

IN THE
SUPREME COURT OF MARYLAND

SEPTEMBER TERM, 2025

NO. 47

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

ON WRIT OF CERTIORARI TO THE
APPELLATE COURT OF MARYLAND

PETITIONER'S BRIEF AND APPENDIX

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Introduction

Four days after giving birth, twenty-three-year-old A.C. brought her newborn twins to a hospital. She wrote out the names she had chosen for them on sheets of paper. She taped those papers to their onesies. She handed her children to a staff member at the hospital, saying she wanted to place them for adoption under the state's Safe Haven Program.

During her pregnancy, Ms. C had struggled with her mental health and ended a toxic relationship with the father of her twins. She wanted to give her children a better life. She thought that adoption would ensure this. And so, she used the Safe Haven Program to make a safe care plan for her children. The Program promised that she would be immune from civil liability for doing so.

Within a month, Ms. C had undergone a change of heart and requested her children be returned to her care. At adjudication, the court should have concluded that her use of the Safe Haven Program did not constitute neglect. Had it done that and dismissed the case, as requested, her children would have been returned to the shared custody of her and their father. Instead—based solely on Ms. C’s use of the Safe Haven Program—the court found she had committed neglect. But seeking help in raising children is not neglect, and a parent who follows the law should not face a neglect finding.

STATEMENT OF THE CASE

On September 17, 2025, the Anne Arundel County Department of Social Services (the Department) placed newborn twins B.Cd. and B.Cb. in its custody under emergency shelter care.¹ The next day, the Department filed a petition requesting that the juvenile court order continued shelter care for the children. The court did so. A magistrate presided over adjudication, held October 18, 2024, and disposition, held November 15, 2024. The children’s parents filed exceptions to the magistrate’s recommendations and requested the case be heard by a judge.

On January 14, 2025, a judge presided over the *de novo* adjudication hearing, concluding that Ms. C had neglected her children. Following the adjudication, that same day, the court held the *de novo* disposition hearing. At the end of disposition, the court found the children to be in need of assistance

¹ The Department can take temporary custody of a child without prior court authorization under certain circumstances. Md. Code, Cts. & Jud. Proc. (CJP) § 3-815(b).

(“CINA”²) and committed them to the Department.

Ms. C and the children’s father, D.S., appealed to the Appellate Court, which affirmed Ms. C’s neglect finding on August 28, 2025 in a reported opinion. *In re B.Cd. and B.Cb.*, 267 Md. App. 61 (2025) (No. 2293, September Term, 2024).

On November 24, 2025, this Court granted Ms. C’s petition to answer the questions below.

QUESTIONS PRESENTED

1. Does a parent neglect their child – i.e. place them at “substantial risk of harm” – when they act in line with Maryland’s Safe Haven Program?
2. Is a CINA neglect finding a “civil liability” against which the Safe Haven Program provides a shield?

STATEMENT OF FACTS

Ms. C makes a safe care plan for her children

Ms. C was raising two children and living with her mother when she gave birth to twins B.Cd. and B.Cb. (E.290.) She and the twins’ father had separated several months prior; he told her he did not want the children. (E.292.) Wanting a better life for B.Cd. and B.Cb., she decided she would place them for adoption after their birth. (E.290.) She was interested in having a family friend who lived in Washington adopt the children. (E.290.)

At some point, Ms. C learned about the Safe Haven Program, and four days

² A CINA is a child who requires court intervention because the child “has been abused, has been neglected, has a developmental disability, or has a mental disorder” and has no parent able or willing to care for them. CJP § 3-801(f).

after giving birth, she made the decision to take her newborns to a nearby hospital.³ (E.282.) She dressed each child in a onesie and taped a note to each with the child's name on it. (E.141, 282.) She told hospital staff their ages and information about their birth, which had occurred at a different hospital. (E.153, 282-83.) Without giving her name to the hospital staff, she told them that she wanted her children placed in the Safe Haven Program. (E.282.)

The hospital evaluated the children and found that they were "healthy" with "no medical concerns." (E.282.) The hospital notified the Department, which authorized shelter care and filed a CINA shelter petition. (E.282-83.)

The Department investigates

The family friend who had been a possible adoptive placement for Ms. C's children called the Department. (E.146-150, 289.) That call led to the Department discovering Ms. C's identity. (E.146-150.) The Department discovered Mr. S's identity when it saw that he had sued Ms. C for custody of the children in family court in late September, after the children had been sheltered to the Department. (E.154.)

Speaking to a Department caseworker on October 9, 2024, Ms. C said she wanted to have her children returned to her care. (E.292.) The Department had her and Mr. S take DNA tests. (E.297.)

³ This Program establishes that if a person leaves an "unharmed newborn" with a responsible adult or at a designated facility, such as a hospital, and does not express an intent to return, that person is "immune from civil liability and criminal prosecution." CJP § 5-641(b)(1).

On October 18, 2024, the parents appeared at the adjudication hearing held in front of a magistrate. (E.64.) The court did not consider them parties because the DNA results had not come back. (E.65.) Since they were not considered parties, they were not entitled to attorneys and were without representation. (E.62.) The court sustained the adjudicatory facts from the amended petition. (E.67, 85.) It delayed the disposition hearing until November 15, 2025. (E.48.)

Both parents appeared at that next hearing, again in front of a magistrate. (E.45.) They were still without attorneys. (E.45.) In early November, the results of the DNA tests confirmed their parentage of B.Cd. and B.Cb. (E.298.) At the hearing, Ms. C asked for her children to be returned to her, stating that she wanted to be able to breastfeed them and that “maternal bonding is important when babies are young.” (E.46, 94.) Mr. S and the Department asked for the children to be placed with him. (E.46.) The magistrate declined to place the children with either parent. (E.46.) Ms. C and Mr. S obtained attorneys and filed exceptions to the magistrate’s adjudication and disposition recommendations. (E.316.)

The Department gave Ms. C her first visit with her children on November 25, 2025. (E.303.) From that point on, Ms. C and Mr. S had supervised visits with their children twice a week. (E.302.) There were no issues or concerns noted, and the parents were described as “appropriately holding, feeding, and attending to their children.” (E.302-04.)

The Department required that the parents complete parenting classes, which they did. (E.301.) It had them take drug tests, which were negative. (E.301.) It

assessed their homes, which were appropriate with no safety concerns. (E.298.)

Ms. C began weekly individual therapy in October 2024 and provided documentation of that to the Department. (E.298.)

The parties' contentions

At the January 14, 2025 *de novo* adjudication hearing in front of a judge, the Department first asked the court if it could further amend the petition to indicate that the DNA testing had established parentage for both parents. (E.128-29.) The Department then introduced Exhibits 1 and 2, which were the children's birth certificates and DNA test results confirming Mr. S and Ms. C as their parents. (E.156.)

The Department's caseworker testified. (E.140.) The caseworker described discovering the identities of the parents after the hospital made the report to the Department on September 16, 2024. (E.141-43.) No party asked to admit any other exhibits or call any other witnesses.

In closing, the Department argued that while the Safe Haven Act did protect from civil liability, it did not protect Ms. C from a neglect finding as CINA hearings are "non-punitive." (E.168.) The Department stated, "No one is prosecuting [Ms. C] and no one is suing [Ms. C]. However, she has nonetheless neglected her children by abandoning them at the hospital. And so we are asking the Court to make a finding that these children were in fact neglected which would then allow us to proceed to the determination of whether or not they are a CINA and whether or not either parent would be able to care for them at this time."

(E.163.)

Aligning with the Department, counsel for the twins argued, “During the whole shelter period, no parent came forward to care for the child. So therefore the children have been neglected.” (E.169.)

Mr. S and Ms. C argued that the facts adduced at trial did not warrant a neglect finding and that the case should be dismissed without moving forward to disposition. (E.130-31, 164-66.) Ms. C argued that CJP § 3-801 defined neglect as “the leaving of a child unattended or other failure to give proper care and attention to a child.” (E.165.) She argued that no one had claimed that she ever harmed or left the twins unattended, that she followed the requirements of the Safe Haven Act, and that the Act protects parents in this situation from any civil liability—such as a neglect finding—which comes with “collateral” consequences. (E.164-66.)

The juvenile court’s adjudicatory ruling

In a ruling rendered on the record, the court made a neglect finding. (E.170.) It found both that Ms. C’s actions were neglectful and also that the Safe Haven statute did not preclude a CINA finding of neglect. (E.170.) The court stated:

I think the mere leaving the children even in a safe place and then I will speak to the Safe Harbor Statute, is neglectful. You know, for one, it is you know, where the children are going to be placed at substantial risk. The evidence was the was a note regarding medical issue of a heart issue which didn’t -- wasn’t supported by a pediatrician but **I think when you leave a child with that little information, especially a four day old child, that is placing a child in substantial risk because how does the one**

receiving the child know what is -- anything about the child that has happened. Didn't even know where the children had been born.

(E.170-71.) (Emphasis added.)

In addressing whether the Safe Haven Program precluded a neglect finding, the court stated, “And candidly I just find it nonsensical to find that the Safe Harbor Statute would prevent a CINA case. Because what if the party here had somehow absolutely never, never found the parents.” (E.172.)

Following CINA hearings

The court then conducted the disposition hearing. (E.173.) Ms. C was questioned about her relationship problems with Mr. S. (E.206, 213-14.) At times tearful, and acknowledging that she had to “take account for what I did,” she spoke about having tried to commit suicide the previous summer by driving her car into a tree. (E.206-07.) She testified that following the suicide attempt, she broke things off with Mr. S and told Mr. S that her pregnancy had ended. (E.209.) Ms. C only informed Mr. S about the twins’ existence after she had brought them to the hospital. (E.210.)

Because of Ms. C having previously alleged that Mr. S had engaged in domestic violence towards her, the Department and child’s counsel asked for the children to be found CINA. (E.230, 250-51.) Mr. S, conversely, argued that he was ready, willing, and able to care for the children: he had been found by a clinician to not require any domestic violence intervention services; he had completed voluntary domestic violence and anger management classes; he completed

parenting classes; and he had his home favorably assessed by the Department. (E.221, 224.) Ms. C joined Mr. S in asking that the court take the children out of foster care, place the children with him, and make a non-CINA finding. (E.241, 245.) The court found the children to be CINA but ordered a visitation schedule for Mr. S which afforded him progressively increasing visitation with his children. (E.42-44.)

Both parents appealed the adjudication and disposition order. (E.334-35.) On April 4, 2025, while the appeal was pending, B.Cd. and B.Cb.'s CINA case closed with full custody of the children to Mr. S. (E.337.)⁴

Appellate Court's opinion

The Appellate Court affirmed the juvenile court's neglect finding. It held that because Ms. C anonymously left her children at the hospital, the hospital had no way to contact her once they were ready for discharge. (E.25.) This "failure and refusal" to care for them at discharge constituted neglect. (E.29.)

The Appellate Court held that "civil liability" is ambiguous within the Safe Haven Act. (E.36.) According to the Court, a CINA neglect finding must not be a form of civil liability because a neglect finding is "necessary" for the Department to provide care for a newborn whose parents acted pursuant to the Safe Haven Act. (E.29.)

⁴ Should this Court reverse as requested, custody of the children would revert to joint custody shared between the parents. Either parent could then pursue a private custody action.

ARGUMENT

The juvenile court erred in finding that Ms. C's use of the Safe Haven Program constituted neglect.

The Department did not meet its burden of proving by a preponderance of the evidence that Ms. C neglected her children, and the juvenile court committed reversible error in finding otherwise.⁵ This is because, first, Ms. C's actions were the lawful and responsible actions of a young mother who made a safe care plan for her infants that involved taking them to a hospital where they were certain to receive shelter and care—not actions which would meet the statutory definition of neglect as provided in CJP § 3-801(t). Second, the Maryland Safe Haven Act, CJP § 5-641, sheltered her actions from CINA liability.

I. The law on neglect and the standard of review.

In CINA cases, neglect is defined as:

[T]he leaving of a child unattended or other failure to give proper care and attention to a child by any parent[...]under circumstances that indicate:

- (1) That the child's health or welfare is harmed or placed at substantial risk of harm; or
- (2) That the child has suffered mental injury or been placed at substantial risk of mental injury.

CJP § 3-801(t).

⁵ The neglect finding was based solely on Ms. C's use of the Safe Haven Program. Had the Department wanted the court to consider any other evidence related to whether or not Ms. C and Mr. S had abused or neglected their children, the Department could have amended the petition. Md. Rule 11-209(a)(1).

The Maryland Safe Haven Act of 2002 guarantees that if a mother or another person who has the consent of the mother leaves an “unharmed newborn” with a responsible adult or at a designated facility, such as a hospital, and does not express an intent to return, that person is “immune from civil liability and criminal prosecution.” CJP § 5-641(b)(1).

This Court reviews CINA cases by applying three distinct but interrelated standards of review: (1) a juvenile court’s factual findings are reviewed for clear error; (2) legal questions are reviewed without deference and errors of law require further proceedings below unless harmless; and (3) a juvenile court’s ultimate conclusion, if free from legal and factual error, is reviewed for an abuse of discretion. *In re Yve S.*, 373 Md. 551, 586 (2003).

Because this case involves “an interpretation of Maryland statutory and case law”—whether compliance with the Safe Haven Act constitutes neglect of a child under the CINA statute and whether a CINA finding is a form of civil liability—the Court “must determine whether the lower court’s conclusions are ‘legally correct’ under a *de novo* standard of review.” *Walter v. Gunter*, 367 Md. 386, 392 (2002) (citation omitted).

II. Ms. C did not neglect her children.

The facts are undisputed: Ms. C took her children to a designated Safe Haven hospital. She did so within 60 days of their birth. The children were unharmed. She provided information to the hospital about the health background of the children. She informed the hospital that she was placing them there pursuant

to the Safe Haven statute. Comparing Ms. C's actions to the guidelines of CJP § 5-641, the only possible conclusion is that Ms. C followed the law with fidelity.

Her actions posed no foreseeable risks to her children. Their immediate safety and well-being were guaranteed within the sanitary and professional hospital walls. There was no risk to her children from a lack of health history. And because of the existence of the Safe Haven Program, there was no longer-term risk to her children from uncertainty about whether they would be cared for after they left the hospital. Yet the Appellate Court's ruling—that simply because the Department stepped in to provide care, the children were neglected—redefines neglect. And it leaves unanswered a central question: Since Maryland encourages parents to use the Safe Haven Program, why would it encourage an act of neglect?

A. B.Cd. and B.Cb. were never at substantial risk of harm.

No immediate risk of harm

Ms. C took her children to a hospital—possibly the safest place for a newborn child to be. Hospitals are equipped with medical professionals and supplies. They have entire wards and teams devoted to infant care. In cases of emergency, hospitals are obligated to provide care, even for patients whose identity and insurance status are unknown. 42 U.S.C.A. § 1395dd(b)(1).

The specific hospital Ms. C went to, Baltimore Washington Medical Center, is identified by name in the state's public materials as a location where an

infant can be brought under the Safe Haven Program.⁶ This indicates to the public that it can meet the needs of an infant taken there. Once at the hospital, there was no question that B.Cd. and B.Cb. were provided with nourishment, clothing, shelter, and medical care. There was no evidence that the children were ever left alone or were ever not in the care of a responsible adult.

In accordance with the Safe Haven Act, Ms. C's care plan for her children involved taking them to a place she was certain they would be cared for and not in a place which posed any risk—much less any “substantial” risk—to the children's well-being. She did not leave them alone, exposed to the elements, or with someone who was not a medical professional. Her actions stand in stark contrast to actual unsafe abandonments of infants—the very abandonments that the Safe Haven Act was passed to prevent.⁷ Yet the juvenile court's neglect finding treats these different actions the same.

No risk from lack of health history

The juvenile court's rationale for the neglect finding was partly based on its perception that a lack of health information about the children would pose a risk of harm to them. It explained, “I think when you leave a child with that little information, especially a four day old child, that is placing a child in substantial

⁶ Maryland Department of Human Services, Safe Haven Website, <https://dhs.maryland.gov/safe-haven/>.

⁷ Sarah Koenig, *Infant havens statute is eyed Bills would shield people who abandon babies at ‘safe’ spots ‘To prevent tragedies’*, Baltimore Sun (February 16, 2001). (App. 180.)

risk because how does the one receiving the child know what is – anything about the child that has happened.” (E.171.)

But Ms. C *did* provide the children’s health information to the hospital. (E.282.) And even if she had not, the Safe Haven Program does not require that parents give any health information. Rather, its informational materials describe how a parent can “anonymously provide information to a local department of social services regarding the medical history of the newborn or the newborn’s family medical history.” CJP § 5-641(e)(1)(iii). This is what Ms. C did. Even if the children had any unmentioned or unknown health concerns, the hospital was the single best place for them to be.

The court’s reasoning seems to be that the children may have had a health condition, and this possibility posed a substantial risk of harm to the children. But the *possibility* of a child needing medical attention—without proof—is not enough to establish neglect. *See In re T.K.*, 480 Md. 122, 158 n.22 (2022) (Indicating that when a stipulation of adjudicatory facts does not establish that a child’s injury “required professional medical attention or that the failure to seek such attention put [the child] at risk,” the stipulation “does not itself establish neglect concerning that incident.”). Like *T.K.*, here, the evidence at adjudication did not show that the children needed professional medical attention or that any failure to seek attention put the children at risk.

This accords with the general limitation placed on courts when engaged in determining future harm: “The fear of harm to the child or to society must be a

real one predicated upon hard evidence; it may not be simply gut reaction or even a decision to err-if-at-all on the side of caution.” *In re Jertrude O.*, 56 Md. App. 83, 100 (1983). In determining neglect, this Court has also provided the guidance that “[i]t is not conjecture about potential harm, however, that governs, but rather whether the conduct at issue, evaluated objectively, created a substantial risk of harm.” *Hall v. State*, 448 Md. 318, 328 (2016).⁸

In *Hall*, the Court held that the evidence was insufficient to sustain a conviction for neglect of a minor where a mother left her three-year-old son in the care of his fourteen-year-old sister overnight, and the younger child slipped out of the house and was nearly stuck by a passing truck while in the middle of a six-lane roadway. *Id.* at 325. To reason that leaving a child at a hospital poses risk of substantial harm to the child because of unknown health concerns that the child *may* have—the reasoning of the juvenile court here—is precisely the “conjecture about potential harm” that *Hall* prohibits.

No risk from uncertainty about who would provide care

Ms. C took her children to the hospital only because she knew that the Safe Haven Program meant that her children’s care was guaranteed. Her actions cannot be separated from the existence of the Safe Haven Program. Yet the Appellate Court did just that.

⁸ While *Hall* is a criminal case and the criminal definition of neglect requires that the individual acted intentionally, the Court was wrestling with whether the parent’s action created a “substantial risk” to the child, the same standard at issue in a CINA determination. Md. Code Ann., Crim. Law (CL) § 3-602.1(a)(5)(i).

The Appellate Court took the fact that Ms. C did not resume care of her newborns when they were ready for discharge as evidence that the Department had to step in to provide care. And because the Department had to step in to provide care, the Appellate Court found neglect. Yet this formulation ignores the existence of the Safe Haven Program. Ms. C did not just drop off her children and leave, apropos of nothing. She was acting *because of* and *pursuant to* the Safe Haven Program. Relying on the Department's Safe Haven Program to make a safe care plan for one's child is fundamentally different from circumstances where the Department's general Child Protective Services division intervenes to care for a child in a circumstance where the parent has made *no other safe care plan* for that child.

The Safe Haven Program distinguishes this case from *Doe v. Allegany County Dep't of Soc. Servs.*, 205 Md. App. 47 (2012), a decision relied upon by the Appellate Court. In *Doe*, an adoptive mother and her boyfriend refused to allow their paralyzed, seventeen-year-old teenager to return to their home after they got into an altercation with the teenager. *Id.* at 50-51. The adults further refused to allow the teenager to live at his friend's house and made no provisions for any aspect of his care. *Id.* at 52. As part of its general duties to investigate child maltreatment, the Department intervened and sheltered the teenager. Without the Department's intervention, there is no indication that the teenager would have had any place to live. The Department thus made an internal finding that "[the parents'] actions placed [the child]'s welfare at a substantial risk of harm because

[the child] had nowhere else to go and he needed extensive attention and medication due to his accident.” *Id.* at 69. The adults in *Doe* did not plan for the teenager to be cared for by the Department—they made no plan.

Here, Ms. C took the children to the hospital knowing that the hospital would ensure her children’s care in the immediate future and that the Safe Haven Program would ensure her children’s care in the longer term. At no point was her children’s care uncertain. The risks posed to the seventeen-year-old in *Doe* versus Ms. C’s infants were vastly different. The law should likewise distinguish the conduct of the adults in *Doe*—who put their child out on the street—and Ms. C, who made a plan to deliver her children into the hands of an employee of a local hospital as part of the Safe Haven Program.

“Neglect” is not defined by whether the Department has to provide care to a child. Rather, neglect is when a child is placed at “substantial risk of harm,” which *can* happen, as in *Doe*, when a parent makes *no safe care plan* and *then* the Department has to provide care. But *Doe* does not stand for the proposition that Department involvement *by itself* means a parent has been neglectful. In holding that it does, the Appellate Court redefined neglect. (E.25-28.)

B. This Court should not redefine neglect.

Problematically, the Appellate Court’s application of *Doe* to Ms. C’s case broadens the definition of neglect beyond recognition. If it is the case that the Department’s provision of care automatically constitutes neglect, the statutory definition of neglect—established by the Legislature—is rendered meaningless.

The Appellate Court’s ruling radically redefines neglect without Legislative authority, in contravention of the role of the judiciary. *See Woodlin v. State*, 484 Md. 253, 279 (2023) (citation omitted) (“Our goal is to ascertain and effectuate the intention of the legislature and we begin that exercise by reviewing the statutory language itself. We read the plain meaning of the language of the statute as a whole, so that no word, clause, sentence or phrase is rendered superusage, superfluous, meaningless or nugatory.”).

This redefinition would result in courts skipping over the analytical process of deciding whether a child had been placed in “substantial risk of harm” in order to determine whether neglect existed. The redefinition would mean that courts could conclude that if the Department sheltered a child, the child had necessarily been neglected. One consequence of redefining neglect in this way is that it would wipe away the ability for any parent whose child has been removed before adjudication—as occurs in many, if not most, CINA cases—to ever prevail at adjudication.

Rather than being analogous to *Doe*, because of the existence of the Safe Haven Program, Ms. C’s case is more similar to one where a parent enters into a Voluntary Placement Agreement (VPA) with the Department. A VPA allows a child who cannot be safely cared for at home due to the child’s mental illness or developmental disability to be voluntarily placed in the Department’s physical custody for purposes of obtaining treatment. Md. Code Ann., Family Law Article

(FL) § 5-525(b)(2); DHS Policy SSA-CW #22-01.⁹ Like the Safe Haven Program, the VPA program was created by the Legislature and is run by local departments of social services. Like the Safe Haven Program, it is for parents who are unable to care for their child on their own. A parent has not neglected their child when the Department intervenes to care for a child via a VPA.¹⁰ It follows that a parent has not neglected their child when the Department intervenes to care for a child via the Safe Haven Program.

Yet under the Appellate Court's redefinition of neglect, a parent who makes a safe care plan for their child by entering into a VPA with the Department would qualify for a neglect finding merely because the Department has had to intervene to provide care for the child. But it is not neglect to seek help in caring for one's child. The absurdity of this outcome illustrates why the Appellate Court's reasoning cannot hold.

Out-of-state appellate courts have considered the issue of whether using a Safe Haven program constitutes neglect. In New Jersey and New York, both states whose Safe Haven laws provide parents criminal immunity but *not* civil immunity (unlike Maryland, which, as discussed below, offers parents the added protection

⁹ DHS Policy, SSA CW #22-01, Children with Disabilities – Voluntary Placement Agreements (VPAs),

<https://dhs.maryland.gov/documents/SSA%20Policy%20Directives/Child%20Welfare/SSA%202022-01%20CW%20Children-with-Disabilities-Voluntary-Placement-Agreements-VPAs.pdf>.

¹⁰ It is explicitly prohibited for the Department to seek legal custody in the form of a CINA petition for children in out-of-home care under a VPA. FL § 5-525(b)(2)(i).

from civil liability), courts have determined that making a safe care plan of bringing an unharmed child to a hospital is not neglect.

In *Div. of Child Prot. & Permanency v. B.P.*, 257 N.J. 361 (2024), days after giving birth, a mother left her daughter who was not yet discharged at the hospital and did not return. *Id.* at 378. The appellate court did not reach consideration of whether the mother’s actions were protected by the state’s Safe Haven Act because, it held, the state had not met its burden to statutorily prove neglect. *Id.* at 381. The court found that the mother “did not carelessly leave [her daughter] alone on a street corner or in an alleyway without food or shelter, putting her at risk. [The mother] left [her daughter] at a hospital -- one of the safest places for a newborn child to be. There is no question that [her daughter] would be (and was) provided with food, clothing, shelter, and medical care if needed while in the hospital.” *Id.* at 378-79.

And while New Jersey’s definition of neglect is that a child’s “physical, mental, or emotional condition has been impaired or is in imminent danger of becoming impaired,” *Id.* at 375, the difference between “imminent danger” and “substantial risk”—the standard in Maryland—does not render the New Jersey court’s analysis inapplicable to Ms. C’s case. The reasoning is the same. In *B.P.*, the court rejected the state’s argument, holding that the argument that the child was at risk “simply based on a possibility that something, anything, *could have* happened is an insufficient basis to substantiate a finding of abuse or neglect.” *Id.* at 380 (emphasis in original). Here, the juvenile court’s reasoning—that Ms. C’s

actions created a substantial risk of harm to the children because “I think when you leave a child with that little information, especially a four day old child, that is placing a child in substantial risk because how does the one receiving the child know what is -- anything about the child that has happened,” (E.170-71)—is akin to finding neglect because “something, anything, *could have* happened.” Maryland courts, like the court in New Jersey, do not permit neglect to be proven through such conjecture.

In contrast to the New Jersey case, the court in New York did consider the existence of the Safe Haven Program in determining neglect. *In re Doe*, 25 Misc. 3d 470, 473, 883 N.Y.S.2d 430, 432 (Fam. Ct. 2009) (“The inference to be drawn from [the child welfare agency]’s argument is clear, however: new parents unable to care for their infants are provided with the legally approved (if not actively encouraged) option of delivering the child to a ‘Safe Haven;’ at the same time, however, availing oneself of that option is tantamount to a failure to exercise a minimum degree of care. This position is untenable.”).

This Court should reject an unfettered expansion of the definition of neglect. Rather, it should follow the precedent established by *Hall* in Maryland and *B.P.* in New Jersey. It should not base a neglect finding on conjecture—especially not when a parent has acted in compliance with a legally established program that guaranteed her children’s safety.

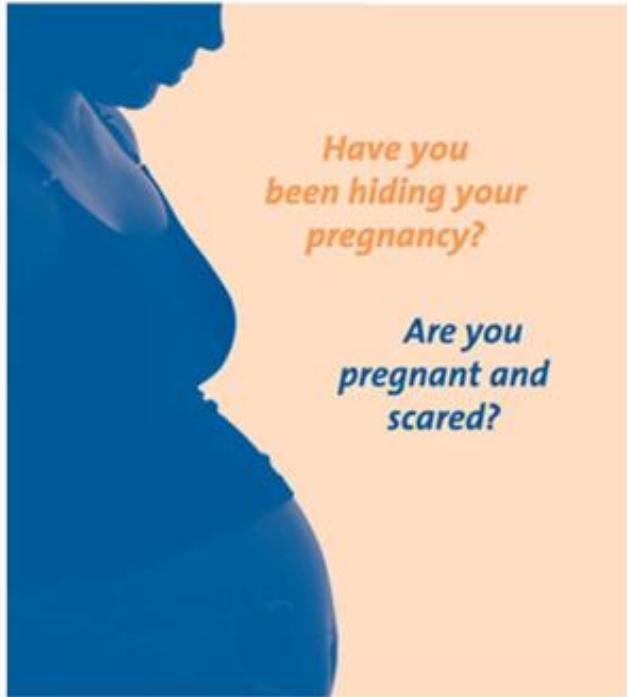
C. Maryland encourages parents to use the Safe Haven Program, which it would not if Safe Haven posed a substantial risk of harm to children.

The state encourages people to use the Safe Haven Program. That is by design: the Legislature requires that the Secretary of Human Services “shall develop, implement, and maintain a public information program to inform the public about the Program” that makes informational materials available “in print, audio, electronic, and other media formats” and regularly distributes materials “at state and county health department offices; each local department of social services; and each publicly funded educational institution in the State.” CJP § 5-641(e). As a result, the state runs a website with information about the program, <https://dhs.maryland.gov/safe-haven/>. The website links to a brochure with further information about the program.

At the time of B.Cd. and B.Cb.’s birth, everything about the website and brochure conveyed to Ms. C, and indeed to all Marylanders, that this program was encouraged by the state as a safe choice for parents to make. Its very name is *Safe Haven*. A haven is “a place of safety; refuge.”¹¹ A program which encourages parents to place their baby in a location deemed to be a refuge—a *safe haven*—by its terms cannot be one which exposes them to harm.

During Ms. C’s pregnancy, when Maryland residents navigated to <https://dhs.maryland.gov/safe-haven/>, this is what they saw:

¹¹ Merriam-Webster, <https://www.merriam-webster.com/dictionary/haven>.



What is Safe Haven?

In Maryland, no one ever has to abandon a newborn baby. Under the Safe Haven law, a distressed parent who is unable or unwilling to care for their infant can safely give up custody of their baby, no questions asked. Newborns can be left at hospitals or law enforcement stations, some of which are listed below.

A parent (or another adult with the approval of the mother) has up to 10 days from the birth to invoke Safe Haven anonymously and safely leave a baby with a responsible adult at a designated location. A person who invokes Safe Haven is immune from civil liability or criminal prosecution provided the child is unharmed.

The website included a link to a Safe Haven brochure:

Many babies are abandoned by mothers who feel they are not ready to have children and think they have no option but to leave their newborn child.

This Maryland law allows them to hand over an unharmed infant anonymously without fear of arrest or prosecution.

Maryland Safe Haven Program

- Unharmed Newborn
- Give to a Responsible Adult
- Within 10 Days of Birth
- No Arrest or Prosecution

COMAR 07.02.27

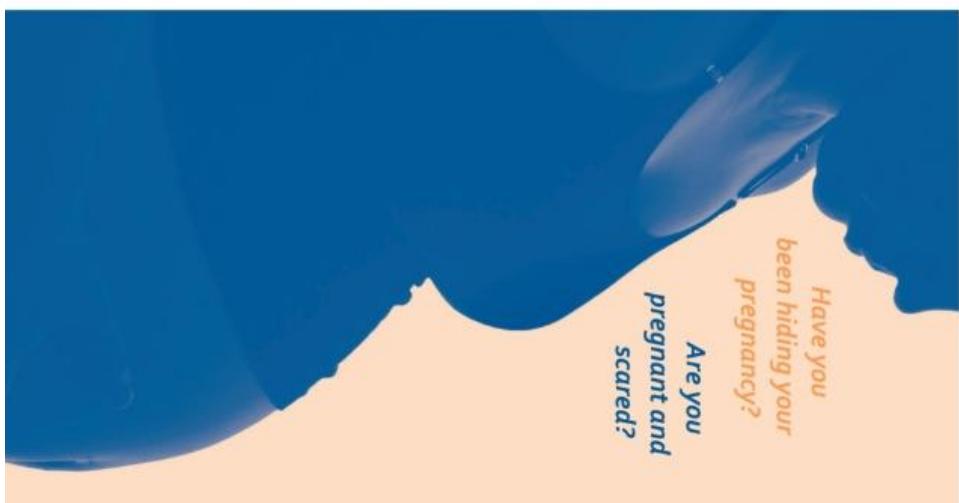
<http://dhs.maryland.gov/safe-haven/>

Wei Moore, Governor
Aruna Miller, Lt. Governor
Rafael López, DHS Secretary

DHRS/PUB/SSA 2005-14/23 (Previous edition obsolete)



Have you
been hiding your
pregnancy?
Are you
pregnant and
scared?





Safe Haven

Giving Your Newborn A Future



What is the purpose of the Safe Haven Program?

The Safe Haven Program is designed to protect your newborn from danger or death and to protect you from legal action due to abandoning your baby. The program allows you to hand over your unharmed infant, within ten days of birth, without fear of being arrested or prosecuted.

What do you mean by unharmed?

In this case, unharmed means that the infant has not been abused or neglected since the time of birth.

Where can I take my baby?

You can take your baby to any Maryland hospital, clinic, or local police station.

When I get to the hospital or police station, what should I say?

All you have to do is walk in and say, "This is a Safe Haven baby," and walk away. You may be asked questions about the baby's health and family health history, but you do not have to answer any questions if you don't want to. The medical history of your baby will help the staff do a better job of providing the medical care your baby needs.

I'm too scared. Can somebody take the baby for me?

Yes they can. However it must be a responsible adult over 18 years of age.

They just need to say, "This is a Safe Haven baby." They do not have to answer any questions, but providing the baby's medical history would be helpful.

After I turn over the baby, what will happen to him or her?

After you leave your baby at a Safe Haven location, he or she will receive any necessary medical attention before being discharged to the local Department of Social Services and placed for adoption.

What if I change my mind?

The goal is to have your baby placed with a permanent, stable family. However, if you should change your mind, you will need to call your local Department of Social Services.

To learn more about this alternative to abandonment, please contact your local department of social services. All calls can be anonymous. The number to your local department of social services can be found on the Maryland Department of Human Services' web page. When you call, ask to speak to someone about Maryland's Safe Haven program.

<http://dhs.maryland.gov/safe-haven/>

Where can I get medical care?
Will I be asked questions?

If you are experiencing pain, heavy bleeding, or have a fever, you should go immediately to the nearest emergency room or you can contact your medical provider for assistance. Your medical provider may ask questions about your medical condition. A social worker or nurse can assist you with answering any questions if you are not comfortable.

Remember, turning your unharmed baby over to a Safe Haven location is not against the law. You will not be arrested and will not be in trouble with the law.

Thus, through its informational materials, the state promised parents that if they used the Safe Haven Program, “You will not be arrested and will not be in trouble with the law.” The website broadcast a message to every Marylander—but particularly those who are “pregnant and scared”—that acting in line with the Safe Haven Program is a lawful and legislatively sanctioned choice.

It is illogical that a state-created program would intentionally place children at “substantial risk of harm.” It is inconceivable that the state would encourage parents to take an action that places children at “substantial risk of harm.” Given that the Safe Haven Program is *both* a state-created program and a program that the state encourages people to use, it cannot be reasonably concluded that in using the Safe Haven Program, a parent commits neglect.

III. The Safe Haven Act shields parents from neglect findings.

According to the Appellate Court, a CINA neglect finding must not be a form of civil liability because a neglect finding is “necessary” for the Department to provide care for a newborn whose parents acted pursuant to the Safe Haven Act. (E.30.) In holding thus, the Appellate Court arbitrarily carved out a CINA finding from the general prohibition on civil liability. It did so without considering the implication that a neglect finding will dissuade use of the Safe Haven Program—the exact opposite outcome the Legislature intended when establishing the program.

A. A neglect finding is a civil liability.

The Safe Haven statute protects individuals, who meet certain requirements, from civil liability, such as a finding of neglect made in a CINA case. The Safe Haven statute provides:

A person who leaves an unharmed newborn with a responsible adult or at a designated facility within 60 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.

CJP § 5-641(b)(1) (emphasis added).

A CINA case is civil in nature. *In re Maria P.*, 393 Md. 661, 672 (2006) (citing *In re John P.*, 311 Md. 700, 707 (1988)). Liability is defined as “the quality, state, or condition of being legally obligated or accountable.” Black’s Law Dictionary (12th ed. 2024). A finding, made at a CINA hearing, that a parent has abused or neglected their child is a finding that the parent has failed in their obligation of providing appropriate care and attention to a child. Indeed, this Court has recognized that a CINA determination subjects a parent to “civil sanctions” such as the loss of custody of their child and an order “to pay a sum in the amount the court directs to cover” their support. *Bowling v. State*, 298 Md. 396, 403-405 (1984).

The fact that the Appellate Court in *In re Blessen H.* characterized CINA hearings as “non-punitive” does not compel affirmance. *In re Blessen H.*, 163 Md. App. 1, 15 (2005), *aff’d*, 392 Md. 684 (2006). In *Blessen*, the Court distinguished CINA cases from “criminal trials, probation revocation hearings, and juvenile

delinquency proceedings” by characterizing those three as hearings which are “punitive and carry incarceration as a direct consequence.” *Id.* Yet while *Blessen* highlights that the “nature” of a CINA hearing is not to punish a parent, in no way does it support the proposition that a CINA finding is excluded from being considered civil liability. In fact, *Blessen* goes on to acknowledge the significant loss to a parent which can follow from a CINA adjudication, saying, “To be sure, a CINA adjudication could lead to an infringement of a parent’s important right to raise his or her child.” *Id.*

Other Maryland case law on civil liability is instructive. In *Ireton v. Chambers*, this Court held that when a statute generally immunized a mayor from any civil liability, that immunity included immunity from damages. *Ireton v. Chambers*, 229 Md. App. 149 (2016). The Appellate Court there reasoned, “[I]t is readily apparent that when the General Assembly intends to create an immunity only from an award of damages, it knows how to do so,” and “Because the legislature has demonstrated its ability to distinguish immunity from damages from immunity from ‘civil liability,’ we decline to equate the two.” *Id.* at 158-159.

This supports Ms. C’s argument that the general immunity from civil liability provided by CJP § 3-641(b)(1) encompasses immunity from a CINA finding. Had the General Assembly wanted to make a Safe Haven parent immune *only* from civil damages, or conversely, had it wanted to make a Safe Haven parent subject to CINA liability for safely invoking the Act, it knew how to do so, and could have done so. But it did not. Rather, it guaranteed immunity from civil

liability. And because a CINA case is a civil case, and because a neglect finding means that a parent has failed in their obligation to provide care for their child, the plain text of CJP § 3-641(b)(1) should be interpreted to mean what it says: A parent who acts in line with the Safe Haven Program is granted “immunity from civil liability.”

At the time of Ms. C’s pregnancy and while the case was pending in the Appellate Court, the Department’s website stated that a person who invoked Safe Haven was “immune from civil liability.” Yet the Department knew that imposing a neglect finding on parents for using Safe Haven renders this promise of civil immunity a material misrepresentation. Sometime between oral argument on June 10, 2025, and August 18, 2025, the Department changed its Safe Haven website and brochure. The website is now scrubbed of the language that a parent using Safe Haven is “immune from civil liability.” But the revised Safe Haven brochure still sends the message that a parent will face no legal consequence for using the program. It says, “The Safe Haven Program is designed to protect an infant from danger or death and to protect the mother or responsible adult *from any legal action.*” (Emphasis added.)

The failure to fulfill the obligation to provide appropriate care and attention to one’s child—a failure reflected in a CINA neglect finding—results in a wide array of consequences beyond the loss of custody and the obligation to pay child support. This bolsters the argument that civil liability encompasses a CINA finding of neglect.

The difficulty of getting their child back

If using the Safe Haven Program is neglect, then a parent who changes their mind and asks for their child back—such as Ms. C—will have to fight in court for this to happen. The fight will be an uphill battle with no guarantee of success.

If a parent asks for their child back before adjudication, and the child is placed with the Department under an order of shelter care, the Department is under no obligation to return the child. It strains credulity to imagine that if the Department regards a parent as a “neglector,” that it would simply return a child to that person. But even if it does, the child’s counsel still has a right to prosecute the adjudication. *In re Najasha B.*, 409 Md. 20, 39 (2009). The parents will have to defend themselves against allegations of neglect in court.

And whether the Department or child’s counsel is the entity prosecuting the adjudication, if the court finds that the parent has neglected the child at adjudication—as it would, if the Appellate Court’s ruling is upheld—the parent must continue to fight for custody at disposition. And at a disposition hearing, the juvenile court has the discretion to decline to require the strict application of the rules of evidence. *In re T.K.*, 480 Md. 122, 135 (2022) (citation modified). The parent must now fight against hearsay and unauthenticated documents being levied against them.

Further, once the parent has incurred a neglect finding, that neglect finding burdens the parent and makes regaining custody of one’s child more difficult, in specific, concrete ways. FL § 9-101 (“In any custody or visitation proceeding, if

the court has reasonable grounds to believe that a child has been abused or neglected by a party to the proceeding, the court shall determine whether abuse or neglect is likely to occur if custody or visitation rights are granted to the party”); *see also In re Yve S.*, 373 Md. 551 (2003) (same); *In re Kaela C.*, 394 Md. 432 (2006) (recognizing that a CINA finding results in collateral consequences to a parent because another court can rely upon that judgment in making its own custody determinations) (in turn citing to *In the Matter of A.K.*, 360 N.C. 449 (2006) (holding that adjudication of petitioners’ daughter as a neglected child was not moot even after full custody of the daughter was returned to the petitioners because of the collateral consequences the adjudication may have on the petitioners’ credibility)).

If the parent is unsuccessful at reunification, then the parent may face the loss of custody of the child to another parent—as did Ms. C. If the child has been placed with non-parent foster caregivers who are seeking to adopt, the parent’s right to the child could be permanently severed through the termination of parental rights.

A parent’s other children are threatened

A neglect finding against a parent adversely impacts the parent’s ability to raise their other children free from state interference. *See In re Adoption/Guardianship No. T96318005*, 132 Md. App. 299 (2000) (holding that a trial court properly based its decision to terminate parental rights for one child on the parent’s prior actions towards another of her children); *see also In re William*

B., 73 Md. App. 68, 76 (1987) (stating that “the parents’ ability to care for the needs of one child is probative of their ability to care for other children in the family”) (citing *People in Interest of D.L.R.*, 638 P.2d 39, 42 (Colo.1981) for proposition that “[t]he trial court may properly consider the treatment accorded other children in determining whether the child before it is neglected and dependent”); *In re Nathaniel A.*, 160 Md. App. 581, 596 (2005) (A parent’s prior conduct may be considered in determining whether a different child is at a substantial risk of harm, which would support a CINA finding).

Consider the example of a young pregnant woman who does not feel like she is in a position in her life where she can raise a child. She uses the Safe Haven Program. Her child is adopted with her consent. Yet because the Department prosecutes the case through the CINA system, she incurs a neglect finding for having used the Program. Years pass. The circumstances of her life transform from what they were at her first pregnancy. She gets pregnant again and decides she wants to raise her child. But her ability to do so has been jeopardized—the neglect finding on her record means that her new child can be found to have been neglected, solely because she used the Safe Haven Program in the past. The finding could result in separation and termination—a devastating consequence for her and her new child.

Lifetime placement on the abuse and neglect registry

A finding of neglect also subjects an individual to inclusion on the state’s child abuse database, or registry. FL § 5-714 (Centralized confidential database for

child abuse). If the Department has found that an individual is “indicated” for child abuse or neglect, that individual is *permanently* on the registry. COMAR 07.02.07.20(C). And once the individual has an adjudicated neglect finding in a CINA case, as does Ms. C, they are collaterally estopped from challenging the Department’s administrative finding of child neglect and inclusion on the registry.

Cosby v. Dep’t of Human Res., 425 Md. 629, 632-633 (2012); *cf. Prince George’s County Dep’t of Soc. Servs. v. Knight*, 158 Md. App. 130, 142 (2004) (Sonner, J. concurring) (referring to placement on the registry as a “substantial injurious collateral consequence” of an abuse or neglect finding).

Being on the registry impacts an individual’s ability to be employed in certain fields involving children, such as daycares and schools. COMAR 07.02.07.21(D)(8)(a)(ii), (F)(2)(a). The indicated registry finding removes the individual’s ability to volunteer for activities with their children, such as supervising a class field trip. COMAR 07.02.07.21(F)(2)(a). It may also impact an individual’s qualification to become a foster parent. *Williams v. Ragaglia*, 261 Conn. 219 (2002) (holding that judgment revoking petitioner’s special foster care license was not moot regardless of the fact that petitioner was later granted full custody of the foster children because the judgment could have collateral consequences with regards to her future ability to be a foster parent).

B. The Legislature intended to provide immunity from a neglect finding to parents who use the Safe Haven Program.

In order for the Safe Haven Program to work, it must be used. Maryland guarantees immunity from civil and criminal liability to induce people to use the program. The immunity from civil liability has remained unaltered in statute for the twenty-three years of the Act's history.

However, a survey of legislative history over this period shows that a legislative reform in 2005—unrelated to Safe Haven—jected uncertainty about the exact legal mechanism by which the Department could take custody of Safe Haven children. Regardless, by 2022, the law had been fixed to provide a legal mechanism for the Department to take custody of Safe Haven children, one that does not require a neglect finding to be made against the parents.

Passage of Maryland's Safe Haven law in 2002

In 2002, the Maryland Legislature passed the Safe Haven Act to prevent infants from being abandoned at birth. Thirty-five other states had passed Safe Haven laws in the preceding three years, noted a news article included in the bill file for HB 602, the bill that became the Safe Haven Act. K. Williams, *Bill for safe haven resurfaces in assembly*, Montgomery Journal (Jan. 22, 2002) (App. 1). The floor report for HB 602 stated that in 1998, across the country, 105 infants had been abandoned in public places and 33 were found dead. Floor Report, House Bill 602, Senate Judicial Proceedings Committee, 2002 Leg., 418th Sess. (Md. 2002) (App. 6). The year after a nineteen-year-old Germantown woman gave birth

in a bathtub and put her baby outside in a trashcan, where the child was found alive just before a trash truck came, legislators passed a Safe Haven bill in Maryland. (App. 1.) The story of that Germantown mother was included in the Proposal for the Safe Haven law as a reason for legislators to pass the law. *Proposal for a Maryland Safe Haven Law*, State's Attorney for Montgomery County (Md. 2002) (App. 7).

The Legislature attempted to achieve its aim of reducing infant mortality by incentivizing parents to use the Program through a guarantee of immunity from criminal or civil liability for the act. COMAR provisions, implemented after the Act's passage, recognize that the purpose of the Maryland Safe Haven Program "is to provide the mother or a newborn the opportunity to provide a safe abandonment of her newborn by ... [p]roviding immunity from civil liability and criminal prosecution for a mother who leaves an unharmed newborn with a responsible adult under certain circumstances." COMAR 07.02.27.01 (A)(l). The provision of civil immunity to parents was inextricably bound up with the Act's purpose of preventing infant death.

That the law was designed to protect both children and parents is clear from statements made by legislators at the time. "I wanted to do something to protect these babies, and these women -- or girls -- who are in such desperate situations that to be prosecuted seemed a grave injustice," said Del. Sharon M. Grosfeld, a Montgomery County Democrat who sponsored the Safe Haven bill before the Legislature in 2002. Sarah Koenig, *Infant havens statute is eyed Bills would shield*

people who abandon babies at ‘safe’ spots ‘To prevent tragedies’, Baltimore Sun (February 16, 2001) (App. 10).

The Legislature had no intention of subjecting a parent who used Safe Haven to a neglect finding. At the time of the Safe Haven Act’s passage, the Family Law Article’s Guardianship Subtitle permitted a court to grant the Department guardianship, with the right to consent to adoption, of an “abandoned” child. FL § 5-313(a)(1) (2002). To do so, the court had to find that “[t]he identity of the child’s natural parents is unknown” and that “[n]o one has claimed to be the child’s natural parent within 2 months of the alleged abandonment of the child.” FL § 5-313(b) (2002). The Guardianship Subtitle also permitted a court to grant guardianship of a child to the Department if the child’s parents consented. FL § 5-317(c) (2002). This means the Department could obtain guardianship of a Safe Haven child without a court needing to find that the parent neglected the child.

The Appellate Court correctly observed that the Office of the Public Defender supported the bill, but the reason for the support was not because the law required a neglect finding but rather because the Guardianship Subtitle’s abandonment provision meant that it did not. Office of the Public Defender, Testimony in Support of HB 602, House Bill 167, Judiciary Committee, 2002 Leg., 398th Sess. (Md. 2002) (App. 14).

Changes to the Family Law Article in 2005 led to ambiguity

In 2005, the Legislature overhauled the Guardianship Subtitle. SB 710, a 151-page bill, was entitled the “Permanency for Families and Children Act of 2005.” (App. 15.)¹²

The provision that a guardianship could be granted for a child who was “abandoned” was removed. Now, the Department could be granted guardianship under Subtitle 3 of Family Law Title 5 *only for* children already committed to it as CINA. FL § 5–302(a) (2005) (App. 15). And because the definition of child in need of assistance was a child who “has been abused, has been neglected, has a developmental disability, or has a mental disorder,” CJP § 3-801(f) (2002), the change meant that a Safe Haven child would first have to be found “neglected” for the Department to assume guardianship. The legislative history of the 2005 bill makes no mention of how this would impact Safe Haven cases. This legislative oversight created the present situation.

The proof that the 2005 action was legislative *oversight* and not legislative *intent* lies in the fact that the Legislature kept the Safe Haven Act’s “immunity from civil liability” provision in place. If the Legislature had wanted Safe Haven parents to no longer be protected from civil liability, it would have removed that provision or excluded a CINA finding from its ambit. And so, even after 2005, the legislative purpose of the Safe Haven Act—saving newborn lives by incentivizing

¹² An excerpt of the bill’s relevant statute changes is included on page 15 of the Appendix.

parents to use the Program through the promise of immunity from civil liability and criminal prosecution—remained in place.

The 2005 legislative oversight led to confusion in trial courts about how to handle Safe Haven cases. This is illustrated by legislation that was proposed in 2019. That year, the Department put forth legislation, HB 167, attempting to resolve the confusion. The proposed bill changed the definition of CINA to, once again, allow the Department to assume guardianship of a child without a neglect finding against the parent. HB 167 (2019) (App. 17). It did this by adding “has been relinquished as a Safe Haven newborn” as one of the ways that a child can be found CINA. *Id.* Maryland Legal Aid Bureau’s written testimony in support of HB 167 highlighted the 2005 oversight and ensuing confusion:

Currently, it is not clear that children relinquished in accordance with Courts and Judicial Proceedings Article 5-641, otherwise known as “safe haven newborns” may be adjudicated as children in need of assistance (CINA). Without a finding that the safe haven newborn is a child in need of assistance there are no statutory procedures in place regarding how the Department of Social Services should move forward with a “safe haven newborn” once the child has been relinquished.¹³

Testimony in Support of House Bill 167, House Bill 167, Judiciary Committee, 2019 Leg., 415th Sess. (Md. 2019) (App. 34).

The Department currently has another mechanism to obtain guardianship of Safe Haven children without imposing a neglect finding on their parents, even

¹³ Child’s counsel, Maryland Legal Aid Bureau, did not take a position in this case before the Appellate Court.

though the oversight—which was pointed out in the proposed HB 167—was not corrected in 2019. That mechanism is found in the Estates and Trusts Article.

Changes to the Estates and Trusts Act in 2022 overturned Zealand and created a mechanism for the Department to have custody of a Safe Haven child

In 2014, *In re Guardianship of Zealand W.* held that a court acting under Estates and Trusts (ET) § 13-702 could not appoint a third party as temporary or permanent guardian of a child if the child's parents were alive and the parents' rights had not been terminated. *In re Guardianship of Zealand W.*, 220 Md. App. 66 (2104). This created a problem for parents—such as military service members preparing for overseas deployment—who were not able to care for their children and wanted to grant guardianship of their child to a nonparent third-party. Testimony of Maj Brian C. Schmitt Supporting House Bill 808 (Feb. 2022) (App. 36). As the testimony makes clear, HB 808 was passed in 2022 with the explicit aim of resolving this issue.

With the passage of SB 808, *Zealand* was no longer good law. The bill amended ET § 13-702(a)(1) to allow for a court to grant guardianship if it is in the child's best interests, no testamentary appointment has been made, and either: (1) no parent is willing or able to serve as guardian; (2) each parent consents to the appointment of the guardian; or (3) no parent files an objection to the appointment of the guardian. Because of the legislative history, it is clear that this provision was implemented by the Legislature to address situations where a parent is unable to care for a child—not because of abuse or neglect—and wants to appoint a third-

party guardian to ensure the child's care. That is the situation of a parent who wants to use the Safe Haven Program to place their child for adoption.

And so, after SB 808's passing, guardianship of a Safe Haven child could transfer to the Department under ET § 13-702. Then, once the child is placed with prospective adoptive parents, those parents can petition the court for an independent adoption under FL § 5-3B-20(1)(i).

The Appellate Court rejected ET § 13-702 as a legal mechanism for Safe Haven cases. One reason it did so is that, according to the Court, nothing in ET § 13-702 explicitly gives the Department authority to be a guardian. (E.40.) But the lack of affirmative endorsement does not mean it is prohibited—not when a Safe Haven case otherwise meets all the elements necessary for a court to grant the guardianship under ET § 13-702(a)(1). Furthermore, ET § 13-207(e) says that the Department cannot be guardian of a minor's *property*. This implies that it can be guardian of a minor's *person*, just as it can be guardian of a disabled adult under ET § 13-707(a)(10).

In addition, the Appellate Court held that the Department is not qualified to be a child's guardian. (E.40.) But the Department's very existence is predicated on the fact that, when a child needs assistance, it is the entity that can step in and help. It defies logic to conclude that the Department is not qualified to be a child's guardian under the Estates and Trusts statute but *is* qualified to be a child's guardian under the CINA statute.

Due process rights are protected

The Appellate Court also rejected ET § 13-702 as a legal mechanism for Safe Haven cases because, it reasoned, a guardianship under ET § 13-702 would not give a child the benefits that it would get in a CINA case. (E.40.) But that is wrong: a guardianship under ET § 13-702 *must* be made in the best interests of the child, the same standard in CINA cases. Additionally, an adoption under FL Title 5 Subtitle 3B must also be made in the best interests of the child. FL § 5-3B-19(a)(1).

A guardianship under ET § 13-702 protects the due process rights of parents in that a guardianship can only be appointed after notice and a hearing as prescribed by the Maryland Rules. ET § 13-702(a)(1).

Critically, the guardianship to the Department under ET § 13-702 would continue only so long as any parent who has come forward is in agreement with it continuing. If one parent steps forward to request that custody of the child is returned to the parent, the Department must do so. If a parent asks for a child's return and the Department feels there are safety concerns that prevent that from happening, it can keep the child in its custody under emergency shelter care, initiating a CINA case. Thus, a child's well-being is protected under any circumstance.

Because the guardianship is in effect only so long as the parents are in agreement, some of the CINA Subtitle's protections to parents do not apply. For example, the requirement that the Department make reasonable efforts to reunify

the family would not apply if the parent is not seeking reunification. And even without an express reasonable efforts requirement, the Department can still provide services to any parent who requests them through its Consolidated Family Services program, which does not require that a CINA petition has been filed to provide services. COMAR 07.02.01.09. The absence of a CINA case in no way prevents the Department from providing a referral for a mental health or substance use provider, for example.

To be sure, a guardianship appointment under ET § 13-702 does not automatically terminate parental rights or allow the guardian to consent to adoption, making it different than the Department's guardianship appointment under FL Title 5, Subtitle 3. But a child's appointed guardian under ET § 13-702, like any legal guardian, undoubtedly can make child care arrangements in the child's best interests. This provides authority to the Department to place the child in a safe pre-adoptive home. Then, after the Department has secured guardianship through ET § 13-702, the next step to finalizing the adoption would be for the prospective adoptive parents to petition the court for an adoption under Subtitle 3B of Title 5 of the FL Article. FL § 5-3B-20(1)(i).

If the parents of the Safe Haven child are known and sign consents for the adoption, the parents have 30 days to revoke their consent. FL § 5-3B-21(b)(1). An order of adoption cannot be entered before the expiration of the revocation period. FL § 5-3B-18. For parents of a Safe Haven child whose identities are unknown, once the prospective adoptive parents file the petition, the court must

issue a show cause order that advises the parent to seek independent counsel and to receive adoption counseling and guidance. FL § 5-3B-15(a). If the petitioner is unable to effect service on a parent, the court orders service through notice by publication, which must be posted for at least 30 days on the Department's website. FL § 5-3B-15(f). Given these procedures in place, this Court has held that "we are confident that the procedures provided to natural parents within the context of independent adoption proceedings are fundamentally fair." *In re Adoption of Sean M.*, 204 Md. App. 724, 746 (2012), *aff'd sub nom. In re Sean M.*, 430 Md. 695 (2013).

Ultimately, this scheme relies on the robust provisions for adoption that are described in Subtitle 3B. The scheme treats adoptions under Safe Haven—a program where parents are in agreement with their children being adopted by another—as it would an adoption where a parent agrees for their child to be adopted by any other individual.

C. If using the Safe Haven Program results in a neglect finding, parents will not use the program.

Not only is the Appellate Court incorrect that the Department needs a neglect finding to take custody of a child, its holding directly undermines the legislative purpose of the Safe Haven Act. The holding will deter parents from using the Safe Haven Program. This is because a neglect finding harms parents and children. And if using the Safe Haven Program results in harm, parents will not use the program. This Court should construe the civil immunity provision of

the Safe Haven Act to further the legislative purpose, which has remained unaltered since 2002. *See Shapiro v. Shapiro*, 346 Md. 648, 662–663 (1997) (concluding it is appropriate to construe a statute such that the interpretation furthers the legislative purpose where the legislative history is silent on a specific issue).

A neglect finding harms parents and families in various ways. As discussed above, a parent must fight in court to regain custody of a child placed in the Safe Haven Program. The parent's other children can be removed, and deemed to be neglected, solely because the parent used the Safe Haven Program previously with another child. The parent cannot contest placement on the child abuse and neglect registry, impeding their ability to work and care for their children.

A neglect finding adversely impacts families in other ways. One way is in preventing the parent from caring for other family members as a foster care resource. Imagine a mother who uses the Safe Haven Program for one child and incurs a neglect finding. She has another child, a daughter who grows up and has her own child. That child is removed by the Department. That child's grandmother will likely be blocked from being a placement resource because of the neglect finding on her record. COMAR 07.02.25.03(D)(7)(b). The grandchild will suffer the trauma of placement with strangers.¹⁴ And if the grandchild's relationship with

¹⁴ Shanta Trivedi, *The Harm of Child Removal*, 43 N.Y.U. Rev. L & Soc. Change 523 (2019), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3341033.

her parent is terminated, the grandchild will lose all access and connection to her grandmother, as well.

A neglect finding can adversely impact a parent's immigration status, posing harms to children who are at risk of being separated from their parents by deportation.¹⁵ Thus, an undocumented parent who uses Safe Haven and has other children may find herself subject to deportation for incurring the neglect finding and her ongoing involvement with the CINA court system. Her children could face the permanent loss of their mother because she relied on the "refuge" that the Safe Haven Program promises.

More broadly, a neglect finding puts a family in the crosshairs of the family policing system. And research shows that involvement with the system harms children. It results in surveillance and policing of families, disproportionately impacting families of color.¹⁶ In addition, a neglect finding leads to shame and stigma.

If parents do not use Safe Haven because of the consequences that flow from a neglect finding, families will suffer. There is some possibility that if Safe Haven is not used, an increased number of unsafe abandonments of newborns will

¹⁵ Tal D. Eisenzweig, *In the Shadow of Child Protective Services: Noncitizen Parents and the Child-Welfare System*, 128 YALE L. J. 482, 509-511 (2018), <https://yalelawjournal.org/essay/in-the-shadow-of-child-protective-services>.

¹⁶ Dorothy E. Roberts, *Torn Apart: How the Child Welfare System Destroys Black Families -- And How Abolition Can Build a Safer World* (2022).

result.¹⁷ However, the greater concern is that—to the degree that Safe Haven Programs *can* be a valuable resource for parents who are most in need—parents will no longer access this help if it subjects them to the harms of a neglect finding. There will be increased precarity for society’s most vulnerable.

IV. If this Court finds that the Safe Haven Act does not shield parents from a neglect finding, the Act is unconstitutional and must be overturned.

If following the guidelines of the Safe Haven Act constitutes neglect, the Act will be subject to an array of constitutional challenges. This Court should interpret the Safe Haven Act to avoid constitutional conflict. *See Koshko v. Haining*, 398 Md. 404, 425–26 (2007) (discussing the “‘canon of constitutional avoidance,’ which provides that a statute will be construed so as to avoid a conflict with the Constitution whenever that course is reasonably possible”) (citation omitted). The Appellate Court erred by disregarding constitutional concerns as unpreserved in its interpretation of the Safe Haven Act. (E.31.)

First, if acting under the Safe Haven Program is “neglect,” then by encouraging use of this Program, Maryland is entrapping parents into committing an act of neglect. Maryland promises immunity from civil liability, which

¹⁷ This is statistically unlikely, as Safe Haven Programs have not been shown to decrease infant mortality. Rebecca Wilson, et al, *Infant Homicides Within the Context of Safe Haven Laws — United States, 2008–2017*, Center for Disease Control and Prevention, (October 2, 2022), <https://www.cdc.gov/mmwr/volumes/69/wr/pdfs/mm6939a1-h.pdf>; Isabelle Chapman and Daniel A. Medina, *Conservatives have pushed infant safe haven laws as an alternative to abortion. But few American women use them*, CNN (Aug. 9, 2022), <https://www.cnn.com/2022/08/09/us/infant-safe-haven-law-abortion-invs>.

reasonable people would believe encompasses a CINA neglect finding. If it does not, then the statute misleads parents. It subjects them—without fair notice—not only to prosecution for neglect under the CINA statute, but to the array of collateral consequences that flow from a CINA finding.

The Appellate Court’s ruling thus makes the Safe Haven Act susceptible to challenge under the void-for-vagueness doctrine. This doctrine, rooted in constitutional due process, requires that state laws be unambiguous to a reasonable person so that the person can conform their behavior to comply with the law. A statute must be “sufficiently explicit to inform those who are subject to it what conduct on their part will render them liable to its penalties,” otherwise, the enactment is void-for-vagueness. *Galloway v. State*, 365 Md. 599 (2001). The Appellate Court left this implication of its ruling unaddressed.

The Appellate Court’s interpretation of the Safe Haven Act invites constitutional violations in yet other ways. Parents have a fundamental, Constitutionally based right to raise their children free from undue and unwarranted interference on the part of the state, including its courts. *In re Adoption/Guardianship of Rashawn H.*, 402 Md. 477, 495 (2007). A CINA neglect finding infringes on this fundamental right to parent. Should the parent desire reunification, as did Ms. C by the time of the adjudication trial, the neglect finding means that the case is not dismissed after adjudication, with custody returned to the parent. The parent must fight, at disposition and beyond, to regain custody. The parent must fight to see their child for more than one hour a week,

the standard amount of time that the Department offers parents whose children are in the foster care system.¹⁸ The parent must fight to see their child unsupervised, which after a neglect finding, requires that the parent prove that there is no further likelihood of neglect. FL § 9-101. The parent’s other children—at any point, now or in the future—can be removed and deemed to have been neglected solely because of the parent’s “neglect” of their Safe Haven child.

For the state to subject a parent to a neglect finding for utilizing a state-sanctioned program that purports to protect the parent from any “trouble with the law” would thus violate both that person’s fundamental right to parent and right to reproductive freedom, protected by both the United States Constitution’s Fourteenth Amendment and Article 48 of the Maryland Declaration of Rights. U.S. Const., Amend. XIV; Md. Const. Art. 48.

In short, if the Appellate Court’s interpretation of the Safe Haven Act stands, the law will be open to constitutional challenge. But, more importantly, parents will be deterred from using the Program because it is not an option that is truly safe for them and their families.

CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that this Court reverse the judgment of the court below.

¹⁸ DHS Policy, SSA CW #15-18, Parent/Child and Sibling Visitation, <https://dhs.maryland.gov/documents/SSA%20Policy%20Directives/Child%20Welfare/SSA%2015-18%20Parent-Child%20and%20Sibling%20Visitation.pdf>.

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**CERTIFICATION OF WORD COUNT
AND COMPLIANCE WITH RULE 8-112**

1. This brief contains 11,664 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/ Marissa Neill

Marissa Neill

PERTINENT AUTHORITY

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Part E. Miscellaneous Provisions (Refs & Annos)

42 U.S.C.A. § 1395dd

§ 1395dd. Examination and treatment for emergency medical conditions and women in labor

Effective: December 27, 2020

[Currentness](#)

(a) Medical screening requirement

In the case of a hospital that has a hospital emergency department, if any individual (whether or not eligible for benefits under this subchapter) comes to the emergency department and a request is made on the individual's behalf for examination or treatment for a medical condition, the hospital must provide for an appropriate medical screening examination within the capability of the hospital's emergency department, including ancillary services routinely available to the emergency department, to determine whether or not an emergency medical condition (within the meaning of subsection (e)(1)) exists.

(b) Necessary stabilizing treatment for emergency medical conditions and labor

(1) In general

If any individual (whether or not eligible for benefits under this subchapter) comes to a hospital and the hospital determines that the individual has an emergency medical condition, the hospital must provide either--

(A) within the staff and facilities available at the hospital, for such further medical examination and such treatment as may be required to stabilize the medical condition, or

(B) for transfer of the individual to another medical facility in accordance with subsection (c).

(2) Refusal to consent to treatment

A hospital is deemed to meet the requirement of paragraph (1)(A) with respect to an individual if the hospital offers the individual the further medical examination and treatment described in that paragraph and informs the individual (or a person acting on the individual's behalf) of the risks and benefits to the individual of such examination and treatment, but the individual (or a person acting on the individual's behalf) refuses to consent to the examination and treatment. The hospital shall take all reasonable steps to secure the individual's (or person's) written informed consent to refuse such examination and treatment.

(3) Refusal to consent to transfer

A hospital is deemed to meet the requirement of paragraph (1) with respect to an individual if the hospital offers to transfer the individual to another medical facility in accordance with subsection (c) and informs the individual (or a person acting on the individual's behalf) of the risks and benefits to the individual of such transfer, but the individual (or a person acting on the individual's behalf) refuses to consent to the transfer. The hospital shall take all reasonable steps to secure the individual's (or person's) written informed consent to refuse such transfer.

(c) Restricting transfers until individual stabilized

(1) Rule

If an individual at a hospital has an emergency medical condition which has not been stabilized (within the meaning of subsection (e)(3)(B)), the hospital may not transfer the individual unless--

(A)(i) the individual (or a legally responsible person acting on the individual's behalf) after being informed of the hospital's obligations under this section and of the risk of transfer, in writing requests transfer to another medical facility,

(ii) a physician (within the meaning of [section 1395x\(r\)\(1\)](#) of this title) has signed a certification that¹ based upon the information available at the time of transfer, the medical benefits reasonably expected from the provision of appropriate medical treatment at another medical facility outweigh the increased risks to the individual and, in the case of labor, to the unborn child from effecting the transfer, or

(iii) if a physician is not physically present in the emergency department at the time an individual is transferred, a qualified medical person (as defined by the Secretary in regulations) has signed a certification described in clause (ii) after a physician (as defined in [section 1395x\(r\)\(1\)](#) of this title), in consultation with the person, has made the determination described in such clause, and subsequently countersigns the certification; and

(B) the transfer is an appropriate transfer (within the meaning of paragraph (2)) to that facility.

A certification described in clause (ii) or (iii) of subparagraph (A) shall include a summary of the risks and benefits upon which the certification is based.

(2) Appropriate transfer

An appropriate transfer to a medical facility is a transfer--

(A) in which the transferring hospital provides the medical treatment within its capacity which minimizes the risks to the individual's health and, in the case of a woman in labor, the health of the unborn child;

(B) in which the receiving facility--

- (i) has available space and qualified personnel for the treatment of the individual, and
- (ii) has agreed to accept transfer of the individual and to provide appropriate medical treatment;

(C) in which the transferring hospital sends to the receiving facility all medical records (or copies thereof), related to the emergency condition for which the individual has presented, available at the time of the transfer, including records related to the individual's emergency medical condition, observations of signs or symptoms, preliminary diagnosis, treatment provided, results of any tests and the informed written consent or certification (or copy thereof) provided under paragraph (1)(A), and the name and address of any on-call physician (described in subsection (d)(1)(C)) who has refused or failed to appear within a reasonable time to provide necessary stabilizing treatment;

(D) in which the transfer is effected through qualified personnel and transportation equipment, as required including the use of necessary and medically appropriate life support measures during the transfer; and

(E) which meets such other requirements as the Secretary may find necessary in the interest of the health and safety of individuals transferred.

(d) Enforcement

(1) Civil money penalties

(A) A participating hospital that negligently violates a requirement of this section is subject to a civil money penalty of not more than \$50,000 (or not more than \$25,000 in the case of a hospital with less than 100 beds) for each such violation. The provisions of [section 1320a-7a](#) of this title (other than subsections (a) and (b)) shall apply to a civil money penalty under this subparagraph in the same manner as such provisions apply with respect to a penalty or proceeding under [section 1320a-7a\(a\)](#) of this title.

(B) Subject to subparagraph (C), any physician who is responsible for the examination, treatment, or transfer of an individual in a participating hospital, including a physician on-call for the care of such an individual, and who negligently violates a requirement of this section, including a physician who--

(i) signs a certification under subsection (c)(1)(A) that the medical benefits reasonably to be expected from a transfer to another facility outweigh the risks associated with the transfer, if the physician knew or should have known that the benefits did not outweigh the risks, or

(ii) misrepresents an individual's condition or other information, including a hospital's obligations under this section, is subject to a civil money penalty of not more than \$50,000 for each such violation and, if the violation is gross and flagrant or is repeated, to exclusion from participation in this subchapter and State health care programs. The provisions of [section 1320a-7a](#) of this title (other than the first and second sentences of subsection (a) and subsection (b)) shall apply

to a civil money penalty and exclusion under this subparagraph in the same manner as such provisions apply with respect to a penalty, exclusion, or proceeding under [section 1320a-7a\(a\)](#) of this title.

(C) If, after an initial examination, a physician determines that the individual requires the services of a physician listed by the hospital on its list of on-call physicians (required to be maintained under [section 1395cc\(a\)\(1\)\(I\)](#) of this title) and notifies the on-call physician and the on-call physician fails or refuses to appear within a reasonable period of time, and the physician orders the transfer of the individual because the physician determines that without the services of the on-call physician the benefits of transfer outweigh the risks of transfer, the physician authorizing the transfer shall not be subject to a penalty under subparagraph (B). However, the previous sentence shall not apply to the hospital or to the on-call physician who failed or refused to appear.

(2) Civil enforcement

(A) Personal harm

Any individual who suffers personal harm as a direct result of a participating hospital's violation of a requirement of this section may, in a civil action against the participating hospital, obtain those damages available for personal injury under the law of the State in which the hospital is located, and such equitable relief as is appropriate.

(B) Financial loss to other medical facility

Any medical facility that suffers a financial loss as a direct result of a participating hospital's violation of a requirement of this section may, in a civil action against the participating hospital, obtain those damages available for financial loss, under the law of the State in which the hospital is located, and such equitable relief as is appropriate.

(C) Limitations on actions

No action may be brought under this paragraph more than two years after the date of the violation with respect to which the action is brought.

(3) Consultation with quality improvement organizations

In considering allegations of violations of the requirements of this section in imposing sanctions under paragraph (1) or in terminating a hospital's participation under this subchapter, the Secretary shall request the appropriate quality improvement organization (with a contract under part B of subchapter XI) to assess whether the individual involved had an emergency medical condition which had not been stabilized, and provide a report on its findings. Except in the case in which a delay would jeopardize the health or safety of individuals, the Secretary shall request such a review before effecting a sanction under paragraph (1) and shall provide a period of at least 60 days for such review. Except in the case in which a delay would jeopardize the health or safety of individuals, the Secretary shall also request such a review before making a compliance determination as part of the process of terminating a hospital's participation under this subchapter for violations related to the appropriateness of a medical screening examination, stabilizing treatment, or an appropriate transfer as required by this section, and shall provide a period of 5 days for such review. The Secretary shall provide a copy of the organization's report to the hospital or physician consistent with confidentiality requirements imposed on the organization under such part B.

(4) Notice upon closing an investigation

The Secretary shall establish a procedure to notify hospitals and physicians when an investigation under this section is closed.

(e) Definitions

In this section:

(1) The term “emergency medical condition” means--

(A) a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in--

(i) placing the health of the individual (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy,

(ii) serious impairment to bodily functions, or

(iii) serious dysfunction of any bodily organ or part; or

(B) with respect to a pregnant woman who is having contractions--

(i) that there is inadequate time to effect a safe transfer to another hospital before delivery, or

(ii) that transfer may pose a threat to the health or safety of the woman or the unborn child.

(2) The term “participating hospital” means a hospital that has entered into a provider agreement under [section 1395cc](#) of this title.

(3)(A) The term “to stabilize” means, with respect to an emergency medical condition described in paragraph (1)(A), to provide such medical treatment of the condition as may be necessary to assure, within reasonable medical probability, that no material deterioration of the condition is likely to result from or occur during the transfer of the individual from a facility, or, with respect to an emergency medical condition described in paragraph (1)(B), to deliver (including the placenta).

(B) The term “stabilized” means, with respect to an emergency medical condition described in paragraph (1)(A), that no material deterioration of the condition is likely, within reasonable medical probability, to result from or occur during the transfer of the individual from a facility, or, with respect to an emergency medical condition described in paragraph (1)(B), that the woman has delivered (including the placenta).

(4) The term “transfer” means the movement (including the discharge) of an individual outside a hospital's facilities at the direction of any person employed by (or affiliated or associated, directly or indirectly, with) the hospital, but does not include such a movement of an individual who (A) has been declared dead, or (B) leaves the facility without the permission of any such person.

(5) The term “hospital” includes a critical access hospital (as defined in [section 1395x\(mm\)\(1\)](#) of this title) and a rural emergency hospital (as defined in [section 1395x\(kkk\)\(2\)](#) of this title).

(f) Preemption

The provisions of this section do not preempt any State or local law requirement, except to the extent that the requirement directly conflicts with a requirement of this section.

(g) Nondiscrimination

A participating hospital that has specialized capabilities or facilities (such as burn units, shock-trauma units, neonatal intensive care units, or (with respect to rural areas) regional referral centers as identified by the Secretary in regulation) shall not refuse to accept an appropriate transfer of an individual who requires such specialized capabilities or facilities if the hospital has the capacity to treat the individual.

(h) No delay in examination or treatment

A participating hospital may not delay provision of an appropriate medical screening examination required under subsection (a) or further medical examination and treatment required under subsection (b) in order to inquire about the individual's method of payment or insurance status.

(i) Whistleblower protections

A participating hospital may not penalize or take adverse action against a qualified medical person described in subsection (c) (1)(A)(iii) or a physician because the person or physician refuses to authorize the transfer of an individual with an emergency medical condition that has not been stabilized or against any hospital employee because the employee reports a violation of a requirement of this section.

CREDIT(S)

(Aug. 14, 1935, c. 531, Title XVIII, § 1867, as added [Pub.L. 99-272, Title IX, § 9121\(b\)](#), Apr. 7, 1986, 100 Stat. 164; amended [Pub.L. 99-509, Title IX, § 9307\(c\)\(4\)](#), Oct. 21, 1986, 100 Stat. 1996; [Pub.L. 99-514, Title XVIII, § 1895\(b\)\(4\)](#), Oct. 22, 1986, 100 Stat. 2933; [Pub.L. 100-203, Title IV, § 4009\(a\)\(1\)](#), formerly § 4009(a)(1), (2), Dec. 22, 1987, 101 Stat. 1330-56, 1330-57; renumbered and amended [Pub.L. 100-360, Title IV, § 411\(b\)\(8\)\(A\)\(i\)](#), July 1, 1988, 102 Stat. 772; [Pub.L. 100-485, Title VI, § 608\(d\)\(18\)\(E\)](#), Oct. 13, 1988, 102 Stat. 2419; [Pub.L. 101-239, Title VI, §§ 6003\(g\)\(3\)\(D\)\(xiv\)](#), 6211(a) to (h), Dec. 19, 1989, 103 Stat. 2154, 2245; [Pub.L. 101-508, Title IV, §§ 4008\(b\)\(1\) to \(3\)\(A\)](#), 4207(a)(1)(A), (2), (3), (k)(3), formerly 4027(a)(1)(A), (2), (3), (k)(3), Nov. 5, 1990, 104 Stat. 1388-44, 1388-117, 1388-124; renumbered and amended [Pub.L. 103-432, Title I, § 160\(d\)\(4\), \(5\)\(A\)](#), Oct. 31, 1994, 108 Stat. 4444; [Pub.L. 105-33, Title IV, § 4201\(c\)\(1\)](#), Aug. 5, 1997, 111 Stat. 373; [Pub.L.](#)

§ 1395dd. Examination and treatment for emergency medical..., 42 USCA § 1395dd

[108-173, Title VII, § 736\(a\)\(14\)](#), Title IX, § 944(b), (c)(1), Dec. 8, 2003, 117 Stat. 2355, 2423; [Pub.L. 112-40, Title II, § 261\(a\)\(3\)\(A\), \(E\)](#), Oct. 21, 2011, 125 Stat. 423; [Pub.L. 116-260](#), Div. CC, Title I, § 125(b)(2)(B), Dec. 27, 2020, 134 Stat. 2966.)

Footnotes

1 So in original. Probably should be followed by a comma.

42 U.S.C.A. § 1395dd, 42 USCA § 1395dd

Current through P.L. 119-59. Some statute sections may be more current, see credits for details.

End of Document

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West's Annotated Code of Maryland

Courts and Judicial Proceedings

Title 3. Courts of General Jurisdiction--Jurisdiction/Special Causes of Action (Refs & Annos)

Subtitle 8. Juvenile Causes--Children in Need of Assistance (Refs & Annos)

MD Code, Courts and Judicial Proceedings, § 3-801

§ 3-801. Definitions

Effective: April 25, 2024

Currentness

In general

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

Abuse

(b) "Abuse" means:

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

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

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

(ii) A household or family member.

Adjudicatory hearing

(c) "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.

Adult

(d) "Adult" means an individual who is at least 18 years old.

Child

(e) "Child" means an individual under the age of 18 years.

Child in need of assistance

(f) "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.

CINA

(g) "CINA" means a child in need of assistance.

Commit

(h) "Commit" means to transfer custody.

Court

(i) "Court" means the circuit court for a county sitting as the juvenile court.

Custodian

(j) "Custodian" means a person or governmental agency to whom custody of a child has been given by order of court, including a court other than the juvenile court.

Custody

(k) "Custody" means the right and obligation, unless otherwise determined by the court, to provide ordinary care for a child and determine placement.

Developmental disability

(l) "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.

Disposition hearing

(m) "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.

Guardian

(n) "Guardian" means a person to whom guardianship of a child has been given by order of court, including a court other than the juvenile court.

Guardianship

(o) "Guardianship" means an award by a court, including a court other than the juvenile court, of the authority to make ordinary and emergency decisions as to the child's care, welfare, education, physical and mental health, and the right to pursue support.

Local department

(p) "Local department" means:

(1) The local department of social services for the county in which the court is located; or

(2) In Montgomery County, the county department of health and human services.

Mental disorder

(q)(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.

(3) "Mental disorder" does not include an intellectual disability.

Mental injury

(r) "Mental injury" means the observable, identifiable, and substantial impairment of a child's mental or psychological ability to function.

Neglect

(s)(1) "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.

Parent

(t) "Parent" means a natural or adoptive parent whose parental rights have not been terminated.

Party

(u)(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.

Qualified residential treatment program

(v) “Qualified residential treatment program” means a program within a licensed child care institution that provides continuous, 24-hour care and supportive services to children in a residential, nonfamily home setting that:

(1) Has a trauma-informed treatment model that is designed to address the clinical and other needs of children with serious emotional or behavioral disorders or disturbances;

(2) Is able to implement the specific treatment recommended in an assessment completed by a qualified individual;

(3) Has registered or licensed nursing staff and other licensed clinical staff who are:

(i) On site according to the treatment model and during business hours; and

(ii) Available 24 hours a day, 7 days a week;

(4) Appropriately facilitates outreach to family members and integrates the family members into the treatment of the children;

(5) Is able to provide discharge planning that provides family-based aftercare support for at least 6 months following discharge;

(6) Is licensed in accordance with § 471(a)(10) of the Social Security Act; and

(7) Is accredited by an approved independent nonprofit organization.

Reasonable efforts

(w) “Reasonable efforts” means efforts that are reasonably likely to achieve the objectives set forth in § 3-816.1(b)(1) and (2) of this subtitle.

Relative

(x) “Relative” means an individual who is:

(1) Related to the child by blood or marriage within five degrees of consanguinity or affinity under the civil law; and

(2)(i) At least 21 years old; or

(ii) 1. At least 18 years old; and

2. Lives with a spouse who is at least 21 years old.

Sex trafficking

(y) "Sex trafficking" means the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a child for the purpose of a commercial sex act.

Sexual abuse

(z) "Sexual abuse" means an act that involves:

(1) Sexual molestation or exploitation of a child 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

(2) Sex trafficking of a child by any individual.

Sexual molestation or exploitation

(aa) "Sexual molestation or exploitation" includes:

(1) Allowing or encouraging a child to engage in:

(i) Obscene photography, films, poses, or similar activity;

(ii) Pornographic photography, films, poses, or similar activity; or

(iii) Prostitution;

(2) Incest;

(3) Rape;

(4) Sexual offense in any degree; and

(5) Any other sexual conduct that is a crime.

Shelter care

(bb) "Shelter care" means a temporary placement of a child outside of the home at any time before disposition.

Shelter care hearing

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

TPR proceeding

(dd) "TPR proceeding" means a proceeding to terminate parental rights.

Voluntary placement

(ee) "Voluntary placement" means a placement in accordance with § 5-525(b)(1)(i) or (iii) or (3) of the Family Law Article.

Voluntary placement hearing

(ff) "Voluntary placement hearing" means a hearing to obtain a judicial determination as to whether continuing a voluntary placement is in the best interests of the child.

Credits

Added by Acts 2001, c. 415, § 3, eff. Oct. 1, 2001. Amended by Acts 2001, c. 29, § 5, eff. April 10, 2001; Acts 2002, c. 19, § 1, eff. April 9, 2002; Acts 2002, c. 151, § 2, eff. Oct. 1, 2002; Acts 2003, c. 250, § 1, eff. Oct. 1, 2003; Acts 2005, c. 404, § 1, eff. Oct. 1, 2005; Acts 2005, c. 464, § 3, eff. Jan. 1, 2006; Acts 2005, c. 504, §§ 1, 2, eff. Oct. 1, 2005; Acts 2009, c. 60, § 5, eff. April 14, 2009; Acts 2009, c. 567, § 1, eff. Oct. 1, 2009; Acts 2009, c. 568, § 1, eff. Oct. 1, 2009; Acts 2012, c. 342, § 1, eff. Oct. 1, 2012; Acts 2012, c. 343, § 1, eff. Oct. 1, 2012; Acts 2013, c. 22, § 2, eff. Oct. 1, 2013; Acts 2017, c. 156, § 1, eff. June 1, 2017; Acts 2017, c. 157, § 1, eff. June 1, 2017; Acts 2017, c. 655, § 1, eff. Oct. 1, 2017; Acts 2019, c. 304, § 1, eff. Oct. 1, 2019; Acts 2019, c. 497, § 1, eff. Oct. 1, 2019; Acts 2020, c. 45, § 1, eff. Oct. 1, 2020; Acts 2020, c. 296, § 1, eff. Oct. 1, 2020; Acts 2023, c. 766, § 1, eff. July 1, 2023; Acts 2023, c. 767, § 1, eff. July 1, 2023; Acts 2023, c. 796, § 1, eff. Oct. 1, 2023; Acts 2023, c. 797, § 1, eff. Oct. 1, 2023; Acts 2024, c. 382, § 1, eff. April 25, 2024.

MD Code, Courts and Judicial Proceedings, § 3-801, MD CTS & JUD PRO § 3-801

Current through legislation effective through July 1, 2024, from the 2024 Regular Session of the General Assembly. Some statute sections may be more current, see credits for details.

Maryland Statutes Annotated - 2002

MD Code, Courts and Judicial Proceedings, § 3-801

WEST'S ANNOTATED CODE OF MARYLAND

COURTS AND JUDICIAL PROCEEDINGS

TITLE 3. COURTS OF GENERAL JURISDICTION—JURISDICTION/SPECIAL CAUSES OF ACTION
SUBTITLE 8—JUVENILE CAUSES—CHILDREN IN NEED OF ASSISTANCE

Current through end of 2002 Regular Session.

§ 3-801. Definitions

- (a) In this subtitle the following words have the meanings indicated.
- (b) “Abuse” means:
 - (1) Sexual abuse of a child, whether a physical injury is sustained or not; or
 - (2) Physical or mental injury of a child under circumstances that indicate that the child's health or welfare is harmed or is at substantial risk of being harmed by:
 - (i) A parent or other individual who has permanent or temporary care or custody or responsibility for supervision of the child; or
 - (ii) A household or family member.
 - (c) “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.
 - (d) “Adult” means an individual who is at least 18 years old.
 - (e) “Child” means an individual under the age of 18 years.
 - (f) “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” means a child in need of assistance.
 - (h) “Commit” means to transfer custody.
 - (i) “Court” means the circuit court for a county sitting as the juvenile court.
 - (j) “Custodian” means a person or governmental agency to whom custody of a child has been given by order of court, including a court other than the juvenile court.
 - (k) “Custody” means the right and obligation, unless otherwise determined by the court, to provide ordinary care for a child and determine placement.
 - (l) “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" 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.

(n) "Guardian" means a person to whom guardianship of a child has been given by order of court, including a court other than the juvenile court.

(o) "Guardianship" means an award by a court, including a court other than the juvenile court, of the authority to make ordinary and emergency decisions as to the child's care, welfare, education, physical and mental health, and the right to pursue support.

(p) "Local department" means the local department of social services for the county in which the court is located.

(q)(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.

(3) "Mental disorder" does not include mental retardation.

(r) "Mental injury" means the observable, identifiable, and substantial impairment of a child's mental or psychological ability to function.

(s) "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:

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

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

(t) "Parent" means a natural or adoptive parent whose parental rights have not been terminated.

(u)(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.

(v)(1) "Sexual abuse" means an act that involves sexual molestation or sexual exploitation of a child 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.

(2) "Sexual abuse" includes:

- (i) Incest;
- (ii) Rape;
- (iii) Sexual offense in any degree;
- (iv) Sodomy; and
- (v) Unnatural or perverted sexual practices.

(w) "Shelter care" means a temporary placement of a child outside of the home at any time before disposition.

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

(y) "TPR proceeding" means a proceeding to terminate parental rights.

CREDIT(S)

2002 Main Volume

Acts 2001, c. 29, § 5, eff. April 10, 2001; Acts 2001, c. 415, § 3, eff. Oct. 1, 2001; Acts 2001, c. 414, § 1, eff. Mar. 1, 2002.

2002 Electronic Pocket Part Update

Amended by Acts 2002, c. 19, § 1, eff. April 9, 2002; Acts 2002, c. 151, § 2, eff. Oct. 1, 2002.

HISTORICAL AND STATUTORY NOTES

2001 Legislation

Acts 2001, c. 415, § 7, provides:

“SECTION 7. AND BE IT FURTHER ENACTED, That this Act does not affect the validity of any proceeding pending on the effective date of this Act and does not affect the release, extinguishment, or alteration, wholly or partly, of any penalty, forfeiture, or liability, whether civil or criminal, which shall have occurred under any statute amended or repealed by this Act and such statute shall be treated as still remaining in force for the purpose of sustaining any and all proper actions for the enforcement of such penalty, forfeiture, or liability and any judgment, decree, or order that can be rendered in such action.”

2002 Legislation

Acts 2002, c. 19, § 1, made technical corrections to the Code.

Acts 2002, c. 151, § 2, in subsec. (c), substituted “adjudicatory hearing” for “adjudication hearing”.

ADMINISTRATIVE CODE REFERENCES

Human resources department, social services administration, out-of-home placement program, see [COMAR 07.02.11.01](#) et seq.

LAW REVIEW AND JOURNAL COMMENTARIES

[Americans with Disabilities Act: An Alleged Violation of the ADA Should Not Be a Defense in a Termination of Parental Rights Proceeding](#). Jennifer Wright Burke, *29 U. Balt. L. Rev.* 347 (2000).

Children Who Slip Through the Cracks. John J. Bishop, *23 Md. B.J.* 23 (Nov./ Dec. 1990).

Domestic Violence, Substance Abuse, and Child Welfare: The Legal System=s Response. Jane C. Murphy and Margaret J. Potthast, *3 J. Health Care L. & Pol'y* 88 (1999).

Juvenile Court: The Guardian of Children. Honorable Ellen L. Hollander, *27 Md. B.J.* 9 (May/June 1994).

Representing Juvenile Clients. Nancy H. Baumgartner, *30 Md. B.J.* 24 (Nov./ Dec. 1997).

LIBRARY REFERENCES

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[Measure And Elements Of Restitution To Which Victim Is Entitled Under State Criminal Statute](#), *15 American Law Reports 5th* 391.

Encyclopedias

Maryland Law Encyclopedia Infants and Minors §§ 8, 14, 15.

UNITED STATES SUPREME COURT

Children in need of assistance,

Juvenile court order to produce child in need of assistance, see [Baltimore City Dept. of Social Services v. Bouknight, U.S. Md.1990, 110 S.Ct. 900, 493 U.S. 549, 107 L.Ed.2d 992.](#)

NOTES OF DECISIONS

Independent medical examination 2

Visitation 1

[1. Visitation](#)

Denial of mother's motion to enforce visitation with child who had been declared a child in need of assistance (CINA) and was under guardianship of paternal grandmother was not abuse of discretion; trial court, in finding that visitation by mother would be against the child's best interests, took great care in considering evidence of abuse of child by mother and stepfather, status of child's emotional recovery as testified to by both grandmother and therapist, mother's failure to comply with prior court orders, and her apparent unwillingness to satisfy orders still in effect. [In re Mark M., 2001, 782 A.2d 332, 365 Md. 687. Infants](#)  230.1

Trial court's order, in denying mother's motion to enforce visitation with child who had been declared a child in need of assistance (CINA), that visitation not occur until child's state-appointed therapist recommended it, improperly delegated judicial authority to non-judicial person, and thus was legally incorrect, under statute requiring denial of visitation to parent in neglect or abuse proceeding if court has reasonable grounds to believe parent has abused or neglected child unless court specifically finds no likelihood of further abuse or neglect by parent. [In re Mark M., 2001, 782 A.2d 332, 365 Md. 687. Infants](#)  208

[2. Independent medical examination](#)

Motions for independent medical examinations of child may be made by a parent or other party in a child in need of assistance (CINA) proceeding, in addition to the state. [In re Mark M., 2001, 782 A.2d 332, 365 Md. 687. Infants](#)  200

When making a motion to compel a physical or mental examination of a child in a child in need of assistance (CINA) proceeding, the party making the motion must demonstrate good cause for such an examination. [In re Mark M., 2001, 782 A.2d 332, 365 Md. 687. Infants](#)  208

Independent medical examination of child, conducted pursuant to a motion by party in child in need of assistance (CINA) proceeding, should be reasonably calculated to assist the trier of fact in rendering its decision. [In re Mark M., 2001, 782 A.2d 332, 365 Md. 687. Infants](#)  208

Party who requests independent medical examination of child in need of assistance (CINA) proceeding must show that the proposed examination will not be harmful to the child. [In re Mark M., 2001, 782 A.2d 332, 365 Md. 687. Infants](#)  208

Denial of mother's oral request for independent medical examination of child, who had previously been declared a child in need of assistance (CINA), was not abuse of discretion at hearing on mother's motion to enforce visitation; mother did not provide court with name and credentials of therapist whom she would employ to conduct examination and provided no means to assure such examination would not be harmful to child. [In re Mark M., 2001, 782 A.2d 332, 365 Md. 687. Infants](#)  208

Trial court would be required, should mother request an independent medical examination of child on remand of her motion to enforce visitation with child, who had previously declared a child in need of assistance (CINA), to balance protection of child against mother's need for the examination and to be specific in its decision either to grant or deny the request. [In re Mark M., 2001, 782 A.2d 332, 365 Md. 687. Infants](#)  208

West's Annotated Code of Maryland

Courts and Judicial Proceedings

Title 3. Courts of General Jurisdiction--Jurisdiction/Special Causes of Action (Refs & Annos)

Subtitle 8. Juvenile Causes--Children in Need of Assistance (Refs & Annos)

MD Code, Courts and Judicial Proceedings, § 3-815

§ 3-815. Shelter care for alleged CINA

Effective: October 1, 2024

Currentness

In general

(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.

Immediate placement of child

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

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

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

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

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

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

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

Continuation of shelter care

(c)(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.

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

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

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

(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.

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

Grounds for continuation of care

(d) Subject to subsection (e) of this section, a court may continue shelter care beyond emergency shelter care only if the court finds that:

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

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

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

Presumptions regarding placement of a child with parent who is receiving treatment in a residential substance use disorder treatment program

(e)(1) If a child's parent is receiving treatment in a residential 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, there is a presumption that:

(i) Placement with the child's parent is in the best interest of the child; and

(ii) There is not an emergency situation under the provisions of subsection (d)(2)(i) of this section.

(2) This subsection may not be construed to prohibit another parent or a guardian, a custodian, a relative, or another person able to provide supervision and care from providing supervision and care for a child for the duration of the child's parent's treatment if the other parent, guardian, custodian, relative, or other person agrees to provide supervision and care.

Efforts to prevent removal

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

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

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

Placements of alleged CINA prohibited

(g)(1) An alleged CINA may not be placed in:

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

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

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

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

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

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

(i) Health care services;

- (ii) Mental health care services;
- (iii) Counseling services;
- (iv) Education services;
- (v) Social work services;
- (vi) Substance use disorder assessment or treatment services; and
- (vii) Visitation with siblings and biological family.

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

- (i) Within 45 days of placement of a child in a shelter care facility, to develop a plan to assess the child's treatment needs; and
- (ii) To submit the plan to all parties to the petition and their counsel.

Credits

Added by [Acts 2001, c. 415, § 3, eff. Oct. 1, 2001](#). Amended by [Acts 2001, c. 29, § 5, eff. April 10, 2001](#); [Acts 2002, c. 19, § 1, eff. April 9, 2002](#); [Acts 2002, c. 151, § 2, eff. Oct. 1, 2002](#); [Acts 2003, c. 53, § 4, eff. July 1, 2003](#); [Acts 2005, c. 404, § 1, eff. Oct. 1, 2005](#); [Acts 2005, c. 504, § 2, eff. Oct. 1, 2005](#); [Acts 2017, c. 62, § 6](#); [Acts 2024, c. 371, § 1, eff. Oct. 1, 2024](#).

MD Code, Courts and Judicial Proceedings, § 3-815, MD CTS & JUD PRO § 3-815

Current with legislation effective through October 1, 2024, from the 2024 Regular Session of the General Assembly. Some statute sections may be more current, see credits for details.

West's Annotated Code of Maryland

Courts and Judicial Proceedings

Title 5. Limitations, Prohibited Actions, and Immunities (Refs & Annos)

Subtitle 6. Immunities and Prohibited Actions--Health and Public Safety (Refs & Annos)

MD Code, Courts and Judicial Proceedings, § 5-641

§ 5-641. Safe havens for newborns

Currentness

Definitions

(a)(1) In this section the following words have the meanings indicated.

(2) "Designated facility" means:

(i) A hospital;

(ii) The office of a medical provider licensed by the State;

(iii) A police department or State Police barracks;

(iv) A professional or volunteer fire company that is insured; or

(v) Any other facility designated by the Secretary of Human Services by regulation.

(3) "Program" means the Maryland Safe Haven Program described under this section.

Immunity for person who leaves an unharmed newborn with responsible adult or at a designated facility

(b)(1) A person who leaves an unharmed newborn with a responsible adult or at a designated facility within 60 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 must have the approval of the mother to do so.

Person with whom a newborn is left; responsibility to take newborn to designated facility

(c)(1) A person with whom a newborn is left under the circumstances described in subsection (b) of this section as soon as reasonably possible shall take the newborn to a designated facility.

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

(3) A designated facility may receive a newborn in a newborn safety device provided that the device is:

(i) Climate controlled;

(ii) Physically affixed to an exterior wall or located inside the designated facility;

(iii) Located in an area that is conspicuous and visible to the employees of the designated facility;

(iv) Clearly marked with appropriate signage; and

(v) Equipped with:

1. An alert system such that when the newborn safety device is opened, it automatically connects to the 9-1-1 system and transmits a request for immediate dispatch of an emergency medical services provider to the location of the newborn safety device;

2. A video surveillance system that allows employees of the designated facility to monitor the interior of the newborn safety device 24 hours a day; and

3. An automated lock that secures the newborn inside the device after deposit.

Immunity for responsible adults and designated facilities

(d) A responsible adult and a designated facility that accepts a newborn under this section and an employee or agent of the 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.

Public information program

(e) Subject to existing funding for the Program, the Secretary of Human Services shall develop, implement, and maintain a public information program to inform the public about the Program, including:

(1) The maintenance of an interactive website that provides pertinent information about the Program, including:

- (i) Authorized designated facilities;
- (ii) Instructions for the method by which the parent of a newborn may surrender the newborn;
- (iii) The manner in which the parent of a newborn surrendered under the Program may anonymously provide information to a local department of social services regarding the medical history of the newborn or the newborn's family medical history; and
- (iv) A method:
 - 1. By which the parent of a newborn surrendered under the Program may reconsider the surrender; and
 - 2. That allows the parent to undergo paternity testing for the purposes of reunification with the newborn;

(2) Promotion of educational and informational materials in print, audio, electronic, and other media formats that describe the mission and purpose of the Program and include the Program's toll-free telephone number;

(3) Regular distribution of Program literature at:

- (i) State and county health department offices;
- (ii) Each local department of social services; and
- (iii) Each publicly funded educational institution in the State;

(4) Creation and distribution of decals and placards listing designated facilities and the toll-free telephone number of the Program; and

(5) Training for emergency medical service providers, 9-1-1 operators, hospital staff, firefighters, law enforcement officers, or any other employee of a designated facility on how to implement and follow the Program.

Regulations

(f) The Secretary of Human Services shall adopt regulations to implement the provisions of this section.

Report

(g) On or before December 31, 2025, and each December 31 thereafter, the Secretary of Human Services shall, in accordance with [§ 2-1257 of the State Government Article](#), provide a report to the General Assembly on Program metrics, including:

- (1) The number of newborns surrendered in the prior year;
- (2) The disposition of the custody of each newborn surrendered through the Program in the prior year; and
- (3) The cost of maintaining equipment related to and used by the Program.

Credits

Added by [Acts 2002, c. 441, § 1, eff. Oct. 1, 2002](#); [Acts 2002, c. 442, § 1, eff. Oct. 1, 2002](#). Amended by [Acts 2008, c. 415, § 1, eff. Oct. 1, 2008](#); [Acts 2008, c. 416, § 1, eff. Oct. 1, 2008](#); [Acts 2017, c. 62, § 6](#); [Acts 2024, c. 366, § 1, eff. Oct. 1, 2024](#).

MD Code, Courts and Judicial Proceedings, § 5-641, MD CTS & JUD PRO § 5-641

Current through all legislation from the 2024 Regular Session of the General Assembly. Some statute sections may be more current, see credits for details.

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West's Annotated Code of Maryland
Criminal Law (Refs & Annos)
Title 3. Other Crimes Against the Person
Subtitle 6. Abuse and Other Offensive Conduct

MD Code, Criminal Law, § 3-602.1

§ 3-602.1. Neglect of minor by persons with responsibility of care prohibited

Effective: October 1, 2011
[Currentness](#)

(a)(1) In this section the following words have the meanings indicated.

(2) "Family member" has the meaning stated in § 3-601 of this subtitle.

(3) "Household member" has the meaning stated in § 3-601 of this subtitle.

(4) "Mental injury" means the substantial impairment of a minor's mental or psychological ability to function.

(5)(i) "Neglect" means the intentional failure to provide necessary assistance and resources for the physical needs or mental health of a minor that creates a substantial risk of harm to the minor's physical health or a substantial risk of mental injury to the minor.

(ii) "Neglect" does not include the failure to provide necessary assistance and resources for the physical needs or mental health of a minor when the failure is due solely to a lack of financial resources or homelessness.

(b) A parent, family member, household member, or other person who has permanent or temporary care or custody or responsibility for the supervision of a minor may not neglect the minor.

(c) A person who violates this section is guilty of the misdemeanor of child neglect and on conviction is subject to imprisonment not exceeding 5 years or a fine not exceeding \$5,000 or both.

(d) A sentence imposed under this section shall be in addition to any other sentence imposed for a conviction arising from the same facts and circumstances unless the evidence required to prove each crime is substantially identical.

Credits

Added by [Acts 2011, c. 398, § 1, eff. Oct. 1, 2011](#); [Acts 2011, c. 399, § 1, eff. Oct. 1, 2011](#).

MD Code, Criminal Law, § 3-602.1, MD CRIM LAW § 3-602.1

§ 3-602.1. Neglect of minor by persons with responsibility..., MD CRIM LAW §...

Current through all legislation from the 2025 Regular Session of the General Assembly. Some statute sections may be more current, see credits for details.

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West's Annotated Code of Maryland
Estates and Trusts (Refs & Annos)

Title 13. Protection of Minors, Disabled Persons, Susceptible Adults, and Older Adults (Refs & Annos)

Subtitle 2. Protection of Property (Refs & Annos)

MD Code, Estates and Trusts, § 13-207

§ 13-207. Priority of persons eligible for guardianship of minor or disabled person

Effective: October 1, 2019

Currentness

(a) Persons are entitled to appointment as guardian for a minor or disabled person according to the following priorities:

(1) A conservator, committee, guardian of property, or other like fiduciary appointed by any appropriate court of any foreign jurisdiction in which the minor or disabled person resides;

(2) A person or corporation nominated by the minor or disabled person if:

(i) The designation was signed by the minor or disabled person when the minor or disabled person was at least 16 years old; and

(ii) In the opinion of the court, the minor or disabled person had sufficient mental capacity to make an intelligent choice at the time the designation was executed;

(3) The minor or disabled person's spouse;

(4) The minor or disabled person's parents;

(5) A person or corporation nominated by the will of a deceased parent;

(6) The minor or disabled person's children;

(7) The persons who would be the minor or disabled person's heirs if the minor or disabled person were dead;

(8) A person or corporation nominated by a person, institution, organization, or public agency that is caring for the minor or disabled person;

(9) A person or corporation nominated by a governmental agency that is paying benefits to the minor or disabled person; and

(10) Any other person considered appropriate by the court.

(b)(1) A person specified in a priority in subsection (a)(1), (3), (4), (6) or (7) of this section may waive and nominate in writing a person or corporation to serve in the specified person's stead.

(2) A nominee of a person holding a priority has the same priority as the person making the nomination.

(c)(1) Among persons with equal priority, the court shall select the one best qualified of those willing to serve.

(2) For good cause the court may pass over a person with priority and appoint a person with less priority or no priority.

(d)(1) Subject to paragraph (2) of this subsection, nonresidence does not disqualify any person from serving as guardian.

(2) Any nonresident who is appointed cannot qualify until the nonresident files with the register or clerk an irrevocable designation by the nonresident of an appropriate person who resides in the State on whom service of process may be made in the same manner and with the effect as if it were served personally in the State on the nonresident.

(e) The court may not name an official or employee of a local department of social services, the State Department of Human Services, a local area agency on aging as defined in [§ 10-101 of the Human Services Article](#), or the Department of Aging as guardian of the estate.

Credits

Added by Acts 1974, c. 11, § 2, eff. July 1, 1974. Amended by Acts 1977, c. 768, § 1; [Acts 1992, c. 9](#); [Acts 2007, c. 8, § 1](#), eff. Oct. 1, 2007; [Acts 2010, c. 72, § 1](#), eff. April 13, 2010; [Acts 2010, c. 256, § 1](#), eff. Oct. 1, 2010; [Acts 2010, c. 257, § 1](#), eff. Oct. 1, 2010; [Acts 2017, c. 62, § 6](#); [Acts 2019, c. 197, § 1](#), eff. Oct. 1, 2019.

Formerly Art. 93A, § 207.

MD Code, Estates and Trusts, § 13-207, MD EST & TRST § 13-207

Current through all legislation from the 2025 Regular Session of the General Assembly. Some statute sections may be more current, see credits for details.

West's Annotated Code of Maryland

Estates and Trusts (Refs & Annos)

Title 13. Protection of Minors, Disabled Persons, Susceptible Adults, and Older Adults (Refs & Annos)

Subtitle 7. Guardian of the Person (Refs & Annos)

Part I. Minors (Refs & Annos)

MD Code, Estates and Trusts, § 13-702

§ 13-702. Appointment of guardian by court

Currentness

(a)(1) On petition by any person interested in the welfare of the minor, and after notice and hearing as prescribed by the Maryland Rules, the court may appoint a guardian of the person of an unmarried minor if the court finds, by a preponderance of the evidence, that:

(i) The appointment is in the best interests of the minor;

(ii) No testamentary appointment has been made; and

(iii) 1. No parent is willing or able to serve as guardian of the person of the minor;

2. Each parent consents to the appointment of the guardian of the person; or

3. No parent files an objection to the appointment of the guardian of the person.

(2) If the minor is at least 14 years old, and if the person otherwise is qualified, the court shall appoint a person designated by the minor, unless the decision is not in the best interests of the minor.

(3) This section may not be construed to require court appointment of a guardian of the person of a minor if there is no good reason, such as a dispute, for a court appointment.

(4) This subsection may not be construed to provide that the appointment of a guardian of the person of a minor requires the termination of any parental rights with respect to the minor under Title 5 of the Family Law Article.

(b)(1) Venue in proceedings under this subtitle shall be as prescribed by the Maryland Rules.

(2) The contents of the petition and the manner of giving notice of the hearing on the petition shall be as prescribed by the Maryland Rules.

(c) If there is no victim's representative who can adequately assert the minor's rights as a victim of a crime or a delinquent act and no court has appointed a guardian ad litem to protect the minor's interests, the rights, duties, and powers that the court may order the guardian to exercise shall include serving as a victim's representative to assert the minor's interests.

Credits

Added by Acts 1974, c. 11, § 2, eff. July 1, 1974. Amended by [Acts 2014, c. 207, § 1, eff. Oct. 1, 2014](#); [Acts 2019, c. 197, § 1, eff. Oct. 1, 2019](#); [Acts 2022, c. 619, § 1, eff. Oct. 1, 2022](#); [Acts 2022, c. 620, § 1, eff. Oct. 1, 2022](#).

Formerly Art. 93A, § 702.

MD Code, Estates and Trusts, § 13-702, MD EST & TRST § 13-702

Current through legislation effective through May 6, 2025, from the 2025 Regular Session of the General Assembly. Some statute sections may be more current, see credits for details.

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West's Annotated Code of Maryland
Estates and Trusts (Refs & Annos)

Title 13. Protection of Minors, Disabled Persons, Susceptible Adults, and Older Adults (Refs & Annos)

Subtitle 7. Guardian of the Person (Refs & Annos)

Part II. Disabled Persons (Refs & Annos)

MD Code, Estates and Trusts, § 13-707

§ 13-707. Eligibility and priority of persons entitled to appointment as guardian

Effective: October 1, 2019

[Currentness](#)

(a) Persons are entitled to appointment as guardian of the person according to the following priorities:

- (1) A person, agency, or corporation nominated by the disabled person if the disabled person was 16 years old or older when the disabled person signed the designation and, in the opinion of the court, the disabled person had sufficient mental capacity to make an intelligent choice at the time the disabled person executed the designation;
- (2) A health care agent appointed by the disabled person in accordance with Title 5, Subtitle 6 of the Health--General Article;
- (3) The disabled person's spouse;
- (4) The disabled person's parents;
- (5) A person, agency, or corporation nominated by the will of a deceased parent;
- (6) The disabled person's children;
- (7) Adult persons who would be the disabled person's heirs if the disabled person were dead;
- (8) A person, agency, or corporation nominated by a person caring for the disabled person;
- (9) Any other person, agency, or corporation considered appropriate by the court; and
- (10)(i) For adults less than 65 years old, the director of the local department of social services or, for adults 65 years old or older, the Secretary of Aging or the director of the area agency on aging, except in those cases where the department of social services has been appointed guardian of the person before age 65; and

(ii) On appointment as guardian under item (i) of this item, directors of local departments of social services, directors of area agencies on aging, and the Secretary of Aging may delegate responsibilities of guardianship to staff persons whose names and positions have been registered with the court.

(b)(1) A person specified in a priority in subsection (a)(2), (3), (5), or (6) of this section may waive and nominate in writing a person, agency, or corporation to serve in the person's stead.

(2) A nominee of a person holding priority has the same priority as the person making the nomination.

(c)(1)(i) Among persons with equal priority the court shall select the one best qualified of those willing to serve.

(ii) For good cause, the court may pass over a person with priority and appoint a person with a lower priority.

(2) If a guardian of the estate has been appointed, the court may select the guardian of the estate to be guardian of the person, regardless of priority.

(d)(1) Subject to paragraph (2) of this subsection, nonresidence does not disqualify any person from serving as guardian of the person.

(2) A nonresident who is appointed may not qualify until the nonresident files with the register or clerk an irrevocable designation by the nonresident of an appropriate person who resides in the State on whom service of process may be made in the same manner and with the same effect as if it were served personally in the State on the nonresident.

(e) A local department of social services, local office on aging, or the Secretary of Aging, may be appointed as a guardian of a person regardless of whether that person resides in a State or private residential facility.

Credits

Added by Acts 1977, c. 768, § 5, eff. July 1, 1977. Amended by Acts 1979, c. 291; [Acts 1993, c. 372, § 2](#); [Acts 1994, c. 62, § 1, eff. Oct. 1, 1994](#); [Acts 1997, c. 9, § 1, eff. Oct. 1, 1997](#); [Acts 2000, c. 25, § 1, eff. Oct. 1, 2000](#); [Acts 2000, c. 61, § 1, eff. April 25, 2000](#); [2010, c. 256, § 1, eff. Oct. 1, 2010](#); [Acts 2010, c. 257, § 1, eff. Oct. 1, 2010](#); [Acts 2019, c. 197, § 1, eff. Oct. 1, 2019](#).

MD Code, Estates and Trusts, § 13-707, MD EST & TRST § 13-707

Current through all legislation from the 2025 Regular Session of the General Assembly. Some statute sections may be more current, see credits for details.

Maryland Statutes Annotated - 2005

MD Code, Family Law, § 5-302

West's Annotated Code of Maryland [Currentness](#)

Family Law (Refs & Annos)

Title 5. Children

Subtitle 3. Guardianship to and Adoption through Local Department (Effective January 1, 2006) (Refs & Annos)

Part I. General Provisions

§ 5-302. Scope of subtitle

<Text of section effective January 1, 2006.>

Proceedings

(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.

Prior filings

(b) This subtitle:

- (1) does not apply to a guardianship case filed on or before December 31, 2005, until guardianship is granted; and
- (2) unless otherwise specified, does not apply to an adoption case filed on or before December 31, 2005.

CREDIT(S)

Added by [Acts 2005, c. 464, § 3, eff. Jan. 1, 2006.](#)

LEGISLATIVE NOTES

Committee Note (Acts 2005, c. 464):

This section is new and added to make the scope of this new subtitle clear. This addition is not intended to limit the access to records in cases filed on or before December 31, 2005.

Defined terms: "Child in need of assistance" § 1-101

"Guardianship" § 5-301

"Local department" § 1-101

Current through end of 2005 Regular Session

Maryland Statutes Annotated - 2002

MD Code, Family Law, § 5-313

WEST'S ANNOTATED CODE OF MARYLAND

FAMILY LAW

TITLE 5. CHILDREN

SUBTITLE 3—ADOPTION AND GUARDIANSHIP WITH THE RIGHT TO CONSENT TO ADOPTION
PART II. GENERAL PROVISIONS

Current through end of 2002 Regular Session.

§ 5-313. Consent unnecessary; guardianship; adoption

(a) A court may grant a decree of adoption or a decree of guardianship, without the consent of a natural parent otherwise required by §§ 5-311 and 5-317 of this subtitle, if the court finds by clear and convincing evidence that it is in the best interest of the child to terminate the natural parent's rights as to the child and that:

(1) The child is abandoned as provided in subsection (b) of this section;

(2) In a prior juvenile proceeding, the child has been adjudicated to be a child in need of assistance, a neglected child, an abused child, or a dependent child; or

(3) The following set of circumstances exists:

(i) The child has been continuously out of the custody of the natural parent and in the custody of a child placement agency for at least 1 year;

(ii) The conditions that led to the separation from the natural parent still exist or similar conditions of a potentially harmful nature still exist;

(iii) There is little likelihood that those conditions will be remedied at an early date so that the child can be returned to the natural parent in the immediate future; and

(iv) A continuation of the relationship between the natural parent and the child would diminish greatly the child's prospects for early integration into a stable and permanent family.

(b) The court may find that a child is abandoned for purposes of this section if, after a thorough investigation by the child placement agency, the court finds that:

(1) The identity of the child's natural parents is unknown; and

(2) No one has claimed to be the child's natural parent within 2 months of the alleged abandonment of the child.

(c) In determining whether it is in the best interest of the child to terminate a natural parent's rights as to the child in any case, except the case of an abandoned child, the court shall give:

(1) Primary consideration to the safety and health of the child; and

(2) Consideration to:

(i) The timeliness, nature, and extent of the services offered by the child placement agency to facilitate reunion of the child with the natural parent;

(ii) Any social service agreement between the natural parent and the child placement agency, and the extent to which all parties have fulfilled their obligations under the agreement;

(iii) The child's feelings toward and emotional ties with the child's natural parents, the child's siblings, and any other individuals who may significantly affect the child's best interest;

- (iv) The child's adjustment to home, school, and community;
- (v) The result of the effort the natural parent has made to adjust the natural parent's circumstances, conduct, or conditions to make it in the best interest of the child to be returned to the natural parent's home, including:
 - 1. The extent to which the natural parent has maintained regular contact with the child under a plan to reunite the child with the natural parent, but the court may not give significant weight to any incidental visit, communication, or contribution;
 - 2. If the natural parent is financially able, the payment of a reasonable part of the child's substitute physical care and maintenance;
 - 3. The maintenance of regular communication by the natural parent with the custodian of the child; and
 - 4. Whether additional services would be likely to bring about a lasting parental adjustment so that the child could be returned to the natural parent within an ascertainable time, not exceeding 18 months from the time of placement, but the court may not consider whether the maintenance of the parent-child relationship may serve as an inducement for the natural parent's rehabilitation; and
- (vi) All services offered to the natural parent before the placement of the child, whether offered by the agency to which the child is committed or by other agencies or professionals.

(d)(1) In determining whether it is in the best interest of the child to terminate a natural parent's rights as to the child in a case involving a child who has been adjudicated to be a child in need of assistance, a neglected child, an abused child, or a dependent child, the court shall consider the factors in subsection (c) of this section and whether any of the following continuing or serious conditions or acts exist:

- (i) The natural parent has a disability that renders the natural parent consistently unable to care for the immediate and ongoing physical or psychological needs of the child for long periods of time;
- (ii) The natural parent has committed acts of abuse or neglect toward any child in the family;
- (iii) The natural parent has failed repeatedly to give the child adequate food, clothing, shelter, and education or any other care or control necessary for the child's physical, mental, or emotional health, even though the natural parent is physically and financially able;
- (iv) 1.A. The child was born exposed to cocaine, heroin, or a derivative thereof as evidenced by any appropriate tests of the mother or child; or
 - B. Upon admission to a hospital for delivery of the child, the mother tested positive for cocaine, heroin, or a derivative of cocaine or heroin as evidenced by any appropriate toxicology test; and
- 2. The natural parent refuses the recommended level of drug treatment, or fails to fully participate in the recommended level of drug treatment; or

(v) The natural parent has:

- 1. Subjected the child to:
 - A. Torture, chronic abuse, or sexual abuse; or
 - B. Chronic and life-threatening neglect;
- 2. Been convicted:
 - A. In this State of a crime of violence, as defined in [§ 14-101 of the Criminal Law Article](#), against the child, the other natural parent of the child, another child of the natural parent, or any person who resides in the household of the natural parent;
 - B. In any state or in any court of the United States of a crime that would be a crime of violence, as defined in [§ 14-101 of the Criminal Law Article](#), if committed in this State against the child, the other natural parent of the child, another child of the natural parent, or any person who resides in the household of the natural parent; or
 - C. Of aiding or abetting, conspiring, or soliciting to commit a crime described in item A or item B of this item; or
- 3. Involuntarily lost parental rights of a sibling of the child.

(2) If a natural parent does not provide specified medical treatment for a child because the natural parent is legitimately practicing religious beliefs, that reason alone does not make the natural parent a negligent parent.

(3) The court shall consider the evidence under paragraph (1)(i) through (iv) of this subsection regarding continuing or serious conditions or acts and may waive the child placement agency's obligations under subsection (c) of this section if the court, after appropriate evaluation of efforts made and services rendered, finds by clear and convincing evidence that the waiver of those obligations is in the best interest of the child.

(4) The court shall waive the child placement agency's obligations under subsection (c) of this section if the court finds that one of the circumstances or acts enumerated in paragraph (1)(v) of this subsection exists.

(5) If the court finds that any of the circumstances or acts enumerated in paragraph (1)(v) of this subsection exists, the court shall make a specific finding, based on facts in the record, as to whether or not the return of the child to the custody of the natural parent poses an unacceptable risk to the future safety of the child.

CREDIT(S)

2002 Main Volume

Acts 1984, c. 296, § 2; Acts 1987 c. 283; Acts 1995, c. 3, § 1, eff. March 7, 1995; Acts 1997, c. 367, § 1, eff. Oct. 1, 1997; Acts 1997, c. 368, § 1, eff. Oct. 1, 1997; Acts 1998, c. 539, § 1, eff. July 1, 1998.

2002 Electronic Pocket Part Update

Amended by Acts 2002, c. 213, § 6, eff. Oct. 1, 2002; Acts 2002, c. 320, § 1, eff. Oct. 1, 2002.

PRIOR COMPILATIONS

2002 Main Volume

Formerly Art. 16, § 76.

HISTORICAL AND STATUTORY NOTES

1997 Legislation

Acts 1997, c. 367, § 2 and Acts 1997, c. 368, § 2, provide:

“That this Act is contingent upon the inclusion in the operating budget of \$1,700,000 for drug abuse treatment for mothers of children born drug exposed.”

2002 Legislation

Acts 2002, c. 213, § 6, corrected references to former Article 27 to be references to the Criminal Law Article.

Acts 2002, c. 320, § 1, rewrote subsec. (d)(1)(iv), which previously read:

“(iv) 1. the child was born:

“A. addicted to or dependent on cocaine, heroin, or a derivative thereof; or

“B. with a significant presence of cocaine, heroin, or a derivative thereof in the child's blood as evidenced by toxicology or other appropriate tests; and

“2. the natural parent refuses admission into a drug treatment program or failed to fully participate in a drug treatment program; or”

CROSS REFERENCES

Reasonable efforts made to preserve and reunify families, creation of foster care program, see [Family Law, § 5-525](#).

LAW REVIEW AND JOURNAL COMMENTARIES

Maryland Statutes Annotated - 2002

MD Code, Family Law, § 5-317

WEST'S ANNOTATED CODE OF MARYLAND

FAMILY LAW

TITLE 5. CHILDREN

SUBTITLE 3—ADOPTION AND GUARDIANSHIP WITH THE RIGHT TO CONSENT TO ADOPTION
PART II. GENERAL PROVISIONS

Current through end of 2002 Regular Session.

§ 5-317. Applications for guardianship

- (a) A petition for a decree of adoption may be preceded by a petition for guardianship of the child.
- (b) Only the executive head of a child placement agency or the attorney for the child on behalf of the child may file a petition for the agency to be granted guardianship.
- (c) Except as provided in §§ 5-313 and 5-313.1 of this subtitle, the court may grant a decree awarding guardianship only:
 - (1) After any investigation and hearing the court considers necessary; and
 - (2) With the consent of each living natural parent of the child.
- (d) Within 180 days after a petition for guardianship or petition for adoption is filed under § 5-313 of this subtitle, the court shall rule on the petition.
- (e) In a proceeding for guardianship, consent may be revoked at any time within 30 days after the consent is signed.
- (f) A decree of guardianship:
 - (1) Terminates the natural parents' rights, duties, and obligations toward the child;
 - (2) Subject to § 5-319 of this subtitle, eliminates the need to give notice to the natural parents of the filing of a petition for adoption of the child;
 - (3) Eliminates the need for a further consent by the natural parents to an adoption of the child; and
 - (4) Subject to § 5-319 of this subtitle, authorizes the child placement agency to consent to joint guardianship, custody, or other long-term placement that the agency determines to be in the child's best interest.
- (g)(1) After any investigation and hearing the court considers necessary, the court may grant a decree awarding joint guardianship, custody, or other long-term placement that the court determines to be in the child's best interest.
- (2) If joint guardianship is awarded to a caregiver, the child placement agency shall retain guardianship with the right to consent to adoption or long-term care short of adoption.

CREDIT(S)

2002 Main Volume

Acts 1984, c. 296, § 2; Acts 1986, c. 748; Acts 1987, c. 280; Acts 1991, c. 173; Acts 1992, c. 511; Acts 1994, c. 234, § 1, eff. Oct. 1, 1994; Acts 1996, c. 552, § 2, eff. Oct. 1, 1996.

PRIOR COMPILATIONS

West's Annotated Code of Maryland
Family Law (Refs & Annos)
Title 5. Children (Refs & Annos)
Subtitle 3b. Independent Adoption (Refs & Annos)
Part II. Adoption Proceedings (Refs & Annos)

MD Code, Family Law, § 5-3B-19

§ 5-3B-19. Considerations

Effective: October 1, 2016
[Currentness](#)

(a) In ruling on a petition for a prospective adoptee's adoption under this subtitle, a court shall consider:

- (1) all factors necessary to determine the prospective adoptee's best interests; and
- (2) any report prepared for the court.

(b)(1)(i) In this subsection, "disability" means:

1. a physical or mental impairment that substantially limits one or more of an individual's major life activities;
2. a record of having a physical or mental impairment that substantially limits one or more of an individual's major life activities; or
3. being regarded as having a physical or mental impairment that substantially limits one or more of an individual's major life activities.

(ii) "Disability" shall be construed in accordance with the ADA Amendments Act of 2008, [P.L. 110-325](#).

(2) In ruling on an adoption petition under this subtitle, a court may not deny the petition solely because the petitioner:

- (i) is single or unmarried; or
- (ii) has a disability.

Credits

Added by [Acts 2006, c. 365, § 2, eff. June 1, 2006](#). Amended by [Acts 2009, c. 567, § 1, eff. Oct. 1, 2009](#); [Acts 2009, c. 568, § 1, eff. Oct. 1, 2009](#); [Acts 2016, c. 423, § 1, eff. Oct. 1, 2016](#).

MD Code, Family Law, § 5-3B-19, MD FAMILY § 5-3B-19

Current through all legislation from the 2025 Regular Session of the General Assembly. Some statute sections may be more current, see credits for details.

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West's Annotated Code of Maryland
Family Law (Refs & Annos)
Title 5. Children (Refs & Annos)
Subtitle 3b. Independent Adoption (Refs & Annos)
Part II. Adoption Proceedings (Refs & Annos)

MD Code, Family Law, § 5-3B-20

§ 5-3B-20. Authority to grant adoption

Effective: October 1, 2025

[Currentness](#)

(a) This section does not apply to an adoption of an adult.

(b) A court may enter an order for adoption only if:

(1)(i) 1. each of the prospective adoptee's living parents consents:

A. in writing; or

B. by failure to timely file 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 § 5-3B-04 of this subtitle; and

(ii) if the prospective adoptee is at least 10 years old, the prospective adoptee consents; or

(2) in accordance with § 5-3B-22 of this subtitle, the court orders adoption without consent otherwise required under this section.

Credits

Added as Family Law § 5-3B-19 by [Acts 2005, c. 464, § 3, eff. Jan. 1, 2006](#). Renumbered as Family Law § 5-3B-20 by [Acts 2006, c. 365, § 1, eff. June 1, 2006](#). Amended by [Acts 2006, c. 365, § 2, eff. June 1, 2006](#); [Acts 2025, c. 501, § 1, eff. Oct. 1, 2025](#).

MD Code, Family Law, § 5-3B-20, MD FAMILY § 5-3B-20

§ 5-3B-20. Authority to grant adoption, MD FAMILY § 5-3B-20

Current through all legislation from the 2025 Regular Session of the General Assembly. Some statute sections may be more current, see credits for details.

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West's Annotated Code of Maryland
Family Law (Refs & Annos)
Title 5. Children (Refs & Annos)
Subtitle 5. Child Care; Foster Care (Refs & Annos)
Part III. Child Welfare Services; Foster Care (Refs & Annos)

MD Code, Family Law, § 5-525

§ 5-525. Creation of foster care program

Effective: October 1, 2018
[Currentness](#)

Disability defined

(a)(1) In this section, “disability” means:

- (i) a physical or mental impairment that substantially limits one or more of an individual's major life activities;
- (ii) a record of having a physical or mental impairment that substantially limits one or more of an individual's major life activities; or
- (iii) being regarded as having a physical or mental impairment that substantially limits one or more of an individual's major life activities.

(2) “Disability” shall be construed in accordance with the ADA Amendments Act of 2008, [P.L. 110-325](#).

Duties of Administration

(b)(1) The Administration shall establish a program of out-of-home placement for minor children:

- (i) who are placed in the custody of a local department, for a period of not more than 180 days, by a parent or legal guardian under a voluntary placement agreement;
- (ii) who are abused, abandoned, neglected, or dependent, if a juvenile court:
 - 1. has determined that continued residence in the child's home is contrary to the child's welfare; and
 - 2. has committed the child to the custody or guardianship of a local department; or

(iii) who, with the approval of the Administration, are placed in an out-of-home placement by a local department under a voluntary placement agreement subject to paragraph (2) of this subsection.

(2)(i) A local department may not seek legal custody of a child under a voluntary placement agreement if the child has a developmental disability or a mental illness and the purpose of the voluntary placement agreement is to obtain treatment or care related to the child's disability that the parent is unable to provide.

(ii) A child described in subparagraph (i) of this paragraph may remain in an out-of-home placement under a voluntary placement agreement for more than 180 days if the child's disability necessitates care or treatment in the out-of-home placement and a juvenile court makes a finding that continuation of the placement is in the best interests of the child.

(iii) Each local department shall designate, from existing staff, a staff person to administer requests for voluntary placement agreements for children with developmental disabilities or mental illnesses.

(iv) Each local department shall report annually to the Administration on the number of requests for voluntary placement agreements for children with developmental disabilities or mental illnesses that have been received, the outcome of each request, and the reason for each denial.

(v) On receipt of a request for a voluntary placement agreement for a child with a developmental disability or a mental illness, a local department shall discuss the child's case at the next meeting of the local care team for the purpose of determining whether any alternative or interim services for the child and family may be provided by any agency.

(3)(i) The Administration shall establish a program of out-of-home placement for former CINAs:

1. whose commitment to a local department was rescinded after the individuals reached the age of 18 years but before the individuals reached the age of 20 years and 6 months; and

2. who did not exit foster care due to reunification, adoption, guardianship, marriage, or military duty.

(ii) The Administration shall adopt regulations that include eligibility requirements in accordance with federal law and regulations for providing assistance to individuals at least 18 years old.

(iii) A local department may not seek legal custody of a former CINA under a voluntary placement agreement.

(iv) A former CINA described in subparagraph (i) of this paragraph may remain in an out-of-home placement under a voluntary placement agreement for more than 180 days if the former CINA continues to comply with the voluntary placement agreement and a juvenile court makes a finding that the continuation of the placement is in the best interests of the former CINA.

(v) 1. A local department shall advise a child, in writing, before emancipation of the right to reenter care and the procedures for reentering care under this paragraph.

2. If a local department has knowledge that a former CINA described in subparagraph (i) of this paragraph is homeless, as defined in [42 U.S.C. § 11434a](#), including by obtaining information regarding the former CINA's homelessness in an application for public assistance or through contact between the former CINA and a caseworker, the local department shall contact the former CINA and advise the former CINA of the right to reenter care and procedures for reentering care under this paragraph.

Establishment of program

(c) In establishing the out-of-home placement program the Administration shall:

(1) provide time-limited family reunification services to a child placed in an out-of-home placement and to the parents or guardian of the child, in order to facilitate the child's safe and appropriate reunification within a timely manner;

(2) concurrently develop and implement a permanency plan that is in the best interests of the child; and

(3) provide training on an annual basis for the staff at each local department who administer requests for voluntary placement agreements for children with developmental disabilities or mental illnesses under subsection (b) of this section.

Short term care; custody not a condition of parents financial abilities

(d)(1) The local department shall provide 24-hour a day care and supportive services for a child who is committed to its custody or guardianship in an out-of-home placement on a short-term basis or placed in accordance with a voluntary placement agreement.

(2)(i) A child may not be committed to the custody or guardianship of a local department and placed in an out-of-home placement solely because the child's parent or guardian lacks shelter or has a disability or solely because the child's parents are financially unable to provide treatment or care for a child with a developmental disability or mental illness.

(ii) The local department shall make appropriate referrals to emergency shelter services and other services for the homeless family with a child which lacks shelter.

Reasonable efforts to keep families together

(e)(1) Unless a court orders that reasonable efforts are not required under [§ 3-812 of the Courts Article](#) or [§ 5-323](#) of this title, reasonable efforts shall be made to preserve and reunify families:

(i) prior to the placement of a child in an out-of-home placement, to prevent or eliminate the need for removing the child from the child's home; and

- (ii) to make it possible for a child to safely return to the child's home.
- (2) In determining the reasonable efforts to be made and in making the reasonable efforts described under paragraph (1) of this subsection, the child's safety and health shall be the primary concern.
- (3) Reasonable efforts to place a child for adoption or with a legal guardian may be made concurrently with the reasonable efforts described under paragraph (1) of this subsection.
- (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, 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.

Permanency plan; best interests of the child

(f)(1) In developing a permanency plan for a child in an out-of-home placement, the local department shall give primary consideration to the best interests of the child, including consideration of both in-State and out-of-state placements. The local department shall consider the following factors in determining the permanency plan that is in the best interests of the child:

- (i) the child's ability to be safe and healthy in the home of the child's parent;
- (ii) the child's attachment and emotional ties to the child's natural parents and siblings;
- (iii) the child's emotional attachment to the child's current caregiver and the caregiver's family;
- (iv) the length of time the child has resided with the current caregiver;
- (v) the potential emotional, developmental, and educational harm to the child if moved from the child's current placement; and
- (vi) the potential harm to the child by remaining in State custody for an excessive period of time.

(2) To the extent consistent with the best interests of the child in an out-of-home placement, the local department shall consider the following permanency plans, in descending order of priority:

- (i) returning the child to the child's parent or guardian, unless the local department is the guardian;
- (ii) placing the child with relatives to whom adoption, custody and guardianship, or care and custody, in descending order of priority, are planned to be granted;

(iii) adoption in the following descending order of priority:

1. by a current foster parent with whom the child has resided continually for at least the 12 months prior to developing the permanency plan or for a sufficient length of time to have established positive relationships and family ties; or
2. by another approved adoptive family; or

(iv) for a child at least 16 years old, another planned permanent living arrangement that:

1. addresses the individualized needs of the child, including the child's educational plan, emotional stability, physical placement, and socialization needs; and
2. includes goals that promote the continuity of relations with individuals who will fill a lasting and significant role in the child's life.

(3) Subject to paragraphs (1) and (2) of this subsection and to the extent consistent with the best interests of a child in an out-of-home placement, in determining a permanency plan, the local department shall consider the following in descending order of priority:

(i) placement of the child in the local jurisdiction where the child's parent or guardian resides; or

(ii) if the local department finds, based on a compelling reason, that placement of the child as described in item (i) of this paragraph is not in the best interest of the child, placement of the child in another jurisdiction in the State after considering:

1. the availability of resources to provide necessary services to the child;
2. the accessibility to family treatment, if appropriate; and
3. the effect on the local school system.

Duties of local department

(g)(1) The local department shall:

(i) prepare the permanency plan in writing within 60 days of the date the child comes into care;

(ii) if the child is under the jurisdiction of the juvenile court, furnish the plan to the child's parents, the child or the child's counsel, and to the juvenile court; and

(iii) maintain the plan in the agency's case record.

(2) The local department shall amend the plan promptly as necessary in light of the child's situation and any court orders which affect the child.

Administrative review

(h) Unless a child has received a review from the local board of review of foster care under § 5-544 of this subtitle, the local department shall perform an administrative review every 6 months to determine the success of the efforts to meet the goals set out in the permanency plan or the agreement with the parents or guardians in voluntary placements.

Hearing for foster parents wishing to adopt

(i)(1) Foster parents who wish to adopt a foster child in their care and who wish to contest the agency's decision to place the child with another adoptive family may, within 30 days from the removal of the child, file with the agency a request for a hearing.

(2) Within 10 days after receipt of a request for a hearing under paragraph (1) of this subsection, the agency shall notify the Office of Administrative Hearings, which shall hold the hearing and issue a decision within 45 days of the receipt of the request.

Regulations

(j) The Administration shall adopt regulations that:

(1) establish goals and specify permanency planning procedures that:

(i) maximize the prospect for reducing length of stay in out-of-home placement in the best interests of children; and

(ii) implement the intent of this section;

(2) prohibit a local department from seeking the custody or guardianship of a child for placement in foster care solely because the child's parent or guardian lacks shelter or has a disability or solely because the child's parents are financially unable to provide treatment or care for a child with a developmental disability or mental illness;

(3) specify the compelling reasons for placing a child in a local jurisdiction other than the local jurisdiction where the child's parent or guardian resides, under subsection (f)(3)(ii) of this section;

(4) require the local department to make appropriate referrals to emergency shelter and other services for families with children who lack shelter;

(5) establish criteria for investigating and approving foster homes, including requirements for window coverings in accordance with § 5-505 of this subtitle;

(6) for cases in which the permanency plan recommended by the local department or under consideration by the court includes appointment of a guardian and rescission of the local department's custody or guardianship of a child:

(i) establish criteria for investigating and determining the suitability of prospective relative or nonrelative guardians; and

(ii) require the filing of a report with the court as provided in § 3-819.2 of the Courts Article; and

(7) ensure that all children in foster care who are at least 18 years of age have a birth certificate, a Social Security card, health insurance information, medical records, and a driver's license or State-issued identification card at emancipation.

Information provided to children in out-of-home placements

(k)(1) At least one time each year, the Administration shall provide to a child in an out-of-home placement who is at least 13 years old information regarding benefits available to the child on leaving out-of-home care.

(2) The information provided under paragraph (1) of this subsection shall include information regarding tuition assistance, health care benefits, housing, job training and internship opportunities, and the right to reenter care and procedures for reentering care under subsection (b)(3) of this section.

(3) The Administration may provide to the child the information required under paragraph (1) of this subsection:

(i) at a permanency planning hearing or review hearing held in accordance with § 3-823 of the Courts Article; or

(ii) by certified mail.

Development of a Foster Youth Bill of Rights

(l)(1) The Department shall develop a Foster Youth Bill of Rights delineating the rights of children in out-of-home placements.

(2) At least one time each year, the Administration shall provide to each child in an out-of-home placement who is at least 13 years old a copy of the Foster Youth Bill of Rights developed under paragraph (1) of this subsection.

Credits

Added by Acts 1984, c. 296, § 2, eff. Oct. 1, 1984. Amended by Acts 1987, c. 608, § 1, eff. July 1, 1987; Acts 1987, c. 625, § 1, eff. July 1, 1987; Acts 1987, c. 696, § 1, eff. July 1, 1987; Acts 1988, c. 6, § 1, eff. Feb. 18, 1988; Acts 1988, c. 182, § 1, eff. July 1, 1988; [Acts 1991, c. 423, § 1, eff. July 1, 1991](#); [Acts 1994, c. 575, § 1, eff. Oct. 1, 1994](#); [Acts 1998, c. 539, § 1, eff. July 1, 1998](#); [Acts 1999, c. 358, § 1, eff. Oct. 1, 1999](#); [Acts 2001, c. 415, § 6, eff. Oct. 1, 2001](#); [Acts 2003, c. 250, § 1, eff. Oct. 1, 2003](#); [Acts 2005, c. 350, § 1, eff. Oct. 1, 2005](#); [Acts 2007, c. 350, § 1, eff. Oct. 1, 2007](#); [Acts 2009, c. 350, § 1, eff. Oct. 1, 2009](#); [Acts 2011, c. 350, § 1, eff. Oct. 1, 2011](#); [Acts 2013, c. 350, § 1, eff. Oct. 1, 2013](#); [Acts 2015, c. 350, § 1, eff. Oct. 1, 2015](#); [Acts 2017, c. 350, § 1, eff. Oct. 1, 2017](#); [Acts 2019, c. 350, § 1, eff. Oct. 1, 2019](#); [Acts 2021, c. 350, § 1, eff. Oct. 1, 2021](#); [Acts 2023, c. 350, § 1, eff. Oct. 1, 2023](#).

§ 5-525. Creation of foster care program, MD FAMILY § 5-525

1, 2003; Acts 2004, c. 304, § 1, eff. Oct. 1, 2004; Acts 2005, c. 25, § 1, eff. April 12, 2005; Acts 2005, c. 464, § 3, eff. Jan. 1, 2006; Acts 2005, c. 507, § 1, eff. Oct. 1, 2005; Acts 2005, c. 576, § 1, eff. Oct. 1, 2005; Acts 2005, c. 600, § 1, eff. July 1, 2005; Acts 2007, c. 461, § 1, eff. Oct. 1, 2007; Acts 2008, c. 16, § 1, eff. Oct. 1, 2008; Acts 2009, c. 567, § 1, eff. Oct. 1, 2009; Acts 2009, c. 568, § 1, eff. Oct. 1, 2009; Acts 2010, c. 326, § 1, eff. Oct. 1, 2010; Acts 2010, c. 327, § 1, eff. Oct. 1, 2010; Acts 2011, c. 604, § 1, eff. July 1, 2011; Acts 2013, c. 22, § 2, eff. Oct. 1, 2013; Acts 2014, c. 451, § 1, eff. Oct. 1, 2014; Acts 2015, c. 46, § 1, eff. Oct. 1, 2015; Acts 2016, c. 381, § 1, eff. Oct. 1, 2016; Acts 2016, c. 382, § 1, eff. Oct. 1, 2016; Acts 2016, c. 423, § 1, eff. Oct. 1, 2016; Acts 2018, c. 418, § 1, eff. Oct. 1, 2018.

Formerly Art. 88A, § 61.

MD Code, Family Law, § 5-525, MD FAMILY § 5-525

Current through legislation effective through July 1, 2024, from the 2024 Regular Session of the General Assembly. Some statute sections may be more current, see credits for details.

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West's Annotated Code of Maryland
Family Law (Refs & Annos)
Title 5. Children (Refs & Annos)
Subtitle 7. Child Abuse and Neglect (Refs & Annos)

MD Code, Family Law, § 5-714

§ 5-714. Centralized confidential database for child abuse

[Currentness](#)

Centralized confidential database

(a) The Social Services Administration may maintain a centralized confidential database of cases reported under this subtitle.

Local departments to enter and have access to information in database

(b) Each local department shall enter and have access to information in the centralized confidential database related to reports, investigations, and assessments of suspected abuse or neglect.

Who may access information in database

(c) The information in the centralized confidential database shall be accessible only to:

(1) the protective services staff of the Administration;

(2) the protective services staffs of local departments who are investigating or assessing a report of suspected abuse or neglect; and

(3) an individual or entity specifically authorized by law to access the information.

Who may be identified as responsible for abuse or neglect

(d) 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.

Information required to be expunged

(e) The centralized confidential database may not contain any information that is required to be expunged under § 5-707 of this subtitle.

Response to request for background information

(f)(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.

Who may not be identified as responsible for abuse or neglect

(g) Notwithstanding any other provision of law, an individual may not be identified as responsible for abuse or neglect in the centralized confidential database solely because:

(1) a child has been released from a hospital or other facility;

(2) the child has been diagnosed with a mental disorder or developmental disability; and

(3) the individual has failed to take the child home due to a reasonable fear for the safety of the child or child's family.

Regulations

(h) The Secretary of Human Services:

(1) shall adopt regulations necessary to protect the rights of individuals suspected of abuse or neglect; and

(2) may adopt regulations to implement the provisions of this section.

Credits

Added by Acts 1987, c. 635, § 2, eff. July 1, 1988. Amended by [Acts 1999, c. 214, § 1, eff. June 1, 1999](#); [Acts 2002, c. 279, § 1, eff. Oct. 1, 2002](#); [Acts 2003, c. 163, § 1, eff. Oct. 1, 2003](#); [Acts 2005, c. 25, § 12, eff. April 12, 2005](#); [Acts 2005, c. 464, § 3, eff. Jan. 1, 2006](#); [Acts 2007, c. 8, § 1, eff. Oct. 1, 2007](#); [Acts 2015, c. 245, § 1, eff. Oct. 1, 2015](#); [Acts 2017, c. 62, § 6](#).

MD Code, Family Law, § 5-714, MD FAMILY § 5-714

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West's Annotated Code of Maryland
Family Law (Refs & Annos)
Title 9. Child Custody and Visitation (Refs & Annos)
Subtitle 1. In General (Refs & Annos)

MD Code, Family Law, § 9-101

§ 9-101. Rejection of custody or visitation if abuse likely

Currentness

Determine if abuse or neglect is likely

(a) In any custody or visitation proceeding, if the court has reasonable grounds to believe that a child has been abused or neglected by a party to the proceeding, the court shall determine whether abuse or neglect is likely to occur if custody or visitation rights are granted to the party.

Deny custody or visitation if abuse likely

(b) Unless the court specifically finds that there is no likelihood of further child abuse or neglect by the party, the court shall deny custody or visitation rights to that party, except that the court may approve a supervised visitation arrangement that assures the safety and the physiological, psychological, and emotional well-being of the child.

Credits

Added by Acts 1984, c. 529, § 2, eff. Oct. 1, 1984. Amended by Acts 1985, c. 659, § 1, eff. July 1, 1985; [Acts 2006, c. 112, § 1, eff. Oct. 1, 2006](#).

MD Code, Family Law, § 9-101, MD FAMILY § 9-101

Current through legislation effective through July 1, 2024, from the 2024 Regular Session of the General Assembly. Some statute sections may be more current, see credits for details.

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APPENDIX

Bill for safe haven resurfaces in Assembly

Montgomery Journal
KRISAH WILLIAMS

Capital News Service

1/22/02

ANNAPOLIS — Tanisha Montague was 19 when she gave birth to a baby girl in a bathtub.

Seven hours later she left her Montgomery County apartment with her daughter wrapped in a blanket and put her in a trash can, where the infant was found alive just before garbage collectors arrived.

Last year, Montague's highly publicized case prompted some Maryland lawmakers to try to join the rush of "safe haven" laws allowing parents to anonymously leave their babies at a designated safe place with no questions asked.

Safe haven legislation failed last year, but is back before the General Assembly this year. Critics of the bill question whether mothers like Montague will take advantage of it because it does not provide appropriate funding for publicity, which has jump-started the legislation in other states.

Promoting the law through costly publicity has helped, according to data from the National Conference of State Legislatures. Thirty-five states have passed safe haven laws in the last three years. Those with advertising campaigns have been the most successful.

"Because the issue is so complex in terms of the situation for the affected young woman, who is often so desperate and at a difficult psychological point, it is very hard to know precisely what will make the difference between her going to a safe place versus not," said Del. Sharon Grosfeld, D-Kensington. "We just don't have enough experience." Grosfeld, House safe haven sponsor, and Sen. Leo Green, D-23rd-Bowie, Senate sponsor, have provided no money for the costly campaigns needed to bring attention to the law in other states.

The two sponsored similar legislation last year but an unresolved debate about whether often-unmanned firehouses should be included as safe havens killed the bill.

Green's version listed only hospitals as safe haven locations. Grosfeld's bill designated police stations, fire stations, social service agencies and hospitals.

"There are times that the firehouse may be open but there is not anyone there," said James E. Malone Jr., D-Baltimore County, a

lieutenant in the Baltimore County Fire Department. "With a hospital there is someone there 24 hours a day."

Grosfeld, who plans to submit her version of the bill next week, said she will include firehouses again this year and is hoping to get the approval of firefighters' organizations. The bill will specify that a person must be present in order for the firehouse to be a safe haven.

The debate about firehouses may continue to be an obstacle for the bill this session. The lack of state funding for publicity may pose an even larger problem.

Texas, the first state to institute a safe haven law, saw 12 babies abandoned after the law passed. After a private foundation donated money for a public awareness campaign, at least five infants were taken to designated safe places. New Jersey's Legislature appropriated \$500,000 along with its safe haven law for a massive advertising campaign: "No blame. No names. No shame." Six babies were dropped off there last year.

"A lot of these states passed the legislation so quickly they did not think about allocating money for prevention programs or advertising campaigns," said Joyce Johnson, a spokeswoman for the Washington-based Child Welfare League of America. Grosfeld said her hope is state and individual county agencies will allocate money from their budgets to publicize the law as they do with programs for domestic violence victims. But even in states with well-funded publicity campaigns, it's hard to tell how well the law is working. Most states do not compile statistics on babies abandoned in public places. Sketchy statistics have been assembled in a survey conducted by the NCSL.

"There is a need for clean data to determine if it's a growing problem, if it's a trend," said Nina Williams-Mbengue, a policy specialist who is following infant abandonment for the state legislatures' organization. "The states can barely track it. Their statutes didn't require it."

The proposal in Maryland also does not require agencies to count the number of infants dropped at safe havens. The closest national estimate is a report from the U.S.

Department of Health and Human Services based on a computer search of news items. In 1991 there were 65 accounts of abandoned babies and 105 in 1998.

Johnson, of the Child Welfare League, also criticizes the safe haven legislation's disregard for the mother's mental state. Mothers who decide to give up their babies for adoption are given counseling and other services. Little is known about mothers who decide to abandon their newborns.

"What's going on with mom?" Johnson said. "It makes you question why folks are falling through the cracks. Why didn't they go somewhere and get help?"

But Grosfeld and politicians across the country have said saving one infant or one distraught mother is worth it.



SENATE JUDICIAL PROCEEDINGS COMMITTEE
WALTER M. BAKER, CHAIRMAN · COMMITTEE REPORT SYSTEM
DEPARTMENT OF LEGISLATIVE SERVICES · 2002 MARYLAND GENERAL ASSEMBLY

FLOOR REPORT

House Bill 602

Maryland Safe Haven Act of 2002

SPONSORS:

Delegate Grosfeld, *et al.*

COMMITTEE RECOMMENDATION: Favorable with amendments (2)

SHORT SUMMARY:

AS AMENDED, THIS BILL CONFORMS TO THE CONFERENCE COMMITTEE AGREEMENT ON SENATE BILL 3.

THE BILL GRANTS IMMUNITY TO A MOTHER OR OTHER PERSON AUTHORIZED BY THE MOTHER WHO LEAVES AN UNHARMED NEWBORN WITH A RESPONSIBLE ADULT; REQUIRES THE RESPONSIBLE ADULT AS SOON AS REASONABLY POSSIBLE TO TAKE THE NEWBORN TO A HOSPITAL OR OTHER FACILITY; AND GRANTS IMMUNITY TO THE RESPONSIBLE ADULT, HOSPITAL, OR FACILITY FOR GOOD FAITH ACTIONS.

COMMITTEE AMENDMENTS: The committee adopted 2 amendments to the bill.

AMENDMENT NO. 1

Title amendment.

AMENDMENT NO. 2

Strikes the bill and substitutes the language described below.

SUMMARY OF BILL:

This bill grants immunity from civil liability and criminal prosecution to the mother of a newborn, or a person authorized by the mother, who leaves an unharmed newborn, without expressing an intent to return, with a responsible adult within three days of the birth of the newborn, as determined within a reasonable degree of medical certainty.

The person with whom the newborn is left must, as soon as reasonably possible, take the newborn to a hospital or other facility designated by the Secretary of Human Resources by regulation. A hospital or other designated facility must notify the local department of social services within 24 hours after accepting the newborn.

The bill also grants immunity from civil liability and criminal prosecution to a responsible adult and a hospital or other facility, and the agents and employees of the hospital or facility, for good faith actions taken related to the acceptance of or medical treatment or care of a newborn unless injury to the newborn was caused by gross negligence or willful or wanton misconduct.

The Secretary of Human Resources is required to adopt regulations to implement the bill's provisions.

CURRENT LAW:

Maryland has multiple laws related to desertion of a minor child. First, a parent may not desert his or her minor child. An individual who does so is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$100 or imprisonment not exceeding three years or both. Second, an individual who has care, custody, or control of a minor child may not desert the child with the intent that the child become a public charge or without providing for the child's support for at least three years by a responsible individual or a licensed child care facility. A person who violates this law is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$100 or imprisonment not exceeding one year. Third, an adult who willfully renders a child in need of assistance may be convicted of a misdemeanor and subject to a fine of not more than \$2,500 or imprisonment for not more than three years or both. Additionally, child abandonment may, depending on the circumstances of the case, be considered child abuse. Child abuse includes “[t]he sustaining of physical injury by a child as a result of cruel or inhumane treatment or as a result of a malicious act ... under circumstances that indicate that the child's health or welfare is harmed or threatened thereby.”

BACKGROUND:

According to the U.S. Department of Health and Human Services, there were media reports of 105 infants abandoned in public places in 1998, including 33 found dead. In addition, about 9,000 infants were abandoned in hospitals that year after their mothers left without them.

In an effort to prevent newborn deaths, 35 states have enacted legislation that allows mothers to safely relinquish custody of their unwanted newborns to staff at hospitals or other specified locations, according to a National Conference of State Legislatures (NCSL) report.

States that have enacted safe haven laws include Alabama, Connecticut, Florida, Louisiana, New Jersey, North Carolina, Rhode Island, South Carolina, Texas and West Virginia.

NCSL further reported that 33 babies were relinquished in ten states after the passage of similar safe haven legislation: six in New Jersey; five each in Texas, Michigan, and Alabama; four in California; two each in Connecticut, Minnesota, and Ohio; and one each in Kansas and South Carolina. Safe haven laws in New York, West Virginia, and Florida do not include requirements for reporting and tracking abandoned infants.



SAFE PLACE FOR NEWBORNS



***Prosecutors Working
to
Save Lives***

PROPOSAL FOR A MARYLAND SAFE HAVEN LAW

**STATE'S ATTORNEY'S OFFICE
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DEPUTY STATE'S ATTORNEYS
KATHERINE WINFREE
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PROPOSAL FOR A MARYLAND SAFE HAVEN LAW

I am forwarding to you the enclosed assorted materials (and an index to those materials) regarding a national movement aimed at protecting infants through the passage of Safe Haven laws. I urge you to consider supporting this legislation in Maryland in order to save the lives of countless unwanted newborn infants. The basic concept is this: it is not illegal to conceive or to give birth to an infant. It is illegal, however, to discard that infant in a dumpster, toilet, sewer, or by any other means.

The Maryland State's Attorney's Association is proposing legislation that would provide a defense to the prosecution for mothers who, instead of abandoning their infants, bring their unwanted infants to a hospital, police station, or fire station within 72 hours of birth provided that the infants have not been physically abused. How these children are then placed in caring households will follow the usual procedures for adoption.

Included in the following materials is a Sentencing Memorandum from a case that I personally prosecuted this past summer involving a Germantown mother who was convicted by a jury of Attempted First Degree Murder after abandoning her newborn infant in a trash bin in subfreezing weather. Along with the Maryland State's Attorney's Association, we sincerely hope that you will join us in this effort to save the lives of newborns. If you have any questions regarding Safe Haven laws or their future application in Maryland, please do not hesitate to contact me at (240) 777-7333.

NewsRoom

2/16/01 Balt. Sun 1B
2001 WLNR 1045984

Baltimore Sun (MD)
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February 16, 2001

Section: LOCAL

Infant havens statute is eyed Bills would shield people
who abandon babies at 'safe' spots 'To prevent tragedies'

SUN STAFF Sarah Koenig

Tanisha Montague was alone in her bathroom last year when she secretly gave birth to a 5-pound girl.

The next morning, she wrapped the infant in a cloth and placed her inside a Kmart bag containing a chicken bone, a juice container, sanitary napkins and other garbage. Montague, 19, then put the newborn in an unheated trash building near her apartment in Germantown.

The Montgomery County case -- which ended with Montague's 10-year prison sentence for attempted murder -- is one of many such stories that inspired dozens of Maryland lawmakers to push for legislation that would exempt a person from prosecution if he or she were to abandon a newborn in a so-called "safe haven" such as a hospital or police station.

"I wanted to do something to protect these babies, and these women -- or girls -- who are in such desperate situations that to be prosecuted seemed a grave injustice," said Del. Sharon M. Grosfeld, a Montgomery County Democrat who sponsored one of the five bills before the General Assembly.

Montague's crying baby was discovered 15 minutes before the trash truck arrived and a half-hour before she would have frozen to death, according to court testimony. The child was placed in a foster family.

Other abandoned infants, such as the baby boy left in a plastic bag in a trailer bathroom on the Eastern Shore in 1999, are found dead.

"It's a rare case that you find a baby alive," said Montgomery County State's Attorney Douglas F. Gansler, who prosecuted the Montague case and has since lobbied for a "safe-haven" bill. "To the extent that it happens, it's a hidden crime."

The intent of the proposals, which the House Judiciary Committee is likely to condense into one compromise bill, is to save the lives of the infants. The theory is that if a distraught mother knows she can hand over her baby to a firefighter or nurse without fear of punishment, she might not leave the baby under a park bench or on a supermarket shelf.

Under current law, a person who abandons an infant could spend up to three years in jail.

Crafting the final legislation -- and passing it -- will not be easy. Critics of the bills question allowing abandoners to remain anonymous because the newborn's medical history would not be known and the other parent might not learn of the abandonment.

In addition, adoptees complain that the child would be unable to search for his or her parents.

Although no state keeps statistics on abandoned newborns, a survey of media reports commissioned by the U.S. Department of Health and Human Services found 105 cases in 1998.

Despite the unknowns, the problem has gained enough attention to cause a national legislative trend. Maryland is one of 21 states considering "safe-haven" bills this year; last year, 15 states passed such legislation.

Yesterday, a hearing on the bills before the Judiciary Committee illustrated how delicately written such legislation must be to satisfy the interests of everyone from lawyers to fathers to adoptees.

Grosfeld's bill, the simplest of those presented, is the only one to be supported by the state public defender office and the State's Attorney's Association.

It would give civil and criminal immunity to a parent or other authorized person who, within three days of birth, brings an infant to an employee of a hospital, police department or fire-and-rescue station.

Unlike the other versions of the legislation, it does not address the issue of parents' rights, a sticking point for committee Chairman Joseph F. Vallario Jr.

"The idea sounds like apple pie," Vallario, a Prince George's Democrat, said. "But what about the parent that's not there? There are two parents to every child. Are you going to do this without some form of due notice?"

Grosfeld and others argued that existing law regarding abandoned and adoptive children deals with that. Social service officials are required to try to find the other parent, though the legislation's supporters acknowledge that it is difficult when the abandoning parent's name is unknown.

Del. Anthony J. O'Donnell, a Calvert Republican, asked how he should respond to what he called "pro-life constituents" who ask him, "You really are going to legalize and advocate abandoning babies?"

Pat Kelly of Maryland Catholic Conference said, "Clearly, I don't think the intent of this is to encourage abandonment or irresponsibility. It is to prevent tragedies."

Photo(s) Witness: Douglas F. Gansler, Montgomery County state's attorney, testifies before the state House Judiciary Committee. {GRAPH_SOURCE} LINDA COAN O'KRESIK : SUN STAFF

---- Index References ----

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NewsRoom

STATE OF MARYLAND



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April 2, 2002

Senator Walter H. Baker, Chairman
2 East Miller Senate Building
11 Bladen Street
Annapolis, MD 21401-1991

Re: HB 602 and SB 3: The Safe Haven Bills

Dear Chairman Baker::

The Office of Public Defender favors HB 602, the safe haven bill passed by the House, over SB 3, the bill passed by the Senate, for two reasons.

First, as testified by the proponents of SB 3 at the hearing before House Judiciary this afternoon, one purpose of the legislation is to preserve the lives and well-beings of unwanted, newborn babies who are abandoned on doorsteps, left in public places, or other inappropriate places where their lives or physical well-being would be endangered. These newborn babies will usually, but not always, be found alive. According to the testimony today, the number of such abandonments is closer to "five" than to "500." However, as important as this purpose may be, the legislation should also address a second and more serious danger: namely, the unwanted, newborn babies who are secreted in trash bins, drowned in bodies of water, hidden in wooded or secluded areas, or left in similar circumstances where death is highly probable. We do not and cannot know how many babies are successfully abandoned in this manner. Those babies are never found.

We think safe-haven legislation should have a single over-riding goal, which is to preserve the lives and well-beings of as many unwanted newborn babies as possible. If that be the case, the legislation must be easy to understand and have simple, direct procedures. Parents should not be hesitant to deliver newborns to safe havens because they are not sure what categories of persons or types of facilities are covered. We think the language of HB 602 ("leaves an unharmed newborn with a responsible person") is easy to understand and furnishes the best opportunity for preserving the largest number of lives.

Our second reason for favoring HB 602 over SB 3 is that the House 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. SB 3 changes existing law and establishes some new procedures with which we disagree. After spending the last three years writing and rewriting the complex provisions of our CINA laws, there is no reason to do it again at this time.

Very truly yours,

J. Theodore Wieseman

| (i) the child; |

| (ii) the child's parent; and |

| (iii) the individual seeking adoption; |

| (3) in an adoption case under Part IV of this subtitle: |

| (i) the child; and |

| (ii) the individual seeking adoption; and |

| (4) if express reference is made to a CINA case, a governmental unit or person defined as a party in § 3-801 of the Courts Article. |

COMMITTEE NOTE: This subsection is new and added to allow concise reference to a party in a case under this subtitle or a CINA case.

Defined terms: “Child” § 5-301

“CINA case” § 1-101

“Guardianship” § 5-301

“Local department” § 1-101

“Parent” § 5-301

“Person” § 1-101

GENERAL COMMITTEE NOTE: In addition to the definitions set forth in new § 5-301, definitions in §§ 1-101 and 5-101 of this article apply to this subtitle.

<< MD FAMILY § 5-302 >>

| **5-302. Scope of subtitle.** |

| (a) Proceedings. |

| 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. |

| (b) Prior filings. |

| This subtitle: |

| (1) does not apply to a guardianship case filed on or before December 31, 2005, until guardianship is granted; and |

| (2) unless otherwise specified, does not apply to an adoption case filed on or before December 31, 2005. |

COMMITTEE NOTE: This section is new and added to make the scope of this new subtitle clear. This addition is not intended to limit the access to records in cases filed on or before December 31, 2005.

Defined terms: “Child in need of assistance” § 1–101

“Guardianship” § 5–301

“Local department” § 1–101

<< MD FAMILY § 5–303 >>

5–303. Statement of findings; purposes.

(a) Statement of findings.

The General Assembly finds that the policies and procedures of this subtitle are desirable and socially necessary.

(b) Purposes.

The purposes of this subtitle are to:

(1) timely provide permanent and safe homes for children consistent with their best interests;

(2) protect children from unnecessary separation from their parents;

(3) ensure adoption only by individuals fit for the responsibility;

(4) protect parents from making hurried or ill-considered agreements to terminate parental rights;

(5) protect prospective adoptive parents by giving them information about children and their backgrounds; and

(6) protect adoptive parents from future disturbances of their relationships with children by former parents.

COMMITTEE NOTE: This section is derived from former FL § 5–303.

In subsection (a) of this section, the former clause “that concern adoption” is deleted as the findings apply to guardianship as well.

In subsection (b)(1) of this section, reference to “timely” provision of “permanent and safe homes ... consistent with [the children’s] best interests” is substituted for the former reference to “stable homes that protect ... safety and health”, to emphasize the need for prompt resolution of a case in accordance with the “best interests” standard applicable under, e.g., former FL §§ 5–311(b)(2), 5–313(a), (c), and (d)(1) and (3), 5–317(g)(1), 5–319(f)(1) and (2) and (g)(1), and 5–323(a)(2).

In subsection (b)(2) and (4) of this section, the former word “natural” is omitted, to reflect that the parental rights of a nonbiological—i.e., adoptive—parent can be terminated in the same manner as a biological parent’s can. Similarly, in subsection (b)(6) of this section, the word “former” is

HOUSE BILL 167

D4, O1, D3

9lr0096

By: Chair, Judiciary Committee (By Request – Departmental – Human Services)
Introduced and read first time: January 23, 2019
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 Juvenile Causes – Safe Haven Newborns

3 FOR the purpose of requiring a local department of social services that files a petition
4 alleging that a safe haven newborn is a child in need of assistance to publish in a
5 newspaper or a certain other publication and post on a certain website a certain
6 notice containing certain information; requiring the juvenile court to exclude the
7 general public from a hearing where the proceedings involve discussion of any
8 information pertaining to the confidential identity of a mother of a safe haven
9 newborn; specifying certain requirements for a child in need of assistance petition
10 alleging that a child is a safe haven newborn; authorizing a child to be taken into
11 custody under certain provisions of law in accordance with certain provisions of law
12 relating to safe haven newborns; authorizing a local department to place a child in
13 emergency shelter care before a hearing if the child is a safe haven newborn under
14 certain circumstances; prohibiting a local department from giving certain notice to
15 the mother of a safe haven newborn under certain circumstances; altering certain
16 provisions of law relating to the disposition of a child in need of assistance petition
17 involving a safe haven newborn; requiring the juvenile court to hold a permanency
18 plan hearing within a certain period of time after a petition is filed alleging that a
19 child is a safe haven newborn; specifying procedures for permanency plan hearings
20 for safe haven newborns; specifying that certain provisions of law relating to children
21 in need of assistance hearings do not apply to a safe haven newborn's mother under
22 certain circumstances; altering certain procedures in certain provisions of law
23 relating to persons who leave an unharmed newborn with a responsible adult within
24 a certain period of time after the birth of the newborn; altering certain provisions of
25 law relating to notice of the filing of a petition for guardianship of a certain child to
26 include specified notice if the child is a safe haven newborn; specifying the
27 circumstances under which the juvenile court may grant guardianship of a safe
28 haven newborn; making certain conforming changes; altering a certain definition;
29 defining a certain term; and generally relating to safe haven newborns.

30 BY repealing and reenacting, without amendments,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article – Courts and Judicial Proceedings
Section 3–819(a), (b–1), and (e)
Annotated Code of Maryland
(2013 Replacement Volume and 2018 Supplement)

5 BY repealing and reenacting, with amendments,
6 Article – Courts and Judicial Proceedings
7 Section 3–801(f) and (x) through (ee), 3–810, 3–811, 3–814(a), 3–815(b) and (c),
8 3–819(b) through (d) and (f), 3–822, and 5–641
9 Annotated Code of Maryland
10 (2013 Replacement Volume and 2018 Supplement)

11 BY adding to
12 Article – Courts and Judicial Proceedings
13 Section 3-801(x) and 3-819.3
14 Annotated Code of Maryland
15 (2013 Replacement Volume and 2018 Supplement)

16 BY repealing and reenacting, with amendments,
17 Article – Family Law
18 Section 5-315 and 5-320
19 Annotated Code of Maryland
20 (2012 Replacement Volume and 2018 Supplement)

21 BY repealing and reenacting, with amendments,
22 Article – Human Services
23 Section 2-302
24 Annotated Code of Maryland
25 (2007 Volume and 2018 Supplement)

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

Article – Courts and Judicial Proceedings

29 3-801.

30 (f) "Child in need of assistance" means a child who requires court intervention
31 because:

32 (1) The child has been abused, has been neglected, has a developmental
33 disability, [or] has a mental disorder, **OR HAS BEEN RELINQUISHED AS A SAFE HAVEN**
34 **NEWBORN**; and

35 (2) The child's parents, guardian, or custodian are unable or unwilling to
36 give proper care and attention to the child and the child's needs.

1 **(X) “SAFE HAVEN NEWBORN” MEANS A CHILD WHO HAS BEEN**
2 **RELINQUISHED IN ACCORDANCE WITH § 5-641 OF THIS ARTICLE.**

3 **[(x)] (Y) “Sex trafficking” means the recruitment, harboring, transportation,**
4 **provision, obtaining, patronizing, or soliciting of a child for the purpose of a commercial sex**
5 **act.**

6 **[(y)] (Z) “Sexual abuse” means an act that involves:**

7 (1) Sexual molestation or exploitation of a child by:

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

10 (ii) A household or family member; or

11 (2) Sex trafficking of a child by any individual.

12 **[(z)] (AA) “Sexual molestation or exploitation” includes:**

13 (1) Allowing or encouraging a child to engage in:

14 (i) Obscene photography, films, poses, or similar activity;

15 (ii) Pornographic photography, films, poses, or similar activity; or

16 (iii) Prostitution;

17 (2) Incest;

18 (3) Rape;

19 (4) Sexual offense in any degree;

20 (5) Sodomy; and

21 (6) Unnatural or perverted sexual practices.

22 **[(aa)] (BB) “Shelter care” means a temporary placement of a child outside of the**
23 **home at any time before disposition.**

24 **[(bb)] (CC) “Shelter care hearing” means a hearing held before disposition to**
25 **determine whether the temporary placement of the child outside of the home is warranted.**

26 **[(cc)] (DD) “TPR proceeding” means a proceeding to terminate parental rights.**

HOUSE BILL 167

1 **[(dd)] (EE)** “Voluntary placement” means a placement in accordance with §
2 5–525(b)(1)(i) or (iii) or (3) of the Family Law Article.

3 **[(ee)] (FF)** “Voluntary placement hearing” means a hearing to obtain a judicial
4 determination as to whether continuing a voluntary placement is in the best interests of
5 the child.

6 3–810.

7 (a) (1) Except as otherwise provided in this subtitle, the Maryland Rules
8 govern the format of a petition and of other pleadings and the procedures to be followed by
9 the court and parties under this subtitle.

10 (2) Each document that a local department serves on a parent under this
11 subtitle shall include information about the website that the Department of Human
12 Services maintains under § 2–302 of the Human Services Article.

13 **(3) (I) IF A LOCAL DEPARTMENT FILES A PETITION ALLEGING**
14 **THAT A SAFE HAVEN NEWBORN IS A CHILD IN NEED OF ASSISTANCE, IN ADDITION TO**
15 **PERSONAL SERVICE ON ANY KNOWN FATHER, THE LOCAL DEPARTMENT SHALL,**
16 **WITHIN 10 DAYS AFTER FILING THE CINA PETITION:**

17 1. PUBLISH A NOTICE ONCE A WEEK FOR 3
18 CONSECUTIVE WEEKS IN A NEWSPAPER OR ANY OTHER PUBLICATION OF LOCAL AND
19 STATEWIDE CIRCULATION; AND

20 2. POST A NOTICE ON THE DEPARTMENT OF HUMAN
21 SERVICES WEBSITE MAINTAINED UNDER § 2–302 OF THE HUMAN SERVICES
22 ARTICLE.

23 **(II) THE NOTICES REQUIRED UNDER SUBPARAGRAPH (I) OF**
24 **THIS PARAGRAPH SHALL INCLUDE:**

25 1. IDENTIFYING INFORMATION REGARDING THE
26 NEWBORN;

27 2. THE PLACE, DATE, AND TIME OF RELINQUISHMENT;

28 3. INFORMATION ABOUT THE FILING OF THE CINA
29 PETITION, INCLUDING THE CASE NUMBER AND ADDRESS OF THE COURT IN WHICH
30 THE PETITION IS FILED;

31 4. A CONTACT AT THE LOCAL DEPARTMENT AND
32 CONTACT INFORMATION;

1 **5. NOTICE TO THE MOTHER THAT A FAILURE TO FILE**
2 WRITTEN NOTICE REVOKING HER VOLUNTARY RELINQUISHMENT OF THE SAFE
3 HAVEN NEWBORN WITH THE CLERK OF THE JUVENILE COURT FOR THE COUNTY
4 WHERE THE CINA PROCEEDING IS FILED WITHIN 90 DAYS AFTER THE DATE OF THE
5 RELINQUISHMENT SHALL CONSTITUTE AN IRREVOCABLE CONSENT TO THE
6 TERMINATION OF HER PARENTAL RIGHTS AND A WAIVER OF THE RIGHT TO
7 NOTIFICATION OF ANY SUBSEQUENT NOTICE OF ADOPTION OR FURTHER COURT
8 PROCEEDINGS CONCERNING THE CHILD;

9 **6. NOTICE TO ANYONE SEEKING TO CLAIM PATERNITY**
10 OF THE CHILD THAT FAILURE TO FILE A WRITTEN CLAIM OF PATERNITY WITH THE
11 CLERK OF THE JUVENILE COURT FOR THE COUNTY WHERE THE CINA PROCEEDING
12 IS FILED WITHIN 90 DAYS AFTER THE DATE OF THE RELINQUISHMENT CONSTITUTES
13 A BAR TO BRINGING OR MAINTAINING ANY ACTION TO ESTABLISH PATERNITY OF
14 THE NEWBORN AND CONSTITUTES AN IRREVOCABLE CONSENT TO THE
15 TERMINATION OF PARENTAL RIGHTS AND A WAIVER OF THE RIGHT TO
16 NOTIFICATION OF ANY SUBSEQUENT NOTICE OF ADOPTION OR FURTHER COURT
17 PROCEEDINGS CONCERNING THE CHILD; AND

18 **7. ANY OTHER RELEVANT INFORMATION.**

19 **(III) THE NOTICES REQUIRED UNDER THIS PARAGRAPH MAY NOT**
20 **INCLUDE THE NAME OF THE MOTHER OR THE NEWBORN.**

21 (b) (1) In any proceeding in which a child is alleged to be in need of assistance
22 or in any voluntary placement hearing, the court may exclude the general public from a
23 hearing and admit only those persons having a direct interest in the proceeding and their
24 representatives.

25 (2) The court shall exclude the general public from a hearing where the
26 proceedings involve discussion of confidential information from the child abuse and neglect
27 report and record, **ANY INFORMATION PERTAINING TO THE CONFIDENTIAL IDENTITY**
28 OF A MOTHER OF A SAFE HAVEN NEWBORN, or any information obtained from the child
29 welfare agency concerning a child or family who is receiving Title IV-B child welfare
30 services or Title IV-E foster care or adoption assistance.

31 (c) The clerk of the court shall make a separate file for each case.

32 3-811.

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

(2) A voluntary placement petition under this subtitle shall allege that continuation of a voluntary placement is in the best interests of the child or former CINA and shall set forth in clear and simple language the facts supporting that allegation.

4 (3) A CINA PETITION UNDER THIS SUBTITLE ALLEGING THAT A
5 CHILD IS A SAFE HAVEN NEWBORN:

6 (I) MAY NOT IDENTIFY THE MOTHER UNLESS SHE REVOKES
7 HER RELINQUISHMENT OF THE NEWBORN;

8 (II) SHALL CONFIRM THAT THE LOCAL DEPARTMENT HAS
9 SUBMITTED AN INQUIRY TO STATE AND NATIONAL DATABASES FOR MISSING
10 CHILDREN TO DETERMINE IF THE CHILD HAS BEEN REPORTED MISSING; AND

11 (III) SHALL CONTAIN THE NOTICES DESCRIBED IN § 3-810(A)(3)
12 OF THIS SUBTITLE.

13 (b) A separate petition shall be filed as to each child.

14 3-814.

15 (a) A child may be taken into custody under this subtitle by any of the following
16 methods:

17 (1) In accordance with an order of the court;

18 (2) IN ACCORDANCE WITH § 5-641 OF THIS ARTICLE;

19 **[(2)] (3)** In accordance with § 5–709 of the Family Law Article; or

20 [(3)] (4) By a law enforcement officer if the officer has reasonable grounds
21 to believe that the child is in immediate danger from the child's surroundings and that the
22 child's removal is necessary for the child's protection.

23 3-815.

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

26 (1) Placement is required to protect the child from serious immediate
27 danger **OR THE CHILD IS A SAFE HAVEN NEWBORN;**

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

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

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

21 (II) A LOCAL DEPARTMENT MAY NOT GIVE THE NOTICE
22 DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH TO THE MOTHER OF A SAFE
23 HAVEN NEWBORN UNLESS THE MOTHER HAS REVOKED HER VOLUNTARY
24 RELINQUISHMENT.

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

31 3-819.

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

(3) If the court delays a disposition hearing, it shall be held no later than 30 days after the conclusion of the adjudicatory hearing unless good cause is shown.

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

10 (ii) [Hold] EXCEPT FOR A SAFE HAVEN NEWBORN, HOLD in
11 abeyance a finding on whether a child with a developmental disability or a mental illness
12 is a child in need of assistance and:

22 4. After the hearing:

26 B. Find that the child is in need of assistance; or

27 C. Dismiss the case; or

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

30 1. Not change the child's custody status; or

1 may not include any order or pleading related to the child in need of assistance case.

2 (c) In addition to any action under subsection (b)(1)(iii) of this section, the court
3 may:

4 (1) (i) Place a child under the protective supervision of the local
5 department on terms the court considers appropriate;

6 (ii) Grant limited guardianship to the department or an individual
7 or both for specific purposes including medical and educational purposes or for other
8 appropriate services if a parent is unavailable, unwilling, or unable to consent to services
9 that are in the best interest of the child; or

10 (iii) Order the child and the child's parent, guardian, or custodian to
11 participate in rehabilitative services that are in the best interest of the child and family;

12 (2) Determine custody, visitation, support, or paternity of a child in
13 accordance with § 3-803(b) of this subtitle; [and]

14 (3) For a child with a developmental disability, direct the provision of
15 services to obtain ongoing care, if any, needed after the court's jurisdiction ends; AND

16 **(4) FOR A SAFE HAVEN NEWBORN, GRANT LIMITED GUARDIANSHIP TO**
17 **THE DEPARTMENT FOR MEDICAL OR OTHER APPROPRIATE SERVICES.**

18 (d) [If] EXCEPT FOR A SAFE HAVEN NEWBORN, IF guardianship of a child is
19 awarded to the local department under this subtitle, the local department shall notify the
20 parents of the child and their attorneys as soon as practicable of any emergency decision
21 made by the guardian with respect to the child under § 3-801(o) of this subtitle.

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

26 (f) If the disposition removes a child from the child's home, the order shall:

27 (1) Set forth specific findings of fact as to the circumstances that caused
28 the need for the removal; [and]

29 (2) Inform the parents, custodian, or guardian, if any, that the person or
30 agency to which the child is committed may change the permanency plan of reunification
31 to another permanency plan, which may include the filing of a petition for termination of
32 parental rights if the parents:

33 (i) Have not made significant progress to remedy the circumstances

1 that caused the need for the removal as specified in the court order; and

2 (ii) Are unwilling or unable to give the child proper care and
3 attention within a reasonable period of time; AND

4 (3) FOR A SAFE HAVEN NEWBORN, CONTAIN THE NOTICES SPECIFIED
5 IN § 3-810(A)(3) OF THIS SUBTITLE.

6 **3-819.3.**

7 (A) WITHIN 120 DAYS AFTER A PETITION IS FILED ALLEGING THAT A CHILD
8 IS A SAFE HAVEN NEWBORN, THE COURT SHALL HOLD A PERMANENCY PLAN
9 HEARING.

10 (B) (1) IF, WITHIN 90 DAYS AFTER RELINQUISHMENT, A MOTHER SEEKS
11 TO REVOKE HER RELINQUISHMENT OR A FATHER FILES A CLAIM OF PATERNITY, THE
12 COURT SHALL:

13 (I) SCHEDULE A HEARING WITHIN 10 DAYS AFTER THE DATE OF
14 THE REVOCATION OR CLAIM; AND

15 (II) DETERMINE WHETHER THE PERSON SEEKING TO REVOKE
16 THE RELINQUISHMENT OF THE SAFE HAVEN NEWBORN OR CLAIMING PATERNITY IS
17 THE CHILD'S BIOLOGICAL PARENT, INCLUDING ORDERING ANY NECESSARY
18 TESTING.

19 (2) AT A HEARING UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE
20 COURT SHALL:

21 (I) DETERMINE WHETHER THE LOCAL DEPARTMENT HAS
22 DEMONSTRATED THAT THE CHILD REMAINS A CINA DUE TO THE PARENTS'
23 INABILITY OR UNWILLINGNESS TO GIVE PROPER CARE AND ATTENTION TO THE
24 CHILD AND THE CHILD'S NEEDS;

25 (II) DETERMINE WHETHER REASONABLE EFFORTS HAVE BEEN
26 MADE TO REUNIFY THE CHILD WITH A PARENT WHO HAS COME FORWARD TO CLAIM
27 THE CHILD;

28 (III) IF THE COURT FINDS THAT THE CHILD IS NO LONGER A
29 CINA, ORDER THE IMMEDIATE RETURN OF THE CHILD TO THE PARENT; AND

30 (IV) IF THE COURT FINDS THAT THE CHILD REMAINS A CINA,
31 MAKE ANY FURTHER DISPOSITIONS AUTHORIZED UNDER § 3-819 OF THIS SUBTITLE.

1 **(C) IF THE COURT DETERMINES THAT THE PERSON CLAIMING THE CHILD IS
2 THE CHILD'S PARENT, AND THE LOCAL DEPARTMENT DOES NOT RECOMMEND THE
3 IMMEDIATE RETURN OF THE CHILD TO THE PARENT, THE COURT SHALL:**

4 **(1) DIRECT THE LOCAL DEPARTMENT TO FILE A WRITTEN REPORT
5 WITHIN 30 DAYS AFTER THE COURT'S DETERMINATION SETTING FORTH THE
6 REASONS WHY THE PARENT IS UNABLE OR UNWILLING TO GIVE PROPER CARE AND
7 ATTENTION TO THE CHILD AND THE CHILD'S NEEDS; AND**

8 **(2) SCHEDULE A HEARING WITHIN 45 DAYS AFTER THE COURT'S
9 DETERMINATION TO DETERMINE WHETHER THE CHILD SHOULD BE RETURNED TO
10 THE PARENT.**

11 **(D) IF THE COURT DETERMINES THAT AN INDIVIDUAL IS THE BIOLOGICAL
12 FATHER OF A SAFE HAVEN NEWBORN AND THE MOTHER HAS NOT REVOKED HER
13 RELINQUISHMENT, THE BIOLOGICAL MOTHER'S IDENTITY SHALL REMAIN
14 CONFIDENTIAL FOR ALL PURPOSES.**

15 **(E) IF THE COURT FINDS THAT NO INDIVIDUAL HAS RESPONDED TO THE
16 NOTICE SPECIFIED IN § 3-810(A)(3) OF THIS SUBTITLE:**

17 **(1) THE COURT SHALL DETERMINE THE CHILD'S PERMANENCY PLAN
18 TO BE ADOPTION; AND**

19 **(2) THE LOCAL DEPARTMENT SHALL, WITHIN 30 DAYS AFTER THE
20 COURT'S FINDING, FILE A PETITION FOR GUARDIANSHIP IN ACCORDANCE WITH
21 TITLE 5, SUBTITLE 3 OF THE FAMILY LAW ARTICLE.**

22 3-822.

23 **(A) THE PROVISIONS OF THIS SECTION DO NOT APPLY TO A SAFE HAVEN
24 NEWBORN'S MOTHER WHO HAS NOT SOUGHT TO REVOKE HER VOLUNTARY
25 RELINQUISHMENT WITHIN 90 DAYS AFTER THAT RELINQUISHMENT.**

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

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

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

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

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

7 [(b)] (c) Each parent of a child who is the subject of a CINA proceeding shall
8 notify the court and the local department of all changes in the parent's address.

9 [(c)] (D) The clerk of the court shall keep a listing of every address provided by
10 a parent of a child who is the subject of a CINA proceeding.

11 [(d)] (E) On request of a local department, the clerk's office shall disclose to the
12 local department all addresses listed by a parent of a CINA within the preceding 270 days.

13 [(e)] (F) The court may:

14 (1) Order a parent or putative parent to:

15 (i) Apply for child support services with the appropriate support
16 enforcement agency; and

19 (2) Make a finding of paternity in accordance with Title 5, Subtitle 10, Part
20 VI of the Family Law Article.

21 **(f) (G)** Any court may consider evidence taken and findings made on the record
22 in a CINA hearing and in a paternity, custody, child support, or guardianship proceeding
23 regarding that child or a sibling of a child.

24 5-641.

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

29 (2) A MOTHER ADMITTED TO A HOSPITAL OR BIRTH CENTER FOR
30 PURPOSES OF DELIVERY DOES NOT RELINQUISH THE LEGAL PROTECTIONS OR
31 CONFIDENTIALITY PROVIDED UNDER THIS SECTION IF SHE SUBSEQUENTLY
32 AFFIRMS THAT SHE IS VOLUNTARILY RELINQUISHING CUSTODY OF HER UNHARMED

1 NEWBORN AFTER GIVING BIRTH.

2 **[(2)] (3)** If the person leaving a newborn under this subsection is not the
3 mother of the newborn, the person shall have the approval of the mother to do so.4 (b) (1) A person with whom a newborn is left under the circumstances
5 described in subsection (a) of this section as soon as reasonably possible shall take the
6 newborn to a hospital or other facility designated by the Secretary of Human Services by
7 regulation.8 (2) A hospital or other designated facility that accepts a newborn under
9 this subsection shall notify the local department of social services within 24 hours after
10 accepting the newborn.11 (C) (1) A HOSPITAL OR OTHER DESIGNATED FACILITY SHALL MAKE
12 AVAILABLE TO THE MOTHER OR RESPONSIBLE ADULT ACTING ON HER BEHALF
13 WRITTEN INFORMATION PROVIDED BY THE DEPARTMENT OF HUMAN SERVICES, IN
14 ACCORDANCE WITH REGULATIONS ADOPTED BY THE DEPARTMENT.15 (2) THE DEPARTMENT OF HUMAN SERVICES SHALL POST A CURRENT
16 COPY, IN A DOWNLOADABLE FORMAT, OF THE WRITTEN INFORMATION ON THE
17 DEPARTMENT'S WEBSITE.

18 (D) (1) THE HOSPITAL OR OTHER DESIGNATED FACILITY SHALL:

19 (I) MAKE A REASONABLE ATTEMPT TO OBTAIN INFORMATION
20 REGARDING FAMILY AND MEDICAL HISTORY, THE IDENTITY OF THE MOTHER AND
21 THE FATHER, AND ANY NATIVE AMERICAN HERITAGE; AND22 (II) PROVIDE THAT INFORMATION TO THE LOCAL DEPARTMENT
23 OF SOCIAL SERVICES.24 (2) THE LOCAL DEPARTMENT OF SOCIAL SERVICES SHALL KEEP THE
25 IDENTITY OF THE MOTHER CONFIDENTIAL UNLESS THE MOTHER AFFIRMATIVELY
26 WAIVES HER RIGHT TO ANONYMITY OR REVOKES HER VOLUNTARY
27 RELINQUISHMENT.28 (E) ON RECEIPT OF NOTIFICATION FROM THE HOSPITAL OR OTHER
29 DESIGNATED FACILITY THAT A NEWBORN HAS BEEN RELINQUISHED UNDER THIS
30 SECTION, THE LOCAL DEPARTMENT OF SOCIAL SERVICES SHALL:

31 (1) ASSUME TEMPORARY CUSTODY OF THE NEWBORN; AND

32 (2) PETITION THE JUVENILE COURT FOR CONTINUED SHELTER CARE

1 UNDER § 3-815 OF THIS ARTICLE.

2 (F) AFTER THE LOCAL DEPARTMENT OF SOCIAL SERVICES ASSUMES
3 TEMPORARY CUSTODY OF THE CHILD, IF THE MOTHER, A PERSON CLAIMING TO BE
4 THE CHILD'S FATHER, OR A PERSON CLAIMING TO BE A RELATIVE CONTACTS THE
5 HOSPITAL REGARDING THE NEWBORN, THE HOSPITAL OR OTHER DESIGNATED
6 FACILITY SHALL:

7 (1) PROVIDE TO THAT INDIVIDUAL THE WRITTEN INFORMATION
8 DESCRIBED IN SUBSECTION (C)(1) OF THIS SECTION; AND

9 (2) PROVIDE TO THE LOCAL DEPARTMENT OF SOCIAL SERVICES ANY
10 IDENTIFYING INFORMATION PROVIDED BY THAT INDIVIDUAL.

11 [(c)] (G) A responsible adult and a hospital or other designated facility that
12 accepts a newborn under this section and an employee or agent of the hospital or facility
13 shall be immune from civil liability or criminal prosecution for good faith actions taken
14 related to the acceptance of or medical treatment or care of the newborn unless injury to
15 the newborn was caused by gross negligence or willful or wanton misconduct.

16 [(d)] (H) The Secretary of Human Services shall adopt regulations to implement
17 the provisions of this section.

18 **Article – Family Law**

19 5-315.

20 (a) Within 5 days after a petition for guardianship of a child is filed with a juvenile
21 court, the clerk shall send a copy of the petition, with the notice of filing that was attached
22 to the petition, to:

23 (1) the local department;

24 (2) each of the child's living parents who has not waived the right to notice,
25 UNLESS THE CHILD IS A SAFE HAVEN NEWBORN, AS DEFINED IN § 3-801 OF THE
26 COURTS ARTICLE, AND THE PARENT HAS NOT FILED A WRITTEN REVOCATION OF
27 VOLUNTARY RELINQUISHMENT OR A CLAIM OF PATERNITY AS PROVIDED IN THE
28 NOTICES DESCRIBED IN § 3-810(A)(3) OF THE COURTS ARTICLE;

29 (3) each living parent's last attorney of record in the CINA case; and

30 (4) the child's last attorney of record in the CINA case.

31 (b) (1) Notice PROVIDED BY THE CLERK under [this section] SUBSECTION
32 (A) OF THIS SECTION shall be by first-class mail.

4 (c) Notice under [this section] **SUBSECTION (A) OF THIS SECTION** shall be sent
5 to a parent's last address known to the juvenile court.

6 5-320.

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

8 (1) (i) the child does not object;

9 (ii) the local department:

10 1. filed the petition; or

2. did not object to another party filing the petition; and

12 (iii) 1. each of the child's living parents consents:

13 A. in writing;

14 B. knowingly and voluntarily, on the record before the
15 juvenile court; [or]

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

18 D. FOR A SAFE HAVEN NEWBORN, BY FAILURE TO FILE A
19 TIMELY WRITTEN REVOCATION OF VOLUNTARY RELINQUISHMENT OR CLAIM OF
20 PATERNITY AS PROVIDED IN THE NOTICES DESCRIBED IN § 3-810(A)(3) OF THE
21 COURTS ARTICLE;

(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.

1 (b) A governmental unit or person:

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

Article – Human Services

7 2-302.

8 The Department shall maintain a website on which to post notices of petitions under
9 §§ 5-316(f)(3)(ii), 5-3A-15(d)(3)(ii), and 5-3B-15(f)(3)(ii) of the Family Law Article **AND §§**
10 **3-810 AND 5-641 OF THE COURTS ARTICLE.**

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
12 October 1, 2019.



**MARYLAND
LEGAL AID**

Advancing
**Human Rights and
Justice for All**

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February 7, 2019

The Honorable Luke Clippinger
Chairman, Judiciary Committee
Room 101 House Office Building
Annapolis, MD 21401

RE: TESTIMONY IN SUPPORT OF HOUSE BILL 167
Juvenile Causes - Safe Haven Newborns

Dear Chairman Clippinger and Members of the Committee:

Thank you for your invitation to present testimony on HB167. The Legal Aid Bureau, Inc. (Maryland Legal Aid) is a private non-profit law firm that represents indigent persons in civil matters throughout Maryland. As a part of this representation, Maryland Legal Aid's staff provides legal services to over 2,500 Maryland children every year in the child welfare system who participate in Children in Need of Assistance (CINA) and Termination of Parental Rights (TPR) proceedings. Consequently, Maryland Legal Aid has expertise in matters concerning child welfare, children in foster care and particularly, young children who need protection.

In our role as child advocates, Maryland Legal Aid attorneys have had the opportunity to represent young children who have been relinquished under the current safe haven laws and are in a unique position to assess and review the limitations of the current statutes. HB167 will fill a gap in our current juvenile law and provide necessary protections for "safe haven newborns" by allowing them to be found children in need of assistance, establishing a right to legal counsel for the minor child, creating a notice requirement for parents, and enabling the department of social services to work more efficiently toward finding a safe, stable and permanent home for the minor child.

Currently, it is not clear that children relinquished in accordance with Courts and Judicial Proceedings Article § 5-641, otherwise known as "safe haven newborns" may be adjudicated as children in need of assistance (CINA). Without a finding that the safe haven newborn is a child in need of assistance there are no statutory procedures in place regarding how the Department of Social Services should move forward with a "safe haven newborn" once the child has been relinquished.

HB167 seeks to make several changes to the current legislation to include "safe haven newborns" within the definition of a child in need of assistance thereby

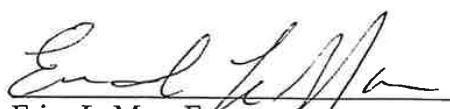
affording those children and potential parents the same rights, protections, and judicial safeguards afforded to CINA children and their parents under current Maryland Law. Additionally, HB167 amends the current legislation to establish notice provisions for potential parents who may be unaware that the child has been relinquished in accordance with § 5-641 while still protecting and adhering to the public policy underlying the safe haven newborn statute protecting the identity and establishing immunity from civil liability or criminal prosecution for the parent relinquishing the child.

HB167 is necessary because of cases like that of John Montgomery¹ One day after John was born; an unidentified woman relinquished him at Holy Cross Hospital. When the mother relinquished John, she told hospital staff she was doing so under the Safe Haven Law. Hospital staff called the local Department of Social Services, and John was sheltered when he was two days old.² Although ultimately found to be a child in need of assistance, the statute did not explicitly apply to John's circumstances. This lead to delay for John, who was treated as an abandoned child³, and his permanency plan was changed to adoption seven months later. Due to these circumstances, the Department was unsure of its reasonable efforts mandate and its notice mandates after filing a Petition for Guardianship. Despite these concerns, John was adopted on National Adoption Day, roughly one year and two weeks, after being sheltered.

By including safe haven newborns in the definition of a child in need of assistance, HB167 establishes a procedure by which local Departments can work towards establishing a safe and permanent home for a relinquished child like John and provide notice to potential parents. Additionally, the child will be afforded a right to counsel and the proceedings will be subject to judicial oversight to protect the rights of the child in the proceedings.

HB167 is a positive step toward protecting the safety and well-being of young children and provides a more efficient process to achieve permanency for newborns.

Maryland Legal Aid supports HB167 with amendments and asks that this committee give it a favorable report.



Erica LeMon, Esq.

Director of Advocacy for Children and Families Staff Attorney
Maryland Legal Aid

¹ The child's name has been changed for purposes of confidentiality.

² MD Courts & Judicial Proceedings § 3-815

³ MD Courts & Judicial Proceedings § 3-812(a)(2); COMAR 07.02.11.03(B)(1)

TESTIMONY OF MAJ BRIAN C. SCHMITT, JUDGE ADVOCATE U.S. ARMY RESERVE
SUPPORTING HOUSE BILL 0808
FEBRUARY 23, 2022

Good afternoon, Chairman and Members of the House Judiciary Committee:

I am here today to provide testimony in support of House Bill 0808. I am a reserve soldier judge advocate in the U.S. Army Reserve. I hold the rank of Major. I commissioned into the Army on June 10, 2009 and have held diverse assignments in the Army. Assignments relevant to my testimony today are: Legal Assistance Attorney at Fort Meade, Maryland from June 2010 to June 2011 and Administrative and Civil Law Attorney at Aberdeen Proving Ground, Maryland from December 2014 through July 2018. In my military capacity, I am currently assigned to the 12th Legal Operations Detachment headquartered at Fort Jackson, South Carolina. My current assignment is that of Team Chief for a team of lawyers and paralegals serving at Fort Stewart, Georgia. These lawyers and paralegals provide legal assistance services to active and reserve component personnel, including Soldier Readiness Processing for units that are slated to mobilize or deploy. My testimony in my military capacity is based on my personal experience and I do not represent the Army or the Department of Defense, and I am not testifying as a subject matter expert for the Army on this particular subject. I have been granted permission to render this testimony in my personal capacity, in uniform, by my command and echelons above my command. I am licensed to practice law in Maryland, Michigan, and diverse federal courts, including the U.S. Supreme Court. I am a resident of Frederick County.

The Army provides legal assistance services to service members and their family members. In this context, some soldiers who have dependents and are either single or part of a dual-military couple must have a "Family Care Plan." This applies to both active and reserve component soldiers. *See* AR 600-20, para. 5-5b., which identifies soldiers for whom a Family Care Plan is mandatory. This is an essential part of military readiness because soldiers must be available for duty when and where the needs of the Army dictate – without interference of family responsibilities. Deployments are frequently sudden, leaving a soldier little time to make on-the-spot arrangements for family member care.

The Family Care Plan must include the plan itself, DA Form 5305-R, where the soldier explains and documents specific measures taken to ensure their family is cared for in their absence. It also includes DA Form 5841-R, Power of Attorney, which is the legal means by which the soldier gives another person the legal authorization to make important decisions regarding children on behalf of the absent soldier-parent. Additionally, DA Form 5840-R is a Certificate of Acceptance as Guardian or Escort, which shows that the guardian has accepted the responsibility of caring for the family members of a soldier and has been provided all necessary legal authority and means to do so. Other forms are also prepared such as DD Form 1172, Application for Uniformed Services Identification Card DEERS Enrollment for each family member. This will provide uninterrupted access to military benefits and privileges while the soldier is absent. Letters of instruction are also frequently executed by soldiers, such as authorization for the guardian to obtain access to military installations and basic military services such as the Commissary and PX.

Applying this to installations in Maryland, such as Fort Meade, APG, and Fort Detrick, the standard legal assistance protocol is for guardianship Powers of Attorney to be executed. These are routinely drafted by legal assistance offices at these installations per the client's request. Legal assistance lawyers are under the impression that these POAs are legally recognized in nearly all jurisdictions.

In Maryland, there is no statutory basis for a guardianship POA as described above. Nonetheless, lawyers drafted these POAs and courts and organizations accepted these until 2014 in the Court of Special Appeals, *In re Guardianship of Zealand W.*, 220 Md. App. 66 (2014), where the court held a court is "not authorized, under Section 13-702 of the Estates and Trusts Article to appoint a third party as temporary or permanent guardian of the person of either Zealand or Sophia when (1) the children's mother is alive; (2) mother's parental rights have never been terminated; and (3) no testamentary appointment has been made." (emphasis added) In other words, one cannot file a Petition for Guardianship and appoint a guardian for their minor child while a parent is alive AND a parent's rights have not been terminated.

In Maryland, some jurisdictions strictly follow *Zealand*, where other jurisdictions have carved out exceptions such as having both parents' consent, and other courts have individual judicial variance where one judge may act and another may dismiss for lack of subject matter jurisdiction. I am aware of three anecdotes in Howard County schools where the military guardianship POA was not accepted, where the Fort Meade legal assistance office engaged local elected officials to pressure the administrators to honor the POA.

Passage of HB 0808 would fully resolve the aforementioned issues. As such, I personally ask this Committee for a favorable report on the bill. The passage of this bill will further ensure military readiness is achieved in the State of Maryland. Soldiers need to be reassured that on deployment or mobilization everything is taken care of at home, which will minimize family-related stress, which, in turn will enable a soldier to concentrate more fully on his or her mission. A deployment or mobilization carries immense stress on the service member and family members. Ensuring the best readiness in the State of Maryland will allow our military services to decisively fight and win our nation's wars.

In Re: B.Cd. & B.Cb.

IN THE
SUPREME COURT
OF MARYLAND
September Term, 2025
No. 47

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 5th day of January, 2026, a copy of the Petitioner's Brief and Appendix and Record Extract in the captioned case was delivered via the MDEC system to:

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/s/ Marissa Neill

Marissa Neill