

**IN THE
APPELLATE COURT OF MARYLAND**

September Term, 2024

No. 2293

IN RE: B. CD. & B. CB.

On Appeal from the Circuit Court for Anne Arundel County
(Michael E. Malone, Judge)

BRIEF OF APPELLEE

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BRIEF OF APPELLEE

STATEMENT OF THE CASE

On September 16, 2024, appellant Ms. C. (“Mother”), left her four-day-old twins, B.Cb. and B.Cd., at the Baltimore Washington Medical Center, without expressing an intention to return for them, and requested that the twins be placed under the Maryland Safe Haven statute.¹ (Apx. 4.) The next day, the hospital discharged the twins to the

¹ The Safe Haven statute, Md. Code Ann., Cts. & Jud. Proc. § 5-641 (LexisNexis 2020), provides that a parent who leaves a newborn at a hospital without “an intent to return for the newborn shall be immune from civil liability or criminal prosecution for the act.” This brief cites to the statutory text in effect on September 16, 2024. Effective October 1, 2024, the General Assembly amended the statute by expanding the age of newborns from those under 10 days old to those under 60 days old and requiring the Department of Human Services to fulfill certain educational and reporting obligations. 2024 Md. Laws ch. 366. The 2024 amendments do not affect this appeal.

temporary custody of the Anne Arundel County Department of Social Services (the “Department”). In separate proceedings for each twin, the Department petitioned the Circuit Court for Anne Arundel County, sitting as a juvenile court, to authorize their continued placement in shelter care with the Department and to find each to be a child-in-need-of-assistance (“CINA”).² (Apx. 1-2.) The juvenile court granted the local department temporary custody of the twins in shelter care on September 18, 2024. (Apx. 5.) Thereafter, the Department located Mother and the father (“Father”) of the twins and confirmed their parentage through genetic testing. (T. 01/14/2025 at 7-8.) Both Mother and Father were then recognized as parties in the CINA proceedings. (T. 01/14/2025 at 8.)

The juvenile court conducted adjudicatory and dispositional hearings on January 14, 2025.³ (App. 5.) Mother argued at adjudication that the facts in the petition were insufficient to establish that the twins had been neglected, but at disposition, she conceded that she was unable or unwilling to provide for the twins’ care and requested that the juvenile court dismiss the CINA petition and place the twins in the custody of their father. (T. 01/14/2025 at 38-39, 43-44, 124-25). Following the hearings, the juvenile court entered

² A CINA is a child who requires court intervention because the child has been abused or neglected, or has a developmental disability or mental disorder, and whose parents, guardian, or custodian cannot or will not give proper care and attention to the child and the child’s needs. Md. Code Ann., Cts. & Jud. Proc. § 3-801(f), (g) (LexisNexis Supp. 2024).

³ The “adjudicatory hearing” determines “whether the allegations in the petition, other than the allegation that the child requires the court’s intervention, are true.” Cts. & Jud. Proc. § 3-801(c). The “disposition hearing” determines “[w]hether the child is in need of assistance” and “[i]f so, the nature of the court’s intervention to protect the child’s health, safety, and well-being.” *Id.* § 3-801(m).

written orders finding the twins to be CINAs and committing them to the custody of the local department. (App. 5.) Mother and Father timely appealed from those orders, and this Court consolidated the appeals concerning both twins. Father abandoned his appeal when he did not file an opening brief.

QUESTION PRESENTED

Does the abandonment of a newborn without any expressed intent to return by a parent establish that the parent has neglected the child as a matter of law?

STATEMENT OF FACTS

Legal Background

The Maryland General Assembly enacted the Safe Haven statute, codified at Courts § 5-641, to permit “mothers to safely relinquish custody of their unwanted newborns to staff at hospitals or other specified locations.” Sen. Jud. Procs. Comm., *Floor Rep.*, H.B. 602, 2002 Leg., 416th Sess., at 2 (App. 10). Within 24 hours after a hospital or other facility receives such a newborn, the hospital or facility must notify a local department of social services. Cts. & Jud. Proc. § 5-641(b)(2); *see also* *Floor Rep.*, H.B. 602, at 2 (App. 10). The statute further provides that a mother who leaves, or causes another responsible adult to leave, an “unharmed newborn” without “express[ing] an intention to return for the newborn shall be immune from civil liability or criminal prosecution.” Cts. & Jud. Proc. § 5-641(a).

Upon assuming temporary custody of an abandoned child, the local department must “immediately file a petition” within a CINA proceeding requesting the juvenile court to “authorize continued shelter care.” Cts. & Jud. Proc. § 3-815(c)(1); *see also id.*

§ 3-801(dd) (defining “shelter care” to mean the “temporary placement of a child outside of the home at any time before disposition”). The CINA petition must “allege that [the] child is in need of assistance” and “requires court intervention” because (1) “[t]he child has been abused, has been neglected, has a developmental disability, or has a mental disorder” and (2) “[t]he child’s parents, guardian, or custodian are unable or unwilling to give proper care and attention to the child and the child’s needs.” *Id.* §§ 3-801(f), 3-811(a)(1).

In cases that do not involve a child with a developmental disability or a mental disorder, the definition of a CINA contains two distinct prongs: “past abuse or neglect *and* a present inability or unwillingness to provide care.” *In re T.K.*, 480 Md. 122, 147 (2022) (emphasis in original). “[B]oth prongs must be met before a child can be determined to be in need of assistance.” *Id.* at 134. The definition of “abuse” requires that the child suffered a “[p]hysical or mental injury” or “[s]exual abuse,” but the Safe Haven statute applies only to an “unharmed infant.” Cts. & Jud. Proc. §§ 3-801(b), 5-641(a)(1). A child has been neglected if the parent leaves the child “unattended or . . . fail[s] to give proper care and attention to [the] child . . . under circumstances that indicate . . . [t]hat the child’s health or welfare is harmed or placed at a substantial risk of harm.” *Id.* at § 3-801(t)(1); Md. Code Ann., Fam. Law § 5-701(s) (LexisNexis Supp. 2024).

In a CINA proceeding, the juvenile court is required to consider the request for shelter care, conduct an adjudicatory hearing “to determine whether the allegations in the [CINA] petition, other than the allegations that the child requires the court’s intervention, are true,” and “hold a separate disposition hearing . . . to determine whether the child is [in need of assistance].” *T.K.*, 480 Md. at 134 & n.3 (quoting Cts. & Jud. Proc. §§ 3-801(c),

3-819(a)(1) (alterations in *T.K.*)). The juvenile court may not continue the child in shelter care in the local department’s temporary custody for more than 30 days without at least beginning an adjudicatory hearing. Cts. & Jud. Proc. § 3-815(c)(4). At disposition, if the juvenile court finds the child to be a CINA, the court may commit the child to the custody of a parent, a relative, another individual, the local department of social services, or the Maryland Department of Health. *Id.* § 3-819(b)(1)(iii)(2). Otherwise, if the court does not find the child to be a CINA, the court must generally dismiss the case. *Id.* § 3-819(b). Cts. & Jud. Proc. § 3-819(e) permits a court, prior to dismissing the case without finding the child to be a CINA, to change custody to one parent to serve the child’s best interests if it makes “two prerequisite findings: (1) that “the child has been abused or neglected; and (2) one of the child’s parents is unable or unwilling to provide proper care for the child.” *T.K.*, 480 Md. at 147 (interpreting § 3-819(e)).

When the local department receives a child without information regarding the identification of a parent, such as when a parent surrenders a newborn under the Safe Haven statute, the local department has a continuing “obligation to assist the court in identifying and locating each parent” of the child. Cts. & Jud. Proc. § 3-822(a)(2)(i). If the local department identifies a parent, the parent gains “party” status in the CINA proceeding. *See* Cts. & Jud. Proc. § 3-801(v)(1)(ii) (defining the child’s parent as a party to the proceeding). Nonetheless, all records in the CINA proceeding are deemed “confidential” and “their contents may not be divulged, by subpoena or otherwise, except by order of the court on good cause shown.” Cts. & Jud. Proc. § 3-827(a)(1).

If the local department is unsuccessful in locating the parents of an abandoned child despite reasonable efforts expended over at least six months, the local department is entitled, upon request, to be relieved of exerting “reasonable efforts to reunify the child with the child’s parents.” *Id.* § 3-812(a)(2), (b)(1)(iv), (c), (d). Upon granting such relief, the juvenile court proceeds to determine an appropriate plan to attain permanency for the parentless child. *Id.* § 3-812(e)(1). Permanency plans for a parentless child under 16 years old may be either adoption or custody or guardianship with a relative or a nonrelative. *Id.* § 3-823(e)(1). If the plan is changed to adoption, the local department is then required to file a petition for guardianship. *Id.* § 3-823(g)(1).

The local department’s authority to petition for guardianship is limited to petitions concerning CINAs. Fam. Law § 5-302(a). In petitioning for guardianship of a CINA, the local department is again required to demonstrate that it made “a reasonable, good faith effort to identify an address” for each parent, which it may fulfill by demonstrating that it made certain inquiries “after or within the 180 days immediately preceding the filing of the petition.” Fam. Law § 5-316(e)(1)-(2). After demonstrating that it made those reasonable, good faith efforts, the petition for guardianship shall be served by publication. *Id.* § 5-316(f)(1). If no parent responds to such service, the parents may be deemed to have consented to guardianship and the “loss of parental rights shall be considered voluntary.” *Id.* §§ 5-320(a)(1)(iii)(C), 5-323(g).

Factual Background

Mother Abandons the Twins at the Hospital

B.Cd. and B.Cb. were born on September 12, 2024, at the University of Maryland Medical Center. (T. 01/14/2025 at 32.) Four days later, Mother left the boys at the Baltimore Washington Medical Center, “expressing an intent not to return” and requesting that they be placed in accordance with Maryland’s Safe Haven statute. (T. 01/14/2025 at 20; Apx. 4); Appellant’s Br. 12. Mother identified each infant only by their first names and did not reveal any identifying information about herself or the twins’ other parent. (T. 01/14/2025 at 20-21.)

The Juvenile Court Places the Twins in Shelter Care with the Department

On September 17, 2024, the Baltimore Washington Medical Center discharged the infants to the Department’s care and custody upon determining that the twins did not require further medical treatment. (T. 01/14/2025 at 23-24.) The Department then petitioned the juvenile court to authorize continued shelter care of the twins in the Department’s care and custody and to find the twins to be CINAs. (Apx. 6.) The petition alleged that Mother “dropped off” the twins at the hospital requesting placement under Safe Haven, the twins were “healthy” with “no medical concerns,” the identities of the parents were unknown, neither parent was able or willing to give proper care and attention to the twins, and shelter care was needed to provide for their safety. (Apx. 1-2.) On September 18, 2024, the juvenile court granted the Department’s shelter care requests for both boys. (Apx. 6.)

The Department Identifies the Twins’ Biological Parents

The Department began searching for the twins’ parents and within several weeks had identified Mother and Father as individuals who could be the parents. (Apx. 9-10.) On October 17, 2024, the Department amended the CINA petitions to allege that Mother and Father were the twins’ putative parents and indicated that the Department was attempting to confirm their parentage through genetic testing. (Apx. 2.) Genetic testing subsequently established that Mother and Father are the twins’ biological parents. (T. 01/14/2025 at 8.)

A juvenile court magistrate conducted adjudication hearings on October 18, 2024 and disposition hearings on November 15, 2024, and the magistrate recommended that the juvenile court sustain the allegation in the petition that the twins were neglected and find each of them to be CINAs. (Apx. 16-17); *see* Md. Rule 11-103(a)(1), (3) (authorizing a magistrate to conduct certain hearings in a CINA proceedings and to make recommendations but not to issue court orders). Both parents filed exceptions to those recommendations and invoked their right to a de novo hearing before a juvenile court judge. (App. 5; T. 01/14/2025 at 8); *see also* Md. Rule 11-103(e) (permitting a party to take exceptions either on the record or de novo to all or part of the magistrate’s recommendations).

The Juvenile Court Finds that the Twins Had Been Neglected

On January 14, 2025, the juvenile court convened hearings on those exceptions. At adjudication, the Department’s caseworker, Ashley Argyle, testified that she received a report that the infants had been “dropped off” at the hospital when they were four-days old,

identified only by their first names. (T. 01/14/2025 at 20.) Ms. Argyle stated that the Department assumed temporary custody of the infants on September 17, 2025, without any information identifying their parents. (T. 01/14/2025 at 23.) Later that month, as Ms. Argyle noted, the Department received information identifying Mother and Father as the twins' likely biological parents. (T. 01/14/2025 at 33-35.)

Mother claimed, without introducing any evidence at adjudication, that by leaving the infants at the hospital without expressing an intention to return for them she did not leave them "unattended" and had not "fail[ed] to give proper care and attention" to them." (T. 01/14/2025 at 38-39, 43-44.) Mother suggested that a mother who leaves a newborn at a hospital without expressing an intent to return to the child could never be found to have neglected a child in a CINA proceeding because the Safe Haven statute provided that a parent who so abandoned a newborn was "immune from civil liability or criminal prosecution." (T. 01/14/2025 at 44 (quoting Cts. & Jud. Proc. § 5-641(a)(1)).

The Department countered, citing *In re Blessen H.*, 392 Md. 684 (2006), that a CINA finding is a "non-punitive" measure "to protect the best interest of the child" and that it would be "nonsensical" to require the juvenile court to find that an infant abandoned under the Safe Haven statute was not neglected so as to prohibit bringing the child within the court's jurisdiction in a CINA proceeding. (T. 01/14/2025 at 46-47.) The juvenile court agreed with the Department, finding that it would be "nonsensical" to interpret the statute to "prevent a CINA case" in cases when no parent is ever located. (T. 01/14/2025 at 51; App. 3.)

Mother Concedes She Is Unable or Unwilling to Provide for the Twins' Care and Custody

At disposition, the Department introduced evidence that Mother had accused Father of engaging in violence toward her and Mother's older children and Father had denied those allegations. (T. 01/14/2025 at 56-57; *see also* R. 158-69 (documentary exhibits)). Father disputed the domestic violence allegations and introduced evidence of his participation in services regarding his parenting skills, anger management, and mental health. (T. 01/14/2025 at 52-62.)

Related to the twins, Mother admitted that "today is not the day that the children should be coming to her." (T. 01/14/2025 at 124.) Instead, Mother requested that the juvenile court place the twins in Father's care and custody under Cts. & Jud. Proc. § 3-819(e). (T. 01/14/2025 at 125.) Mother acknowledged that a finding under that statutory provision required the court to find that "the allegations of the petitioner [were] sustained against only one parent" and that "another parent . . . was able and willing to care for the child[ren]." (T. 01/14/2025 at 125.) Mother conceded that "it was in this case" established that the twins had been abused or neglected and that she was unable and unwilling to provide proper care of the twins. (T. 01/14/2025 at 125.) She asserted that the only "issue is whether the father is willing and able" to assume custody. (T. 01/14/2025 at 125.)

The Juvenile Court Finds the Twins to be CINAs

Following the hearing, through written orders entered on January 16, 2025, the juvenile court found the twins to be CINAs and placed them in the custody of the

Department. (App. 5.) Mother and Father timely appealed from the juvenile court’s January 16, 2025 orders in each of the twins’ CINA cases. This Court consolidated the cases on appeal. Father did not file an opening brief or take any other action to maintain his appeal before this Court.

ARGUMENT

I. THIS COURT REVIEWS A QUESTION OF STATUTORY INTERPRETATION WITHOUT DEFERENCE.

The question whether the statutory definition of neglect encompasses the abandonment of an infant as described in the Safe Haven statute is a question of statutory interpretation that is reviewed *de novo* for legal error. *In re Walker*, 473 Md. 68, 76 (2021). The “cardinal rule of statutory interpretation is to ascertain and effectuate the real and actual intent of the legislature.” *Lockshin v. Semsker*, 412 Md. 257, 274 (2010). In that pursuit, “[t]he meaning of the plainest language is controlled by the context in which it appears.” *Kaczorowski v. Mayor & City Council of Baltimore*, 309 Md. 505, 514 (1987) (internal quotation marks omitted.) The interpretation of statutes that cover the same subject matter should strive to harmonize the related provisions, even if the statutes do not reference each other. *GEICO v. Ins. Comm’r*, 332 Md. 124, 132 (1993).

II. A NEWBORN ABANDONED UNDER THE SAFE HAVEN STATUTE HAS BEEN NEGLECTED AS A MATTER OF LAW.

This Court should affirm the juvenile court’s finding that the newborn twins had been neglected when Mother left them, unharmed, at a hospital without expressing an intent to return for the newborn under the Safe Haven statute for three independent reasons. First, Mother acquiesced to that finding at the disposition hearing. Second, well-established

precedent of this Court establishes that the statutory definition of “neglect” encompasses the abandonment of an unharmed child to the local department’s custody. Third, the finding that the twins were neglected, which required the court’s intervention to protect their health and safety, does not impose liability from which a parent is immunized under the Safe Haven statute.

A. Mother Took the Position Below that the Twins Had Been Neglected.

As an initial matter, Mother acquiesced to the neglect determination when she took the position in her closing argument at disposition that the court should find that the allegations in the CINA petition were “sustained against only one parent” and place the twins in Father’s care and custody under § 3-819(e) of the Courts Article. (T. 01/14/2025 at 124-25); *see In re M.H.*, 252 Md. App. 29, 46 (2021) (stating that the “right to appeal from a decision may be lost by acquiescence in, or recognition, of the validity of the decision below from which the appeal is taken or by otherwise taking a position which is inconsistent with the appeal” (quoting *In re Nicole B.*, 410 Md. 33, 64 (2009))).

The juvenile court lacks authority to place a child in the custody of one parent under § 3-819(e) unless it makes two prerequisite findings: (1) that “the child has been abused or neglected; and (2) one of the child’s parents is unable or unwilling to provide proper care for the child.”⁴ *T.K.*, 480 Md. at 147. Mother, as “the proponent of the transfer of custody

⁴ Alternatively, in cases that do not involve unharmed four-day-old infants, the first perquisite finding could be based on a child’s “development disability” (defined as a “severe chronic disability” that “[i]s likely to continue indefinitely”) or a “mental disorder” (defined as a behavior or emotional illness that results from a psychiatric or neurological disorder”). Cts. & Jud. Proc. § 3-801(l)(2), (r)(1).

... , b[ore] the burden of proving that the prerequisites are satisfied.” *Id.* at 149. Here, the undisputed facts that Mother abandoned the twins, unharmed, when they were four days old under the Safe Haven statute, establish that the twins had not suffered an “injury” that could support a finding of “abuse.”⁵ Mother’s position at disposition therefore depended on her proving that the twins had been neglected. Because that position recognized the validity of the neglect allegation, she acquiesced to the validity of the juvenile’s court neglect finding and this Court should not consider an issue that she had previously conceded. *See M.H.*, 252 Md. App. at 46 (quoting *Nicole B.*, 410 Md. at 64).

B. This Court Has Held that a Parent’s Abandonment of a Child to the Department’s Care and Custody Is Neglect as a Matter of Law.

If this Court reaches the issue, the uncontested facts establish that Mother left the twins, unharmed, at a hospital without expressing an intention to return for them, so that they could be transferred to the Department’s custody under the Safe Haven statute. But “before a court can commit a child to the care of [the Department], the child must be found to be a [CINA].” *Doe v. Allegany County Dep’t of Soc. Servs.*, 205 Md. App. 47, 60 (2012) (citing *Owens v. Prince George’s County Dep’t of Soc. Servs.*, 182 Md. App. 31, 54-55 (2008)).

A court cannot find a child to be a CINA unless the “child has been abused, has been neglected, has a developmental disability, or has a mental disorder.” Cts. & Jud. Proc. § 3-801(f)(1). But a child who has been abused must have suffered a “physical or mental

⁵ “Abuse” requires a finding that the child suffered “sexual abuse” or a “[p]hysical or mental injury.” Cts. & Jud. Proc. § 3-801(b).

injury” or “sexual abuse,” *id.* § 3-801(b), which could not apply to a “unharmed” newborn under the Safe Haven statute, *id.* § 5-641(a). Thus, absent evidence that a newborn has a “developmental disability” or a “mental disorder,” a juvenile court could only find a newborn under the Safe Haven statute to be a CINA on the basis that the newborn had been neglected.

The statutory definition of “neglect” includes the “failure to give proper care and attention to a child . . . under circumstances that indicate . . . [t]hat the child’s health or welfare is . . . placed at a substantial risk of harm.” Cts. & Jud. Proc. § 3-801(t)(1)(i). The definition does not require a finding of “intent or scienter” by the parent. *Junek v. St. Mary’s County Dep’t of Soc. Servs.*, 464 Md. 350, 363 (2019) (construing the definition of “neglect” provided in title 5, subtitle 7, of the Family Law Article); *see also Montgomery County Dep’t of Health & Human Serv’s v. Tamara A.*, 178 Md. App. 686, 699 (2008), *rev’d on other grounds*, 407 Md. 180 (2009) (finding the definitions of “neglect” in subtitle 7 was then “precisely the same” as the definition as set forth in the CINA statute, Cts. & Jud. Proc. § 3-801(t)).

This Court has “held on multiple occasions that a finding of neglect may be based on a substantial risk of harm to the child if the [Department] does not take charge of the child.” *Doe*, 205 Md. App. at 60; *In re Nathaniel A.*, 160 Md. App. 581, 601 (2005)). That is because, upon determining that a child is “no longer allowed to return home,” the Department has “no choice but to act and take custody and care” of the child. *Doe*, 205 Md. App. at 59; *accord Horridge v. St. Mary’s County Dep’t of Soc. Servs.*, 382 Md. 170, 185 (2004) (holding that the Department “is required to ‘render the appropriate services in

the best interests of the child, including, when indicated, petitioning the juvenile court on behalf of the child for appropriate relief, including the added protection to the child that either commitment or custody would provide” (quoting Fam. Law § 5-710) (emphases omitted))).

That statutory framework would render it “nearly impossible to find a child in substantial risk of harm” if a parent could rely on the Department’s duty to so act to rebut that the child was placed at a substantial risk of harm. *Doe*, 205 Md. App. at 60. Because that reliance would thwart the juvenile court’s purpose under the CINA subtitle ““to protect children—not to protect persons alleged to have neglected or abused children,”” this Court has declared that the Department’s actions in fulfilling its statutory duties are “irrelevant to the determination whether [the] child was placed at a substantial risk of harm.” *Id.* at 60 (quoting *Owens*, 182 Md. App. at 50). For those reasons, this Court’s precedent establishes that, as a matter of law, a parent or other caregiver of a child who abandons an otherwise helpless but unharmed child to the custody of a local department of social services has neglected the child. *Doe*, 205 Md. App. at 60.

The undisputed facts in this case establish that Mother left her four-day-old twins unharmed in a hospital without expressing an intention to return for them and without otherwise providing for the newborns’ safe care and custody. (T. 01/14/2025 at 44.) Absent the Department’s intervention, the newborns would have been left completely helpless, unable to provide for their basic sustenance. Thus, the undisputed evidence establishes as a matter of law that Mother’s abandonment of the twins placed the children

at a substantial risk of harm unless the Department intervened, and as a matter of law, the juvenile court correctly determined that the twins had been neglected.

C. In Enacting the Safe Haven Law, the General Assembly Intended that a Newborn Abandoned Under the Safe Haven Act Has Been Neglected.

In enacting the Safe Haven statute, the General Assembly did not create a new means for the State to assume custody of a child or modify or re-enact any statutes that directly govern CINA proceedings. 2002 Md. Laws chs. 441 & 442. Nor did the General Assembly alter the purposes of the CINA subtitle to “provide for the care, protection, safety, and mental and physical development of any child coming with the provisions of the subtitle.” Cts. & Jud. Proc. § 3-802(a)(1); *see also id.* § 3-802(b) & (c)(1) (directing that the CINA subtitle be construed liberally to effectuate these purposes” and directing the “local department to provide services to a child . . . to the extent . . . authorized under State law”); *In re Priscilla B.*, 214 Md. App. 600, 626 (2013) (“The purpose [of the CINA statute] is to protect children—not wait for their injury.”) (quoting *In re William B.*, 73 Md. App. 68, 77-78 (1987) (alterations in *Priscilla B.*)).

The General Assembly enacted Maryland’s Safe Haven statute with the narrow purpose to “prevent newborn deaths” that result when parents abandon newborn infants in public places. *Floor Rep.*, H.B. 602, at 2; (App. 10.) The statute provides a legal mechanism for a mother who is unable to care for a newborn child to leave an unharmed newborn⁶ with another responsible adult, at a hospital, or at another appropriate facility.

⁶ Initially, the statute provided that the newborn must be no more than 3 days old. 2002 Md. Laws chs. 441 & 442. In 2008, the General Assembly amended the statute to

Cts. & Jud. Proc. § 5-641(a)-(b). The statute then provides for the local department of social services to be notified that a newborn is left at a hospital without parents to provide for the newborn's care, *id.* § 5-641(c)(2), without altering the local department's duty to "act and take custody and care" of the newborn, *Doe*, 205 Md. App. at 59.

To effectuate the statute's purpose, the General Assembly established that a mother, as well as any other responsible adult, hospital, or other facility, that receives a newborn under the Safe Haven statute would be "immune from civil liability or criminal prosecution" for the mother's act as well as for any "good faith actions taken related to the acceptance of or medical treatment or care of the newborn." *Id.* § 5-641(a)(1), (c). The immunity provision clarified that, although the common-law parent-child immunity ceases upon a parental act that "destroyed the family harmony," statutory immunity would apply to the parental "act" of leaving an unharmed newborn without an expressed intention to return under the Safe Haven statute. *See, e.g., Eagan v. Calhoun*, 347 Md. 72, 83-84 (1997) (discussing the parent-child immunity doctrine).

The immunity provision also extended to criminal prosecutions regarding desertion of a child or causing a child to become a CINA. The Floor Report prepared by the Senate Judicial Proceedings Committee noted that, prior to enactment of the Safe Haven statute, a mother faced potential criminal penalties, including potential fines and incarceration, for

extend to newborns no more than 10 days old. 2008 Md. Laws chs. 415 & 416. In 2024, the General Assembly amended the statute to extend to newborns no more than 60 days old. 2024 Md. Laws ch. 366.

deserting a minor child or by engaging in an act that “willfully renders a child in need of assistance.” *Floor Rep.*, H.B. 602, at 2 (App. 10); *see also* Fam. Law §§ 10-203 (penalizing a parent’s desertion of his or her minor child), 10-219 (penalizing the desertion of a minor child with “the intent that the child become a public charge” or without providing for the child’s support by a responsible individual or a licensed child care facility); Cts. & Jud. Proc. § 3-828 (penalizing acts that “willfully contribute to, encourage, cause or tend to cause any act, omission, or condition that renders a child in need of assistance”).

The floor report expressed the General Assembly’s intention to immunize a parent from criminal consequences that may otherwise follow the rendering a newborn to be a CINA or to “become a public charge.” *Floor Rep.*, H.B. 602, at 2 (App. 10). But just like the statute itself, the floor report contains no reference to any change in the statutes governing CINA proceedings. *See id.* at 1-3 (App. 8-12). Counsel for the Office of the Public Defender explained, in written testimony before the Senate Judicial Committee, that the bill “does not change existing CINA law as to the duties and responsibilities of all persons after the baby is delivered to a safe haven. . . . After spending the last three years writing and rewriting the complex provisions of our CINA laws, there is no reason to do it again.” J. Theodore Wieseman, Counsel, Office of the Public Defender, Letter (Written Testimony) to Senator Walter H. Baker, Chairman, Jud. Proc. Comm., *in* legislative bill file for H.B. 602 (2002) (Apx. 19).

Instead, as expressed by the State’s Attorney for Montgomery County in his written testimony, “[h]ow these [safe haven] children are then placed in caring households will follow the usual procedures for adoption.” (App. 15.) Those procedures would be initiated

when, as directed by the Safe Haven statute, “a hospital or other designated facility that accepts a newborn under [the statutory provisions] [notifies] the local department of social services within 24 hours after accepting the newborn.” Cts. & Jud. Proc. § 5-641(c)(2).

Upon receiving notice of the newborn, the Department had the statutory duty “to render the appropriate services in the best interests of the child” by filing a CINA petition “including the added protection to the child that either commitment or custody would provide.” Fam. Law § 5-710(a). The General Assembly did not vest authority in the hospital or another designated facility to assume custody of the child and did not provide a mechanism separate from the CINA proceeding for the local department to assume custody.

A CINA petition for an unharmed newborn could proceed only if the child was “neglected.” *See* Cts. & Jud. Proc. § 3-801(f) (defining a “CINA”). And the Department could not pursue any path toward guardianship with the right to consent to adoption of an abandoned newborn absent a judicial finding that the newborn was a CINA. Fam. Law §§ 5-301(h) (defining party in guardianship case as the child, the child’s parent(s), and “the local department to which the child is committed”); 5-302(a) (limiting scope of guardianship statute to CINAs committed to a local department).

Simply put, the immunity provided under the Safe Haven statute served the purpose to “prevent newborn deaths”—and it would be an absurd result to interpret the same statute to render the local department and juvenile courts powerless to protect such a newborn in a CINA proceeding. *See, e.g., Kaczorowski*, 309 Md. at 513 (1987) (courts will give weight to a “construction which avoids an illogical or unreasonable result, or [a result] which is

inconsistent with common sense”). Construing the Safe Haven statute consistently with the well-established statutory framework for CINA and guardianship proceedings ensures that the public has fair notice regarding the extent of their statutory and constitutional rights. *See* Appellant’s Br. at 27-28 (discussing constitutional avoidance); *Heileman Brewing v. Stroh Brewery*, 308 Md. 746, 763 (1987) (“[I]f a legislative act is susceptible of two reasonable interpretations, one of which would not involve a decision as to the constitutionality of the act while the other would, the construction which avoids the determination of constitutionality is to be preferred.”); *Koshko v. Haining*, 398 Md. 404, 425-26 (2007) (explaining that statutory enactments are presumed to be constitutional).

Further, the neglect finding did not impose civil liability on the parent. Liability generally means “[t]he quality, state, or condition of being legally obligated or accountable . . . , enforceable by civil remedy or criminal punishment.” *Black’s Law Dictionary* (12th ed. 2024). Mother makes no showing that the factual finding that the child was neglected imposed on her any specific legal responsibility enforceable by any civil or criminal remedy, because “the bare fact” that the child has been neglected “does not, by itself, automatically disqualify that parent from maintaining custody.” *T.K.*, 480 Md. at 158. A child who has been neglected in the past cannot be found to be a CINA absent evidence that both parents continue, in the present, “to be unable or unwilling to give proper care and attention to the child.” Cts. & Jud. Proc. § 3-801(f) (defining CINA); *see also T.K.*, 480 Md. at 147 (observing that the statutory definition has two separate prongs: “past abuse or neglect” and “a present inability or unwillingness to provide proper care”). And Mother recognized that she could not regain custody when she conceded that “today is not the day

that the children should be coming to her” without making any request for custody at disposition. (T. 01/14/2025 at 124.)

As Mother concedes, Appellant’s Br. 23, the aims of a CINA proceeding are “not to punish the parent; rather the purpose is to protect the child and provide for [her or] his best interests.” *Blessen H.*, 392 Md. at 707 (quoting *In re John P.*, 311 Md. 700, 709 (1988)). Consistently with that principle, the CINA proceedings are strictly confidential and shielded from public inspection. *See Cts. & Jud. Proc.* § 3-827(a)(1) (providing that CINA file is confidential “and their contents may not be divulged, by subpoena or otherwise, except by order of the court on good cause shown”); Md. Rule 16-914(a)(2) (shielding CINA case records from public inspection).⁷

Finally, the analysis whether the CINA court was permitted to find that the child was neglected cannot be affected by Mother’s speculation, unsupported by material evidence, that she might face future “collateral consequences” if the Department were to identify her as responsible for child neglect on a central registry. Appellant’s Br. at 21-22. Mother does not demonstrate that the Department placed her name on a “child abuse registry” for potential disclosure “in response to any request for background information

⁷ In her opening brief at page 24, Mother relies on *Ireton v. Chambers*, 229 Md. App. 149, 155-59 (2016), for the proposition that a governmental official enjoys immunity from entry of a judgment, in a public proceeding, finding the official responsible for civil assault absent malice, regardless of whether monetary damages are levied. But that case is irrelevant to whether a parent must be bestowed immunity under the Safe Haven statute from civil liability in a confidential CINA proceeding for a non-punitive purpose to protect the child and provide for her best interests. *See Blessen H.*, 392 Md. at 707 (quoting *John P.*, 311 Md. at 709) (discussing the purposes of CINA proceedings).

for employment or voluntary service.” *See* Fam. Law § 5-714(f)(1). Yet, even if the Department had done this, prior to any such disclosure, the Department is required to first provide notice of its administrative finding and an opportunity to appeal the finding, Fam. Law § 5-706.1(a), and then, unless Mother was convicted of a crime, must refrain from any disclosure until Mother either failed to appeal or “unsuccessfully appealed the finding in accordance with the procedures established under § 5-706.1,” Fam. Law § 5-714(d). But no evidence substantiates Mother’s speculation regarding a potential, future action to demonstrate that she suffered any collateral consequence. *Cf. Graves v. State*, 215 Md. App. 339, 353 (2013) (“[C]ollateral consequences must be actual, not merely theoretical.”).

Even if Mother’s concerns about collateral consequences were based in fact, and they are not, they do not compel a reading of the State Haven statute that would leave surrendered infants in legal limbo and without the protections of Maryland’s juvenile court. That is because, “[i]t is the policy of his State . . . to resolve doubts in favor of the child when there is a conflict between the interests of a minor and the interests of an adult.” Fam. Law § 5-502(b); *accord In re Ashley S.*, 431 Md. 678, 719 (2013) (“In balancing fairness to the parent and fulfilling the needs of the child, the child prevails.”).

CONCLUSION

The judgment of the Circuit Court for Anne Arundel County should be affirmed.

REQUEST FOR ORAL ARGUMENT

Appellee requests oral argument, which this Court has scheduled on June 10, 2025.

Respectfully submitted,

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CERTIFICATION OF WORD COUNT AND COMPLIANCE WITH RULE 8-112

1. This brief contains 6,285 words, excluding the parts of the brief exempted from the word count by Rule 8-503.
2. This brief complies with the font, spacing, and type size requirements stated in Rule 8-112.

/s/ Hubert K. Chang

Hubert K. Chang

TEXT OF PERTINENT PROVISIONS
(Rule 8-504(a)(10))

Annotated Code of Maryland, Maryland Courts and Judicial Proceedings Article
(LexisNexis 2020 & Supp. 2024)

§ 3-801. Definitions.

* * *

(b) *Abuse*. – “Abuse” means:

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

(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; or

(3) Labor trafficking of a child by any individual.

(c) *Adjudicatory hearing*. – “Adjudicatory hearing” means a hearing under this subtitle to determine whether the allegations in the petition, other than the allegation that the child requires the court's intervention, are true.

* * *

(f) *Child in need of assistance*. – “Child in need of assistance” means a child who requires court intervention because:

(1) The child has been abused, has been neglected, has a developmental disability, or has a mental disorder; and

(2) 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.

(g) *CINA*. – “CINA” means a child in need of assistance.

* * *

(l) *Developmental disability*. – “Developmental disability” means a severe chronic disability of an individual that:

(1) Is attributable to a physical or mental impairment, other than the sole diagnosis of mental illness, or to a combination of mental and physical impairments;

(2) Is likely to continue indefinitely.

(3) Results in an inability to live independently without external support or continuing and regular assistance; and

(4) Reflects the need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services that are individually planned and coordinated for the individual.

(m) *Disposition hearing*. – “Disposition hearing” means a hearing under this subtitle to determine:

(1) Whether a child is in need of assistance; and

(2) If so, the nature of the court's intervention to protect the child's health, safety, and well-being.

* * *

(r) *Mental disorder*. –

(1) “Mental disorder” means a behavioral or emotional illness that results from a psychiatric or neurological disorder.

(2) “Mental disorder” includes a mental illness that so substantially impairs the mental or emotional functioning of an individual as to make care or treatment necessary or advisable for the welfare of the individual or for the safety of the person or property of another.

* * *

(t) (1) *Neglect*. – “Neglect” means the leaving of a child unattended or other failure to give proper care and attention to a child by any parent or individual

who has permanent or temporary care or custody or responsibility for supervision of the child under circumstances that indicate:

(i) That the child's health or welfare is harmed or placed at substantial risk of harm; or

(ii) That the child has suffered mental injury or been placed at substantial risk of mental injury.

(2) “Neglect” does not include the use of cannabis by any parent or individual who has permanent or temporary care or custody or responsibility for supervision of the child unless, as a result of the use of cannabis:

(i) The child's health or welfare is harmed or placed at substantial risk of harm; or

(ii) The child has suffered mental injury or been placed at substantial risk of mental injury.

* * *

(v) *Party*.

(1) “Party” means:

(i) A child who is the subject of a petition;

(ii) The child's parent, guardian, or custodian;

(iii) The petitioner; or

(iv) An adult who is charged under § 3-828 of this subtitle.

(2) “Party” does not include a foster parent.

* * *

(dd) “Shelter care hearing” means a hearing held before disposition to determine whether the temporary placement of the child outside of the home is warranted.

* * *

§ 3-802. Purposes of subtitle and authority of court.

(a) *Purposes of subtitle.* – The purposes of this subtitle are:

(1) To provide for the care, protection, safety, and mental and physical development of any child coming within the provisions of this subtitle.

(2) To provide for a program of services and treatment consistent with the child's best interests and the promotion of the public interest;

(3) To conserve and strengthen the child's family ties and to separate a child from the child's parents only when necessary for the child's welfare;

(4) To hold parents of children found to be in need of assistance responsible for remedying the circumstances that required the court's intervention;

(5) Except as otherwise provided by law, to hold the local department responsible for providing services to assist the parents with remedying the circumstances that required the court's intervention;

(6) If necessary to remove a child from the child's home, to secure for the child custody, care, and discipline as nearly as possible equivalent to that which the child's parents should have given;

(7) To achieve a timely, permanent placement for the child consistent with the child's best interests; and

(8) To provide judicial procedures for carrying out the provisions of this subtitle.

(b) This subtitle shall be construed liberally to effectuate these purposes.

(c) (1) In all judicial proceedings conducted in accordance with this subtitle or § 5-326 of the Family Law Article, the court may direct the local department to provide services to a child, the child's family, or the child's caregiver to the extent that the local department is authorized under State law.

(2) The court shall exercise the authority described in paragraph (1) of this subsection to protect and advance a child's best interests.

* * *

§ 3-811. Content of petition.

(a)(1) A CINA petition under this subtitle shall allege that a child is in need of assistance and shall set forth in clear and simple language the facts supporting that allegation.

* * *

§ 3-812. Waiver of reunification efforts in cases of abuse, torture, crimes of violence, or abandonment.

(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.

* * *

(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:

(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.

* * *

(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.

* * *

§ 3-815. Shelter care for alleged CINA.

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

* * *

(c) Continuation of shelter care.

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

* * *

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

* * *

§ 3-819. Disposition hearing.

(a)(1) Unless a CINA petition under this subtitle is dismissed, the court shall hold a separate disposition hearing after an adjudicatory hearing to determine whether the child is a CINA.

* * *

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

(i) Find that the child is not in need of assistance and, except as provided in subsection (e) of this section, dismiss the case;

(ii) Hold in abeyance a finding on whether a child with a developmental disability or a mental illness is a child in need of assistance . . . [; or]

* * *

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

1. Not change the child's custody status; or
2. Commit the child on terms the court considers appropriate to the custody of:
 - A. A parent;
 - B. Subject to § 3-819.2 of this subtitle, a relative, or other individual; or
 - C. A local department, the Maryland Department of Health, or both, including designation of the type of facility where the child is to be placed.

* * *

(e) If the allegations in the petition are sustained against only one parent of a child, and there is another parent available who is able and willing to care for the child, the court may not find that the child is a child in need of assistance, but, before dismissing the case, the court may award custody to the other parent.

* * *

§ 3-822. Address and identity of parents.

(a) (1) At each CINA hearing, the court shall inquire into, and make findings of fact on the record as to, the identity and current address of each parent of each child before the court.

(2) In carrying out paragraph (1) of this subsection, the court shall:

(i) Inform all parties present of their continuing obligation to assist the court in identifying and locating each parent of each child.

(ii) Inform the parents present of their continuing obligation to keep the clerk of the court apprised of their current address;

(iii) Inform the parents present of available means to establish paternity, if not yet established; and

(iv) If appropriate, refer the parents to the appropriate support enforcement agency to establish paternity and support.

* * *

§ 3-823. Permanent child placements.

* * *

(e) *Determination of child's permanency plan.*

(1) At a permanency planning hearing, the court shall:

(i) Determine the child's permanency plan, which, to the extent consistent with the best interests of the child, may be, in descending order of priority:

1. Reunification with the parent or guardian;
2. Placement with a relative for:
 - A. Adoption; or
 - B. Custody and guardianship under § 3-819.2 of this subtitle;
3. Adoption by a nonrelative;
4. Custody and guardianship by a nonrelative under § 3-819.2 of this subtitle; or
5. For a child at least 16 years old, another planned permanent living arrangement

* * *

(ii) For a child at least 14 years old, determine the services needed to assist the child to make the transition from placement to successful adulthood.

(2) In determining the child's permanency plan, the court shall consider the factors specified in § 5-525(f)(1) of the Family Law Article.

* * *

(g) *Plans changed to adoption.* – In the case of a child for whom the court determines that the plan should be changed to adoption under subsection (e)(1)(i)3 of this section, the court shall:

(1) Order the local department to file a petition for guardianship in accordance with Title 5, Subtitle 3 of the Family Law Article within 30 days or, if the local department does not support the plan, within 60 days.

* * *

§ 3-827. Confidentiality of records.

(a) (1) All court records under this subtitle pertaining to a child shall be confidential and their contents may not be divulged, by subpoena or otherwise, except by order of the court on good cause shown.

* * *

(3) Information obtained from a court record is subject to the provisions of §§ 1-201, 1-202, 1-204, and 1-205 of the Human Services Article.

* * *

§ 3-828. Contributing to acts, omissions, or conditions rendering a child in need of assistance.

(a) An adult may not willfully contribute to, encourage, cause or tend to cause any act, omission, or condition that renders a child in need of assistance.

(b) A person may be convicted under this section even if the child is not adjudicated a CINA.

(c) An adult who violates this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$2,500 or imprisonment not exceeding 3 years or both.

(d) A petition alleging a violation of this section shall be prepared and filed by the State's Attorney.

(e) If an adult is charged under this section, the allegations shall be proved beyond a reasonable doubt.

§ 5-641. Immunity from liability for persons who leave an unharmed newborn child with a responsible adult.⁸

(a) *In general.*

(1) A person who leaves an unharmed newborn with a responsible adult within 10 days after the birth of the newborn, as determined within a reasonable degree of medical certainty, and does not express an intent to return for the newborn shall be immune from civil liability or criminal prosecution for the act.

(2) If the person leaving a newborn under this subsection is not the mother of the newborn, the person shall have the approval of the mother to do so.

(b) *Persons left with newborns.*

(1) A person with whom a newborn is left under the circumstances described in subsection (a) of this section as soon as reasonably possible shall take the newborn to a hospital or other facility designated by the Secretary of Human Services by regulation.

(2) A hospital or other designated facility that accepts a newborn under this subsection shall notify the local department of social services within 24 hours after accepting the newborn.

(c) *Hospitals or designated facilities which accept newborns.* – A responsible adult and a hospital or other designated facility that accepts a newborn under this section and an employee or agent of the hospital or facility shall be immune from civil liability or criminal prosecution for good faith actions taken related to the acceptance of or medical treatment or care of the newborn unless injury to the newborn was caused by gross negligence or willful or wanton misconduct.

(d) *Regulations.* – The Secretary of Human Services shall adopt regulations to implement the provisions of this section.

⁸ These pertinent authorities include the statutory text for § 5-641 of the Courts Article, as that statutory version was in effect on September 16, 2024. The statute was subsequently amended, effective October 1, 2024, and the amended of § 5-641 is reproduced in the pertinent authorities included in Appellant's opening brief.

* * * *

**Annotated Code of Maryland, Family Law Article
(LexisNexis 2019)**

§ 5-301. Definitions.

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

* * *

(g) (1) *Parent*. – “Parent” means an individual who, at the time a petition for guardianship is filed under this subtitle or at any time before a court terminates the individual’s parental rights:

(i) meets a criterion in § 5-306(a) of this subtitle; or

(ii) is the mother.

(2) “Parent” does not include an individual whom a court has adjudicated not to be a father or mother of a child.

(h) *Party*. – “Party” means:

(1) in a guardianship case under this subtitle:

(i) the child;

(ii) except as provided in § 5-326(a)(3)(iii) of this subtitle, the child’s parent; and

(iii) the local department to which the child is committed;

* * *

§ 5-302. Scope of subtitle.

(a) This subtitle applies only to:

(1) guardianship of an individual who is committed to a local department as a child in need of assistance;

(2) adoption of an individual who is committed to a local department as a child in need of assistance, without prior termination of parental rights as to the individual; and

(3) adoption of an individual under guardianship under this subtitle.

* * *

§ 5-316. Order to show cause.

* * *

(e) (1) If a juvenile court never notified a parent of the requirements of § 3-822 of the Courts Article and a petitioner cannot serve the parent at any of the addresses listed in subsection (d) of this section, the petitioner shall make a reasonable, good faith effort to identify an address for the parent and serve the parent at that address.

(2) A juvenile court shall find that a petitioner has met the requirements of paragraph (1) of this subsection if the petitioner shows, by affidavit or testimony, that the petitioner made inquiries after or within the 180 days immediately preceding the filing of the petition for guardianship:

(i) with the Motor Vehicle Administration;

(ii) with the Department;

(iii) with the Department of Public Safety and Correctional Services, including its Division of Parole and Probation;

(iv) with the detention center of the county where the petition is filed;

(v) with the juvenile court;

(vi) if the local department is aware that the parent has received benefits from a particular social services entity within the 180 days immediately preceding the filing of the petition, with that entity;

(vii) if the local department is aware that the parent has been confined in a particular detention facility within the 180 days immediately preceding the filing of the petition, with that facility;

- (viii) with the child's caregiver;
- (ix) if the petitioner is able to contact the child's other parent, with that parent;
- (x) if the petitioner is able to contact known members of the parent's immediate family, with those members; and
- (xi) if the petitioner is able to contact the parent's current or last known employer, with that employer.

(3) A juvenile court shall consider an inquiry under this subsection sufficient if made by searching the computer files of, or making an inquiry by first-class mail to, a governmental unit or person listed in this subsection.

(4) A juvenile court shall consider failure to receive a response within 30 days after the petitioner mails an inquiry under this subsection to be a negative response to the inquiry.

(f) (1) If a juvenile court is satisfied, by affidavit or testimony, that a petitioner met the requirements of subsection (d) and, if applicable, subsection (e) of this section but could not effect service on a parent, the juvenile court shall order service through notice by publication as to that parent.

* * *

§ 5-320. Authority to grant guardianship.

(a) A juvenile court may grant guardianship of a child only if:

- (1) (i) the child does not object;
- (ii) the local department:
 - 1. filed the petition; or
 - 2. did not object to another party filing the petition; and
- (iii) 1. each of the child's living parents consents:
 - A. in writing;

B. knowingly and voluntarily, on the record before the juvenile court; or

C. by failure to file a timely notice of objection after being served with a show-cause order in accordance with this subtitle;

2. an administrative, executive, or judicial body of a state or other jurisdiction has granted a governmental unit or person other than a parent the power to consent to adoption, and the unit or person consents; or

3. parental rights have been terminated in compliance with the laws of a state or other jurisdiction, as described in § 5-305 of this subtitle; or

(2) in accordance with § 5-323 of this subtitle, the juvenile court finds termination of parental rights to be in the child's best interests without consent otherwise required under this section or over the child's objection.

(b) A governmental unit or person:

(1) may condition consent or acquiescence on adoption into a specific family that a local department approves for the placement; but

(2) may not condition consent or acquiescence on any factor other than placement into a specific family.

* * *

§ 5-323. Grant of guardianship - Nonconsensual.

* * *

(g) If a parent has consented to guardianship in accordance with § 5-320(a)(1)(iii)1 of this subtitle, the loss of parental rights shall be considered voluntary.

* * *

§ 5-502. Legislative findings.

* * *

(b) *Policy.* – It is the policy of this State:

- (1) to protect minor children whose care has been relinquished to others by the children's parent;
- (2) to resolve doubts in favor of the child when there is a conflict between the interests of a minor child and the interests of an adult; and
- (3) to encourage the development of child care services for minor children in a safe, healthy, and homelike environment.

* * *

§ 5-701. Definitions.

* * *

(s) *Neglect.* – “Neglect” means the leaving of a child unattended or other failure to give proper care and attention to a child by any parent or other person who has permanent or temporary care or custody or responsibility for supervision of the child under circumstances that indicate:

- (1) that the child's health or welfare is harmed or placed at substantial risk of harm; or
- (2) mental injury to the child or a substantial risk of mental injury.

* * *

§ 5-706.1 Finding of indicated or unsubstantiated abuse or neglect – Notice; hearing; conference; findings made prior to June 1, 1999.

(a) Within 30 days after the completion of an investigation in which there has been a finding of indicated or unsubstantiated abuse or neglect, the local department shall notify in writing the individual alleged to have abused or neglected a child:

- (1) of the finding;
- (2) of the opportunity to appeal the finding in accordance with this section; and

(3) if the individual has been found responsible for indicated abuse or neglect, that the individual may be identified as responsible for abuse or neglect in the centralized confidential database under the circumstances specified in § 5-714(d) of this subtitle.

* * *

§ 5-710. Actions by local department and State's Attorney's office.

(a) Based on its findings and treatment plan, the local department shall render the appropriate services in the best interests of the child, including, when indicated, petitioning the juvenile court on behalf of the child for appropriate relief, including the added protection to the child that either commitment or custody would provide.

(b) (1) Promptly after receiving a report from a hospital or health practitioner of suspected neglect related to drug abuse and conducting an appropriate investigation, the local department may:

(i) file a petition alleging that the child is in need of assistance under Title 3, Subtitle 8 of the Courts Article; and

(ii) offer the mother admission into a drug treatment program.

(2) The local department may initiate a judicial proceeding to terminate a mother's parental rights, if the local department offers the mother admission into a drug treatment program under this subsection within 90 days after the birth of the child and the mother:

(i) does not accept admission to the program or its equivalent within 45 days after the offer is made;

(ii) does not accept the recommended level of drug treatment within 45 days after the offer is made; or

(iii) fails to fully participate in the program or its equivalent.

(c) If a report has been made to the State's Attorney's office under § 5-706(i) of this subtitle and the office is not satisfied with the recommendation of the local department, the office may petition a juvenile court, at the time of the report by the representative, to remove the child, if the State's Attorney concludes that the child is in serious physical danger and that an emergency exists.

* * *

§ 5-714. Child abuse or neglect centralized confidential database – In general.

* * *

(d) *Identification of responsible individual.* – The Department or a local department may identify an individual as responsible for abuse or neglect in the centralized confidential database only if the individual:

(1) has been found guilty of any criminal charge arising out of the alleged abuse or neglect; or

(2) has been found responsible for indicated abuse or neglect and has:

(i) unsuccessfully appealed the finding in accordance with the procedures established under § 5-706.1 of this subtitle; or

(ii) failed to exercise the individual's appeal rights within the time frames specified in § 5-706.1 of this subtitle, Title 10, Subtitle 2 of the State Government Article, or the Maryland Rules.

* * *

(f) *Requests for information for employment or voluntary service.* –

(1) Unless an individual has been identified as responsible for abuse or neglect in the centralized confidential database in accordance with subsection (d) of this section, information in the centralized confidential database may not be provided in response to any request for background information for employment or voluntary service.

(2) An official or employee of the Department or a local department who releases information from the centralized confidential database in violation of paragraph (1) of this subsection is subject to the penalty provided in § 1-202(f) of the Human Services Article.

* * *

§ 10-203. Nonsupport of and desertion of minor child prohibited; penalties.

(a) A parent may not willfully fail to provide for the support of his or her minor child.

(b) A parent may not desert his or her minor child.

(c) An individual who violates this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$100 or imprisonment not exceeding 3 years or both.

* * *

§ 10-219. Prohibited acts; penalties.

(a) An individual who has care, custody, or control of a minor child may not desert the child:

- (1) with the intent that the child become a public charge; or
- (2) without providing for the child's support for at least 3 years by a responsible individual or a licensed child care facility.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$100 or imprisonment not exceeding 1 year.

* * *

Maryland Rules

* * *

Rule 11-103. Magistrates.

(a) General authority; Applicability.

(1) *Generally.* – A magistrate appointed for juvenile causes is authorized to hear any cases and matters under this Title assigned by the court, except a hearing to terminate parental rights under Rule 11-312, a hearing on a waiver petition under Rule 11-410, or a trial under Rule 11-507.

(2) *Exception.* – Other than the procedures set forth in section (b) of this Rule, the procedures in this Rule do not apply to hearings before a magistrate in detention or shelter care proceedings.

(3) *Findings, conclusions, and recommendations.* – The findings, conclusions, and recommendations of a magistrate do not constitute orders or final action of the court.

* * *

(e) *Exceptions.*

(1) *Filing; content.* – Unless waived pursuant to subsection (d)(1) of this Rule, any party may file exceptions to the magistrate's proposed findings, conclusions, or recommended order. The exceptions shall be in writing, filed with the clerk within five days after service of the magistrate's report, and served on each other party. Exceptions shall specify:

- (A) whether the excepting party requests that the hearing on exceptions be de novo or on the record made before the magistrate; and
- (B) with particularity, those items to which the party excepts and, if the hearing is to be on the record, each asserted error.

* * * *

Rule 16-914. Case records - Required denial of inspection - Certain categories.

Except as otherwise provided by law, court order, or the Rules in this Chapter, the custodian shall deny inspection of:

(a) All case records filed in the following actions involving children:

(1) Actions filed under Title 9, Chapter 100 of the Maryland Rules for:

(A) adoption;

(B) guardianship; or

(C) revocation of a consent to adoption or guardianship for which there is no pending adoption or guardianship proceeding in that county.

(2) Delinquency, child in need of assistance, public agency guardianship terminating parental rights, voluntary placement, child in need of

supervision, peace order, and truancy actions in Juvenile Court, except that, if a hearing is open to the public pursuant to Code, Courts Article, § 3-8A-13(f), the name of the respondent and the date, time, and location of the hearing are open to inspection unless the record was ordered expunged.

* * * *

IN RE: B. CD. & B. CB.

* IN THE
* APPELLATE COURT
* OF MARYLAND
* September Term, 2024
* No. 2293

* * * * *

CERTIFICATE OF SERVICE

I certify that, on this 15th day of May, 2025, the Brief and Appendix of Appellee in the captioned case were filed electronically and served electronically by the MDEC system on all persons entitled to service, and that on the next business day two copies will be served by first class mail on all parties entitled to service:

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