILDREN;**
29 **AND**

30 **(II) ALLOW A PATIENT'S CHILD TO BE IN THE PRESENCE OF THE**
31 **CHILD'S PARENT FOR THE DURATION OF THE CHILD'S PARENT'S TREATMENT.**

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2024.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.