

CHILD IN NEED OF ASSISTANCE

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A. Preliminaries

1. Jurisdiction and Venue

a. Jurisdiction

- (i) The juvenile court¹ has exclusive original jurisdiction over any child alleged to be a child in need of assistance (CINA). C&J §3-803(a)(1).
- (ii) The juvenile court also has exclusive original jurisdiction over 1) proceedings to terminate parental rights after a CINA proceeding, and 2) guardianship review and adoption proceedings after a TPR proceeding. C & J §3-803(a)(4),(5),(6)²
- (iii) The court has jurisdiction if the individual is under 18 at the time a CINA petition is filed. C&J §3-804(a)
- (iv) The Uniform Child Custody Jurisdiction Act (UCCJA) governs interstate custody cases, including CINA proceedings. *See* F.L. §§9-201(d)(2), 9-202, 9-204.

- b. Venue: a CINA petition must be filed in the county where either 1) the child is residing when the petition is filed or 2) the act on which the petition is based allegedly occurred. C&J § 3-805

2. Petition

- a. On receipt of a complaint from a person or agency having knowledge of the facts which may cause a child to be subject to the jurisdiction of the court, the local department shall file a petition if it concludes that the court has

¹“Juvenile court” refers to the circuit court, except in Montgomery County, where it is the District Court.

²Effective October 1, 2003

jurisdiction over the matter and that the filing of the petition is in the best interests of the child. C&J §3-809(a).

- b. Within 5 days after reaching a decision not to file the petition, the local department must provide its decision and reasoning to 1) a child over the age of 10 who would have been the subject of the petition, 2) the parent, guardian, or custodian of the child who would have been the subject of the petition, and 3) each person or agency that requested the petition be filed. C&J §3-809(b). If the Secretary of Human Resources or the Secretary's designee refuses to direct the local department to file a petition, the person or agency that filed the complaint under 3-809(a) or caused it to be filed may file the petition. C & J § 3-809(e)
- c. Contents
 - (i) The CINA petition shall set forth in clear and simple language the facts supporting the allegation that the child is in need of assistance. C&J §3-811(a)(1); Rule 11-103(b), (c).
 - (ii) The petition must state whether the child is in shelter care and, if so, whether the parent has been notified and the date shelter care began. Rule 11-103(e).
 - (iii) The petition should include an allegation of reasonable efforts made to prevent removal from the child's home or make it possible for the child to return safely home. 42 U.S.C.A. §671(a)(15)(B).
 - (iv) The petition must give the name of each witness to be subpoenaed in support of the petition. Rule 11-103(d).
- d. The clerk shall make a separate file for each case and each child. C & J §3-810(c); C & J §3-811.

B. Proceedings

1. Generally

- a. Conducted without a jury. C & J §3-808.
- b. The court may exclude the general public from CINA hearings and admit only those persons with a direct interest in the proceeding and their representatives. C&J §3-810(b)(1). Federal law requires that the proceeding be closed to the public whenever abuse or neglect of the child is being

discussed. C & J § 3-801(b)(2); 42 U.S.C. §5106a(b)(2)(A)(viii). But see *In re Ashley E.*, COSA, Sept. Term 2003, in which the Court of Special Appeals held it is not reversible error to fail to close the courtroom where prejudice cannot be shown. Cert petition has been filed.

- c. Except for shelter care, the clerk must give each party at least five days notice before a CINA hearing. Md. Rule 11-110(c). If the local department filed the petition, it is a party. C&J §3-801(u)(1)(iii).
- d. Representation
 - (i) The child must be represented by an attorney. C&J § 3-813(d).
 - (ii) Parties have a right to counsel at each stage of a CINA case. C&J §3-813(a). Indigent custodial and noncustodial parents may be represented by the Office of the Public Defender. C&J §3-813(c); FL §5-323(b). The right to representation includes the right to make closing argument. *In re Emileigh F.*, 353 Md. 30, 724 A.2d 639 (1999).
 - (iii) The court may also appoint a volunteer Court Appointed Special Advocate (CASA). C&J §3-830.
- e. CINA proceedings are not criminal in nature and do not give rise to double jeopardy. *In re John P.*, 311 Md. 700, 537 A.2d 263 (1988); *In re Neil C.*, 308 Md. 591, 521 A.2d 329 (1987).

2. Shelter Care

- a. Definition: means a temporary placement of a child outside the home at any time before the disposition. C&J § 3-801(w).
- b. Emergency shelter care
 - (i) DSS may place a child in emergency shelter care before a hearing if placement is required to protect the child from serious immediate danger, there is no parent, guardian, custodian, or other person able to provide supervision, and the child's continued placement in the child's home is contrary to the child's welfare; and, because of an alleged emergency situation, removal from the home is reasonable under the circumstances to provide for the child's safety or reasonable but unsuccessful efforts have been made to prevent or eliminate the need for removal from the child's home and as appropriate,

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reasonable efforts are being made to return a child to a child's home. C & J §3-815(b); FL §5-709(c).

- (ii) A petition for continued shelter care must be filed on the next day that the court is sitting, with reasonable oral or written notice to the child's parent, guardian, or custodian. C&J §3-815(c); Rule 11-112a2, 3.

c. Continued shelter care

- (i) The shelter-care hearing ordinarily must be held on the same day the petition is filed. It may be postponed for good cause but not for more than 8 days after the child is removed. Rule 11-112a3.
- (ii) DSS must demonstrate that it made reasonable efforts to prevent removal and that continued shelter care is justified. C&J §3-815(e); FL § 5-525(d); Rule 11-112b1.
- (iii) The rules of evidence do not apply at shelter-care hearings. Rules 5-101(b)(11), 11-112d.
- (iv) Shelter care may not exceed 30 days, except that shelter care may be extended for an additional period of 30 days if the court finds it necessary. C&J §3-815(c)(4).

3. Adjudication

- a. The primary purpose of the adjudicatory hearing is to determine whether the allegations in the petition, other than the allegation that the child requires the court's intervention, are true. C & J § 3-801(c)
- b. The allegations of the CINA petition must be proven by a preponderance of the evidence. C&J 3-817(c); Rule 11-114e3.
- c. The adjudicatory hearing must begin within 30 days after shelter care is ordered and must continue, so far as possible, on a day to day basis until completed. In re Vanessa C., 104 Md. App. 452, 656 A.2d 795 (1995).
- d. The rules of evidence are strictly applied in an adjudication hearing. CJ 3-817 (b).

4. Disposition

- a. The purpose of the disposition hearing is to determine whether a child needs or requires the court's assistance and the nature of that assistance. C&J §3-801(m).
- b. CINA defined: 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. C&J § 3-801(f).
 - (i) Both parents must be unable or unwilling to give proper care and attention to the child and the child's problems. In re Russell G., 108 Md. App. 366, 376 (1996).
 - (ii) Within a year of the child's birth, there is a presumption that child is not receiving ordinary care and proper care and attention from the mother if (1) the child was born exposed to cocaine, heroin, or a derivative of cocaine or heroine evident through tests of the mother and child or from tests at time of child's delivery in the hospital and (2) drug treatment is made available to the mother and the mother refuses the recommended level of drug treatment, or does not successfully complete the recommended level of treatment. C&J § 3-818
 - (iii) A child may not be committed to the department and placed in out-of-home care solely because the parent is homeless. FL §5-525(c)(2)(i).
 - (iv) The parents' ability to care for one sibling is probative of their ability to care for another sibling, and the court need not wait until a child suffers actual injury to find that the child has been neglected. In re William B., 73 Md. App. 68, 77 533 A.2d 16, 21(1987).
 - (v) In determining whether to declare a child a CINA as defined in C & J §3-801(f) based on neglect, the Court must look to the definition of "neglect" as defined in C & J §3-801(s) to determine whether the child would be placed at a substantial risk of harm by remaining with the parent. This includes taking into account neglect suffered by other children who were at one time in the parent's care. In re Andrew A., 149 Md. App. 412, 815 A.2d 931 (2003).
- c. The disposition hearing shall be held on the same day as the adjudicatory hearing unless on its own motion or a motion of a party, the court finds that

there is good cause to delay the disposition hearing to a later day. C&J §3-819(a)(2).³ It must be held no later than 30 days after the end of the adjudicatory hearing unless good cause is found. C & J § 3-819(a)(3); Rule 11-115a.

- d. The court may decline to require strict application of the rules of evidence, other than the rules concerning competency of witnesses. Rule 5-101(c).
- e. The court may direct DSS or another agency to conduct a study of the child, the child's family and environment, and other matters relevant to the disposition of the case. C&J §3-816(a). The report of the study is admissible at the disposition hearing, but not at the adjudicatory hearing. C&J §3-816(c)(1).
 - (i) A parent or other party to a CINA proceeding may bring a motion for the child to undergo an examination if the motioning party shows both that there is good cause for the examination and that it will not harm the child. In re Mark M., 365 Md. 687, 782 A.2d 332 (2001).
- f. Permitted dispositions: The court may place the child under supervision in the child's home and grant limited guardianship to the department or an individual or both for specific purposes including medical and educational purposes or for other appropriate services if a parent is unavailable, unwilling, or unable to consent to services that are in the best interest of the child. The court may also order the child and the child's parents, guardian, or custodian to participate in rehabilitative services. C&J §3-819(c).
 - (i) The court may designate the type of facility in which the child is to be placed but may not designate the specific facility. C&J §3-820(c)(ii); In re Demetrius J., 321 Md. 468, 583 A.2d 258 (1990) (delinquency case).
 - (ii) The court may not commit the child to a local board of education because boards of education are not agencies charged with taking custody of children. In re Roger S., 338 Md. 385, 658 A.2d 696 (1995).
 - (iii) A child who is not a delinquent child may not be committed or transferred to a facility used for confinement of delinquent children. C & J § 3-825(b). A child may not be placed in a facility with adults

³ New language effective October 1, 2003.

unless that child is placed in accommodations that are separate from adults who are confined to that facility or institution. C&J §3-825(c)(1).

- (iv) If the allegations are sustained against only one parent of a child, and there is another parent who is willing and able to care for the child, the court may not find that the child is CINA but before dismissing the case, the court may award custody to the other parent. CJ §3-819 9(e).
- g. The court may also enter an order controlling the conduct of any person who is properly before the court. C&J §3-821(a).
- h. After Removal
 - (i) In selecting a placement that is in the child's best interests, DSS shall, as a first priority, attempt to place the child with a kinship parent. FL §5-534(c).
 - (ii) DSS must develop a plan to assess the child's treatment needs within 45 days of the child's placement in a shelter care facility. C & J §3-815(f)(5)(i). DSS must also prepare a permanency plan in writing within 60 days of the date the child comes into care. FL §5-525(f)(i).

C. Reasonable Family Preservation and Reunification Efforts

1. Requirement

- a. Shelter care may only be continued if, among other factors, the court finds that there were reasonable efforts made to prevent or eliminate the need for removal from the home or finds that continued shelter care is necessary due to an emergency situation. C&J §3-815(e).
- b. After a child's removal, DSS must make reasonable efforts to make it possible for the child to safely return home. FL §5-525(d)(1).
- c. Reasonable efforts to place the child for adoption or with a legal guardian may be made concurrently with reunification efforts. FL §5-525(d)(3).

2. Waiver of reunification efforts

- a. DSS may include a request for waiver of reasonable reunification efforts in the CINA petition if:
 - (i) The parent subjected the child to torture, chronic abuse, sexual abuse, or chronic and life-threatening neglect;
 - (ii) The parent has been convicted of a crime of violence as defined in Criminal Law article § 14-101 or of aiding or abetting, conspiring or soliciting to commit a crime of violence; or
 - (iii) The parent has involuntarily lost parental rights to a sibling of the child. C&J § 3-812(b)(1),(2),(3).
- b. If the department learns of the existence of an aggravating circumstance after the CINA petition is filed, the department may immediately request a waiver. C&J §3-812(c).
- c. A court must waive the reasonable efforts requirement if it finds by clear and convincing evidence that one of the aggravating circumstances exists. C&J §3-812(d).
- d. If reunification efforts are waived, a permanency planning hearing must be held within 30 days. C&J §3-823(b)(1)(ii). If all parties agree, the permanency planning hearing may be held on the same day as the reasonable efforts hearing. C&J §3-823(b)(3).

D. Permanency Planning

1. Initial Hearing

- a. The initial permanency planning hearing must be held within 11 months after a child is placed in out-of-home care or within 30 days after a court waives the reasonable efforts requirement. C&J §3-823(b)(1)(i),(ii).
- b. The court must determine whether the permanency plan for the child should be return to the parent or guardian, placement with relatives, placement for adoption, emancipation, permanent or long-term placement in out-of-home care, or continued placement for a specified period. C&J § 3-823(e)(1). If the child is 16 or older, the court must determine the services needed to help the child make the transition from placement to independent living. C&J §3-823(e)(2).

- c. A child may be continued in permanent or long-term foster care or foster care for a specified period only if DSS has documented a compelling reason why it would not be in the child's best interest to return home, be referred for termination of parental rights, or be placed for adoption or guardianship. C&J §3-823(f).
- d. Factors to consider in determining the permanency plan:
 - (i) The child's safety and health;
 - (ii) The child's attachment to natural parents and siblings;
 - (iii) The child's attachment to the current caregiver;
 - (iv) The length of time the child has lived with the current caregiver;
 - (v) The potential harm to the child if moved from the current placement; and
 - (vi) The potential harm to the child of remaining in State custody for an excessively long time. FL §5-525(e)(1).
- e. If the court orders a permanency plan of adoption, it must schedule a TPR hearing instead of the next 6-month review hearing. CJ §3-823 (g)(2).

2. Review hearings

- a. Held every 6 months after the permanency plan is set, unless the court grants guardianship of the child to an individual or determines that the child should continue in permanent foster care or kinship care. C&J §3-823(h)(1).
- b. At the hearing, the court must determine the necessity and appropriateness of continued commitment, the extent of compliance with the permanency plan, and the extent of progress toward alleviating the causes of commitment. The court must project a reasonable date by which the child may return home or be placed for adoption or guardianship and evaluate the child's safety in order to take the necessary measures needed to protect the child. C&J §3-823(h)(2). The permanency plan must be changed if a change in the plan would be in the child's best interest. In re Norberto C., 133 Md. App. 558, 758 A.2d 637 (2000).
- c. If the court determines that the permanency plan should be adoption, the court shall order the local department to file a TPR petition within 30 days or

if the local department does not support the plan within 60 days, and the hearing on the TPR petition shall be held in lieu of the next 6-month permanency plan review. C&J §3-823(g).

- d. Every reasonable effort shall be made to effectuate a permanent placement for the child within 24 months of the date of the initial placement. C&J §3-823(h)(3).
- e. Before any permanency plan hearing, DSS must give at least 7 days notice, if practicable, to the child's foster parent, preadoptive parent, or relative caregiver. C&J §3-823(i)(2).
- f. If the plan is to place the child with a specific caregiver who agrees to care for the child on a permanent basis, the court needs to review the matter every 12 months unless the case is terminated. CJ §3-823 (h)(i) – (iii).

E. Termination of Jurisdiction

- 1. Jurisdiction continues over a child adjudicated CINA until age 21, unless terminated sooner by the court. C&J §3-804(b). In re Johanna F., 284 Md. 643, 399 A.2d 245 (1979).
- 2. Jurisdiction continues after TPR unless terminated by the court. In re Arlene G., 301 Md. 355, 483 A.2d 39 (1984).
- 3. The juvenile court retains the power to act during the pendency of an appeal; however, the court may not terminate its jurisdiction, thereby mooting the appeal, if doing so would thwart the appellant's right of appeal. In re Emileigh F., 355 Md. 198, 733 A.2d 1103 (1999).

F. Case Summaries

Alethea W., 130 Md. App. 635, 747 A.2d 231 (2000).

Psychiatrist's advisement that communications would not be confidential was equivalent to an advisement that they would not be privileged. Fact that mother had to be medicated in order to complete mental examinations did not transform evaluation into psychiatrist/patient relationship subject to privilege. Exclusion of privilege did not apply solely for purpose of case in which examination was ordered, but applied to subsequent unrelated proceeding, as well.

Andrew A., 149 Md. App. 412, 815 A.2d 931 (2003)

In determining whether to declare a child a CINA as defined in C & J §3-801(f) based on neglect, the Court must look to the definition of "neglect" as defined in C & J §3-801(s) to

determine whether the child would be placed at a substantial risk of harm by remaining with the parent. This includes taking into account neglect suffered by other children who were at one time in the parent's care.

Ann M., 309 Md. 564, 525 A.2d 1054 (1987).

Court abused its discretion in imposing criminal contempt conviction for violation of CINA order directing that child attend school regularly; appropriate action would have been to proceed by way of CINS petition.

Ariel G., 153 Md. App. 698, 837 A.2d 1044, *cert. granted*, 380 Md. 617, 846 A.2d 401 (2004).

Mother had right, protected by the Fifth Amendment, to decline to answer when asked "where she was ten months previously when she last saw her son inasmuch as she had 'reasonable cause to apprehend danger from a direct answer' in light of . . . pending . . . charges."

Arlene G., 301 Md. 355, 483 A.2d 39 (1984).

Termination of parental rights does not divest the juvenile court of jurisdiction over the child

Ashley E., No. 1907, Sept. Term, 2003 (July 20, 2004), *petition for writ of certiorari* filed.

The court may decline to strictly apply the rules of evidence in permanency planning and review hearings. The failure to close the courtroom is not reversible error where no prejudice is shown to the moving party.

Baltimore City Dept. of Social Services v. Bouknight, 493 U.S. 549, 110 S.Ct. 900 (1990).

Where mother refused to produce or divulge the whereabouts of child committed to DSS, court's order holding her in contempt did not violate her 5th Amendment privilege against self-incrimination. *But see In re: Ariel G. (cert. granted).*

Barry E., 107 Md. App. 206, 667 A.2d 931 (1995).

Continued out-of-home placement was not an abuse of discretion where the mother was unwilling or unable to protect the children from their abusive father and where mother was unable to deal with the aftermath of the abuse in a constructive manner. Visitation may not be left to the unfettered discretion of five-year-old child. Private in chambers interviews with children are proper so long as counsel are given notice and the proceedings are recorded. It was error for the court to refuse to hear testimony from the mother's psychiatrist regarding the advisability of visits and DSS's lack of cooperation.

Beverly B., 72 Md. App. 433, 530 A.2d 766 (1987).

Mental illness, in and of itself, is not a sufficient basis to remove a child from her home, but the impact of the mother's mental illness upon the child's development justified child's removal from the home. In rendering its decision, the court need not explicitly spell out every step of its thought processes.

Caya B., 153 Md. App. 63, 834 A.2d 997 (2003)

Trial court's order granting custody and guardianship of child to relatives did not constitute termination of parental rights. Upon request by parent to order visitation prior to termination of CINA proceeding, court had discretion to order formal visitation or to deny it as inappropriate but did not have discretion to leave matters in hands of custodian.

Colin R., 63 Md. App. 684, 493 A.2d 1083 (1985).

Case of Munchausen Syndrome by Proxy. Right of confrontation does not apply in a CINA case, so that laboratory test results contained in hospital record were admissible. *Ex parte* communication between social worker and judge about the case did not require recusal.

Damon M., 362 Md. 429, 765 A.2d 624 (2001).

Change in permanency plan is an appealable order.

Danielle B., 78 Md. App. 41, 552 A.2d 570 (1989).

Standard of review for exceptions from master's report and recommendations.

Dustin T., 93 Md. App. 726, 614 A.2d 999 (1992).

Mother's prenatal drug use and living arrangements are proper considerations in determining whether a child is neglected. A parent's past conduct is relevant to a consideration of her future conduct. Finding that child would be placed at risk of significant harm should he be returned to parent, is sufficient to support a determination that the child is a CINA.

Emileigh F. (I), 353 Md. 30, 724 A.2d 639 (1999).

Where only one party objected, but court's ruling clearly applied to all parties, issue was preserved for non-objecting as well as objecting party. Court abused its discretion in denying the parties the opportunity to present closing argument.

Emileigh F. (II), 355 Md. 198, 733 A.2d 1103 (1999).

It was error for the juvenile court to terminate its jurisdiction while its custody order was on appeal.

Erica S., 71 Md. App. 148, 524 A.2d 108 (1987).

Mother's long-time, live-in male companion was not her child's "natural father" for purposes of obtaining party status in a CINA proceeding.

George V., 87 Md. App. 188, 589 A.2d 521 (1991) (delinquency).

Purpose of adjudication hearing is to determine the truth of the allegations in the petition. At disposition, court determines whether the child is in need of the court's assistance and the ultimate disposition. It is the disposition that is appealable; the adjudication is not an appealable judgment.

Iris M., 118 Md. App. 636, 703 A.2d 1279 (1998).

Denial of visitation was not warranted where there was no evidence (other than hearsay reports of allegations) that father had abused his child. In CINA case, later orders supersede earlier orders.

Jertrude O., 56 Md. App. 83, 466 A.2d 885 (1983).

Child's unexplained injuries were sufficient evidence to support CINA finding, but were insufficient to warrant removal from the home, where there was no evidence and, thus, only a possibility that the injuries resulted from abuse.

John P., 311 Md. 700, 537 A.2d 263 (1988).

Court may reconsider its denial of CINA petition when party seeking reconsideration shows good cause in terms of the best interests of the child and the CINA petition does not seek the imposition of criminal sanctions.

Joseph G., 94 Md. App. 343, 617 A.2d 1086 (1993).

Evidence was sufficient to support a finding that an infant who was severely abused by his mother, and whose father still had a relationship with the mother, was a CINA. The evidence was insufficient to warrant a denial of custody to the father, where he had moved across town to distance himself from the mother, agreed to allow the mother no contact with the child, and had made preparations to assume custody of the child.

Justin D., 357 Md. 431, 745 A.2d 408 (2000).

Subsequent CINA order, renders previous order moot. In its order, juvenile court must set the minimum level of visitation to be provided. Beyond that, order may allow for visitation to be increased by agreement of the parties.

Keith W., 310 Md. 99, 527 A.2d 35 (1987) (delinquency).

Failure to hold adjudication hearing within prescribed time period did not warrant dismissal of the petition.

Kristin L., 77 Md. App. 140, 549 A.2d 760 (1988).

Where the court appoints an attorney to represent children in a CINA proceedings and assesses the attorney's fees against another party, that party is not entitled to a jury trial on the issue of attorney's fees. The assessment of attorney's fees is incidental to the CINA proceeding in which there is no right to jury trial.

Mark M., 365 Md. 687, 782 A.2d 332 (2001).

A trial court may not delegate authority to determine a parent's visitation rights to a non-judicial agency or person. Consequently, a trial court's order that a child's therapist determine when the parent could visit the child constituted an improper delegation of authority. Court also held that motions for independent medical examinations may be made by a parent or other party in a CINA proceeding. The motion must be made pursuant to C & J §3-816, and the motion must show that there is good cause for the examination and that it will not be harmful to the child.

Matthew R., 113 Md. App. 701, 688 A.2d 955 (1997).

Court erred in compelling mother to release psychiatric treatment records. Mother did not introduce her mental health as an element of her claim by responding to the Department's assertion that she mentally unfit. By introducing expert opinion on mental fitness, party may waive privilege to records upon which that opinion was based.

Michael B., 345 Md. 232, 691 A.2d 1309 (1997).

Order of the juvenile court terminating its jurisdiction while appeal was pending on the issue of whether mother could be required to visit with child rendered appeal moot. Appeal would not be decided where there is no imperative or manifest urgency to establish a future rule of conduct.

Michael G., 107 Md. App. 257, 667 A.2d 956 (1995).

Child's out-of-court statements were not admissible as admissions of a party opponent, when they were introduced against the mother.

Michael W., 89 Md. App. 612, 599 A.2d 458 (1991).

In de novo hearing on mother's exceptions to master's recommended disposition, it was proper for the court to hear additional evidence and to reject the master's recommendation the child be found to be a CINA. Where the court found that the child's fractured leg resulted from an accident, the evidence supported the finding that the child was not a CINA.

Neil C., 308 Md. 591, 521 A.2d 329 (1987).

Acquittal on criminal child abuse charges does not collaterally estop the state from pursuing CINA petition; CINA proceeding is not a criminal prosecution for double jeopardy purposes.

Norberto C., 133 Md. App. 558, 758 A.2d 637 (2000).

Where the juvenile court has approved the department's permanency plan, it must approve any change in the plan, based upon the best interest of the child.

Prince S., 355 Md. 227, 734 A.2d 210 (1999).

Mother's appeal of removal of child, who had earlier been found to be a CINA, without an evidentiary hearing was moot, where the child was returned to her custody while the appeal was pending.

Rachel S., 60 Md. App. 147, 481 A.2d 520 (1984).

Dismissal of shelter care petition is not a proper basis for dismissal of CINA petition; Dismissal of CINA petition on procedural grounds is not a proper basis for dismissal of second CINA petition; Polygraph test results are inadmissible.

Rachel T., 77 Md. App. 20, 549 A.2d 27 (1988).

Statements of five-year-old victim of sexual abuse were admissible under treating physician exception and business records exception to hearsay rule.

Richard H., 128 Md. App. 71, 736 A.2d 1121 (1999).

Decision to permit grandparents to intervene in a CINA proceeding is within the discretion of the trial judge. DSS need only consider placement with a relative and need not recommend placement with a relative when it is not in the child's best interests. Custody determination may not be reversed absent showing of a clear abuse of discretion.

Roger S., 338 Md. 385, 658 A.2d 696 (1995).

Order committing child to Board of Education and ordering the Board to provide special education services exceeded the juvenile court's authority.

Russell G., 108 Md. App. 366, 672 A.2d 109 (1996).

A child cannot be a CINA unless both parents are unable or unwilling to care for the child

Tamara R., 136 Md. App. 236, 764 A.2d 844 (2000).

The juvenile court may grant sibling visitation between a child declared a CINA and siblings remaining in the parent's custody. In determining whether to grant visitation, the court must find that there would be potential harm to the CINA should visitation be denied; however, it is not necessary that a denial of visitation would be harmful to the other siblings. Should the court determine that visitation would be in the best interest of the CINA, the court should also consider any negative effects which the grant of visitation would have on the other siblings and their relationship with the parents.

Thomas H., 381 Md. 174, 848 A.2d 652 (2004)

Court discusses issue of "whether, and in what manner, a juvenile court, in its consideration of a [CINA] petition, can find, conclusively, that a man previously adjudicated to be the father of the child, is not the father" but dismisses appeal as abandoned without ruling on the issue.

Valerie H., 310 Md. 113, 527 A.2d 42 (1987).

Order "discharging" DSS from further responsibility for a CINA did not "terminate" the court's jurisdiction.

Vanessa C., 104 Md. App. 452, 656 A.2d 795 (1995).

Requirement that adjudication hearing be "held" within 30 days of child's placement in shelter care means that the hearing must be initiated within 30 days and be conducted with a reasonable degree of continuity. Admission of mother's psychiatric treatment record, over her objection on the basis of privilege, was error, but was harmless where it did not affect the outcome of the hearing.

Wanda B., 69 Md. App. 105, 516 A.2d 615 (1986).

Court may order a psychological evaluation at any stage of a CINA proceeding, without holding a hearing. When an evaluation is ordered, the testimony of the evaluator is admissible in an adjudicatory or disposition hearing; the report, by itself, is admissible only at the disposition hearing.

William B., 73 Md. App. 68, 533 A.2d 16 (1987).

Although parents' alcoholism, in and of itself was not a sufficient basis for a CINA finding, evidence that parents' alcoholism caused them to neglect child's sibling and conditions in the home, was sufficient to support finding that child was a CINA and removal from the home was in his best interests. Parents' ability to care for one child is probative of their ability to care for another child in the family. The judge need not wait until the child suffers some injury before determining that he is neglected.

Yve S., 373 Md. 551, 819 A.2d 1030 (2003)

In determining a permanency plan, the best interests of the child standard does not directly translate into finding the best environment possible for the child. Statute mandates that reunification with a parent be the primary goal of the permanency plan unless there is competent and credible evidence that future abuse and or neglect is likely. The Court also held that mental illness was not in and of itself a compelling reason not to pursue reunification. Instead, the Court must look to whether it is not likely that the neglect will be repeated.

