

Circuit Court for Baltimore County
Case No. C-03-JV-23-000182

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 106

September Term, 2025

IN RE: H.S.

Wells, C.J.
Beachley,
Eyler, James R.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Beachley, J.

Filed: November 3, 2025

*This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for its persuasive value only if the citation conforms to Rule 1-104(a)(2)(B).

R.B. (“Father”) appeals from the Circuit Court for Baltimore County’s decision to grant custody and guardianship of his daughter H.S. to her maternal uncle B.S. (“Uncle”) and his girlfriend N.B. (“Aunt”). Father presents the following questions for our review:

1. Did the court err when it sustained certain petition findings against Father and then declared H.S. [a] CINA and denied Father custody of her?
2. Did the court err when it failed to find whether DSS made reasonable efforts toward reunification at the final hearing and when it made prior reasonable-efforts findings?
3. Did the court err when it added relative legal guardianship as a goal at the first permanency hearing?
4. Did it further err when it granted B.S. and N.B. legal guardianship at the next review, especially without adequate caregiver-suitability reports, gave H.S. and her caretakers discretion to set the terms of Father’s visitation, and terminated jurisdiction, denying Father custody of or ongoing reunification with H.S.?

For the reasons discussed herein, we shall reverse and remand for further proceedings consistent with this opinion.

FACTS AND PROCEEDINGS

Father and L.K. (“Mother”) are the parents of H.S., born in October 2009. Father and Mother were never married. Prior to these proceedings, Mother had primary physical custody of H.S. and both parents shared joint legal custody.

Sometime prior to March 2021, H.S.’s half-sister J.K. accused her father (H.S.’s stepfather) of sexual abuse. H.S. reported in August 2022 that she was also sexually abused by the stepfather. On November 5, 2022, H.S. moved in with Uncle and Aunt (also referred to as the “Caregivers”). The Baltimore County Department of Social Services (“DSS”) filed a petition for H.S. to be declared a Child in Need of Assistance (CINA) on March 14,

2023.¹ On June 2, 2023, Father filed a motion requesting that H.S. be placed in his care based on certain occurrences at the Caregivers’ home and the lack of any abuse or neglect allegations against him.

We shall thoroughly discuss the three principal hearings in this case.

I. The September 13, 2023 Hearing

The court held an adjudication and disposition hearing on September 13, 2023. Because Mother did not challenge the CINA petition or H.S.’s placement with the Caregivers, the evidence primarily focused on Father’s relationship with H.S. and his interactions with DSS. Father, his girlfriend S.C., and Shirina Cannon, a DSS social worker, testified at this hearing.

Ms. Cannon testified that although Father had a “substantial amount of visits” with H.S., the visitation was not regular. The most recent visit, according to Ms. Cannon, was one week prior to the hearing. Father’s visitation was unsupervised and there was no visitation schedule in place. Additionally, Father reported to Ms. Cannon that H.S. would sometimes refuse to visit with him. According to Ms. Cannon, most of the visits occurred in Father’s car while he made deliveries for DoorDash, but Father had also taken H.S. to church, out to eat, and to the State Fair. To her knowledge, H.S. had never spent the night at Father’s house. According to Father, H.S. spent the night at his house approximately

¹ A child in need of assistance is “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.” Md. Code (1974, 2020 Repl. Vol.), § 3-801(f) of the Courts and Judicial Proceedings Article (“CJP”).

twice per month prior to DSS involvement, but had only spent the night once in the year prior to the hearing. He also testified that visits during his DoorDash deliveries were H.S.’s idea, and he had been encouraged to accept any visits she was willing to have with him. S.C. testified that H.S. frequently stayed with Father in 2021, including overnights on school nights, and that she had spent the night at Father’s house on Christmas 2022. Ms. Cannon testified that Father made threats to H.S. that he would not return her to the Caregivers after a visit (without attempting to follow through on the threats); Father denied making any such comments.

Father’s effect on H.S.’s mental health was an important aspect of the hearing. Ms. Cannon and S.C. testified that H.S. had expressed suicidal ideation in November 2022 and January 2023. According to Ms. Cannon, H.S.’s mental health improved between January and September 2023. Ms. Cannon was concerned about Father’s “displays of anger” and was afraid H.S. would run away if placed in Father’s care. She testified that, at some point prior to January 2023, Father told H.S., “I wish you were never born” and “You’re just like your mother.” She stated that, in a January 2023 family involvement meeting, Father admitted that those comments were inappropriate and “was dedicated to changing his behavior with [H.S.’s] well-being in mind.” Father testified that he had made comments similar to those,² but that the comments were made to Mother, not H.S., and Mother either relayed the comments to H.S. or allowed H.S. to listen in on the phone calls when the

² Specifically, Father denied having said he wished H.S. was never born, but admitted telling Mother that he wished he never had a child with her.

comments were made.³ Father admitted that he should not have made the comments, but asserted that he should not be blamed for H.S. finding out about them.

DSS arranged for family therapy between Father, Mother, and H.S., which Ms. Cannon described as “unsuccessful.” DSS then attempted to arrange therapy between just Father and H.S., but the service provider did not have any availability, and they were placed on a waitlist. In early July 2023, DSS contacted Father to let him know the service provider was available for therapy, but Father declined, stating that he had independently arranged for family therapy with H.S. through another provider. Ms. Cannon testified that Father arranged for family therapy one to two weeks after DSS contacted him. On August 14, 2023, DSS asked Father for the address of the therapist so that H.S. could be transported to therapy. Father refused to provide the address and H.S. was unable to attend therapy that day. Ms. Cannon testified that H.S. and Father had a therapy session together one to two weeks prior to the hearing. Father testified that in total, he and H.S. had one in-person therapy session and one virtual therapy session. The court admitted into evidence undated text messages between Father and H.S. in which H.S. refused to attend family therapy, stating that Ms. Cannon told her she does not need to attend therapy if she does not want to. Father testified that H.S. had told him she did not believe family therapy was necessary because “[s]he thinks our relationship is okay, she just doesn’t want to live with me[.]” He described his overall relationship with H.S. as “positive.”

³ Father stated that he experienced a similar problem with Aunt inappropriately relaying to H.S. comments he made in private conversations.

Ms. Cannon testified that Father and DSS had a “great working relationship” prior to March or April 2023, when Father announced that he no longer wanted contact with DSS after reading the court reports. Father testified that he did not remember saying he did not want contact with DSS, and noted that he had been in contact with DSS “[q]uite often.”

DSS completed a home study of Father’s home in the fall of 2022. Because Father moved, DSS completed a second home study in June 2023. According to Ms. Cannon, when she asked Father during the second home study who lived in the house with him, he at first only answered “the boogie man.” Father eventually responded appropriately, stating S.C. and her son R.L. lived with him. Father testified that he gave his initial response because he thought Ms. Cannon’s question was “ridiculous,” as he had provided her that information “two or three days prior” to the second home study. Ms. Cannon testified that Father only allowed her to access one upstairs bedroom during the home study, and prevented her from “look[ing] at any other rooms of the home.” According to Father, when Ms. Cannon arrived for the second home assessment, he saw her taking photographs of the house before she knocked on the door. He was not comfortable with this, as no photographs had been taken during the first home assessment, and requested that she not take photographs. Father stated that Ms. Cannon viewed the living room and kitchen, including the contents of the refrigerator and cabinets, before going upstairs to see H.S.’s bedroom. When Ms. Cannon asked to see the other two bedrooms, Father did not allow her to do so because R.L. was asleep in his room and S.C. was getting ready for work

in the other bedroom. Father also noted that Ms. Cannon had not asked to see every room in the house during the first home study. Father testified that Ms. Cannon became upset by his refusal, then checked that the plumbing in the bathroom worked, and left. Father stated that he invited Ms. Cannon and her supervisor to return for another assessment, but they never requested to do so.

At the conclusion of the hearing, the court sustained most of the facts alleged in the CINA Petition, but refused to sustain certain allegations relating to Father due to lack of evidence. The court sustained findings concerning Mother’s neglect of H.S. and failure to protect her from the stepfather’s abuse. The court sustained the following allegations relevant to Father:

- In late December 2022, after Mother threatened to “forcibly” remove H.S. from the Caregivers’ home, H.S. “expressed suicidal ideations when asked about returning to the care of either of her parents.”
- “Since [H.S.] began living with her uncle in December[] 2022 [sic], she has visited regularly with her father While this visitation has helped to improve the relationship between [H.S.] and [Father], there are still obstacles to [H.S.] being in the care of [Father]. Several of these visits include [H.S.] riding along with [Father] while he is working as a delivery driver.”
- “[Father] continues to be completely non-compliant with the Department, including but not limited to not allowing the Department to view the entirety of his home in order to do a routine safety check.”

The court stated from the bench that it was finding H.S. to be a CINA and continuing her placement with Caregivers “principally . . . as it pertains to [Father], because again, his worthiness of a chance is not really the issue here. The question is that of the best interest of the child.” The court continued:

I do believe this is an excellent chance of being a success story. . . . I am certain that [Father] is highly frustrated and upset. And I get that. And . . . you know, he’s not my problem right now. [H.S.] is the problem. [H.S.] is the question right now.

I’m hopeful this will be a success story and . . . certainly there’s no reason to have anything other than . . . liberal and unsupervised visitation. And I would like to think the Department would work towards overnights and more reunification. I am fearful that if this case wasn’t CINA and . . . we were to force this young lady into [Father’s] home, we’d have real problems.

Regarding Father’s cooperation with DSS, the court found that Father “has not been a hundred percent cooperative. He hasn’t been terrible.”

In its written order, the court found H.S. to be a CINA for the following reasons:

[H.S.] alleges sexual abuse by mother’s husband. Mother is not supportive of [H.S.] and works overnight shift and has no supervision for [H.S.] other than her husband. Further, home had no electricity and sparse [sic] food in the home. Father has had a strained relationship with [H.S.] and while the father visits with [H.S.], the father has not been cooperative with the Department and has just started the therapeutic process with [H.S.]. It is not in the child’s best interest to be placed with either parent at this time.

The court granted Father “liberal and unsupervised” visitation with H.S., but did not provide any minimum visitation frequency.⁴

II. The October 15, 2024 Hearing

A permanency plan review hearing was held on October 15, 2024. DSS submitted two court reports into evidence, and Father also provided a pre-trial report which was admitted into evidence. Only H.S. and Father testified.

⁴ On January 25, 2024, the court continued to order that Father have “liberal and unsupervised” visitation with H.S., but added: “may include overnights at the discretion of [H.S.]”

Father indicated that he voluntarily completed a parenting course in January 2022, prior to DSS involvement, and when asked to complete a parenting class during this CINA case, he submitted his certificate of completion from January 2022.

Father testified that, although he had previously had open and positive communication with H.S.’s middle school, the middle school she attended while in the Caregivers’ home did not communicate with him. He learned that Ms. Cannon told the school not to contact him, allow him to come to the school, or provide him information about H.S.’s education. Father believed that Micaiah Baker, a social worker DSS assigned to the case after Ms. Cannon, told the school that Father was allowed to be involved with H.S.’s education, but “[t]hey still continued to proceed in a way that was not welcoming.” Father agreed that he “had some heated exchanges” with the school administration. H.S. started high school shortly before the hearing, and Father testified that he had a good relationship with the high school.

According to Father, prior to DSS involvement, a custody order provided him with joint legal custody of H.S., as well as visitation “every other weekend, every other holiday and two non-consecutive weeks” during the summer. Once DSS became involved, Father’s visitation was “[a]t [H.S.’s] discretion basically.” At that point, visitation became unpredictable—there were stretches of time with frequent visitation, followed by “[v]ery little talking and communicating, [and] no visits.” In early 2024, Father testified that H.S. visited “at least once a month,” and sometimes once a week. Father stated that H.S. “usually seems to want to come over when it’s a holiday or something particular is going

on. Other than that, our home is referred to as boring.” DSS’s March 21, 2024 court report stated that Father and H.S. had “consistent weekly visitation [that] has aided [Father] and [H.S.] to grow and strengthen their relationship.” Although Father and H.S. had been “spending significantly more time together,” the report stated that H.S. “continue[d] to have reservations regarding visitation and living with [Father]” because of Father’s “past behaviors.”

H.S. testified that she was “not sure” why she moved in with the Caregivers instead of Father in November 2022. She described her visits with Father as “mostly good. But some have been like, I wouldn’t necessarily say bad, but not the greatest[.]” She continued:

We have our laughs, I mean, we have a good time most of the time. Nothing usually happens, you know, we don’t usually get into disagreements or an argument. But, like I said, those not really too great visits we do get into disagreements and stuff does happen. But, . . . other than that, they’re mostly just fine.

. . .

Sometimes everyone can, you know, get into disagreements, that heated, you know, like get mad and upset and things can shift, take a major turn.

H.S. testified that nothing bad had happened during visits that take place while Father is making deliveries. Those visits were “[u]sually[] pretty nice,” and mostly involved H.S. and Father “talk[ing] to each other.” Although DSS’s October 2024 court report stated that “[d]uring more than one visit, the father has exhibited road rage,” H.S. testified that she did not remember any incidents where Father exhibited road rage. H.S. testified that, when she visited Father prior to moving in with the Caregivers, he was kind to her. Overall, H.S. stated that she enjoys visiting Father and keeps in touch with him “throughout the week”

between visits. She also testified that she has a “pretty good relationship” with Father’s girlfriend.

According to H.S., therapy with Father “went pretty well.” The therapy sessions were approximately once per month. There was never any “yelling or screaming” during therapy sessions. She felt that Father listened to her, and she was “somewhat” comfortable expressing herself around him. Father testified that therapy with H.S. helped him better understand how to listen and respond to H.S. In a DSS court report, H.S.’s therapist informed DSS that Father was “making efforts towards improvement” in family therapy sessions, he took her recommendations well, and “is able to express his feelings effectively” “without being hostile.”

In DSS’s court reports, H.S.’s therapist reported that H.S. had not engaged in self-harm since before February 2023 and the therapist believed there was “no risk or concerns of safety or risk of self-harm.” However, H.S. reported to her therapist “that if she is made to go to her father’s house, she feels that she will be miserable and lead her to self-harm.” The therapist also reported that, although H.S. was prescribed medication for ADHD, anxiety, and depression, she had not taken the medication since November 2023 and had not had a psychiatrist appointment in several months.

H.S. and Father both testified about an argument Father had with S.C. during a visit on March 10, 2024. Father owned a small landscaping and trash removal business, and a drunk driver ran into his parked work truck and trailer, destroying his equipment and causing him to be unable to continue the business. Father obtained another job and, on

March 10, 2024, he, S.C., and H.S. were out shopping for new work clothes for Father, and intended to go out to eat after shopping. The argument started while they were in a store and continued when they left the store and were in Father’s car. H.S. stated that the argument “just got more and more heated. It scared me, my anxiety was through the roof from there.” According to H.S., Father at one point “raised his hand at [S.C.] and started yelling[.]” Because she had a general fear of being yelled at, H.S. was concerned that Father would start yelling at her. H.S. was also afraid that Father would “put his hands on” her, because Mother had told her that Father had been physically abusive in the past. Father explained that he “speak[s] with [his] hands,” and believed H.S. “misunderstood me speaking with my hands as me raising my hand.” According to Father, while they were in the car, he recognized that the argument was unproductive and inappropriate in front of H.S., so he stopped arguing. At that point, they went out to eat. Father testified that, while they were out to eat, H.S. acted “[n]ormal, I guess, as you would expect[.]” and did not ask to end the visit early. H.S. created an audio recording of some portion of the argument. Father testified that he was never physically abusive toward Mother or S.C., and was never “physical with [H.S.] . . . [o]utside of two spankings in her life,” the last of which was six years prior to the hearing.

Father testified that Ms. Baker visited his house twice, but never asked to do a home study. Ms. Baker visited Father’s home with a colleague in May 2024. During the visit, Ms. Baker attempted to question Father about the incident, but Father refused to answer questions without his attorney present. He invited Ms. Baker and her colleague to complete

a home study while they were there, as that was what he initially believed the visit was for, but they refused and continued to try to question him about the March 10, 2024 incident. The conversation became “heated,” with both Father and Ms. Baker raising their voices, and when Ms. Baker told Father that H.S. does not want to live with him, Father responded, “I don’t give a shit.”

Father learned during Ms. Baker’s visit that H.S. made an audio recording of part of the March 10 argument, which made him feel “[u]ncomfortable [and] frustrated.” At some point after Ms. Baker’s visit, Father had a “cordial conversation” with H.S. about the recording being “against the law and . . . the comfortability part of it and . . . morally it’s not right to be secretly recording people.” However, Father stated that he only spoke to H.S. “briefly” because he was “mostly advised not to have a discussion.”

H.S. testified that she had not yet had an opportunity to discuss the March 10, 2024 incident with Father. According to DSS’s court reports, H.S. and Father had a family therapy session three days after the incident, but did not have any family therapy sessions for more than a month afterward. Father testified that he and H.S. had multiple visits after the incident, and that H.S. had spent the night at his house. He testified that his relationship with H.S. had improved in the months immediately prior to the hearing; however, he also stated that H.S. had become increasingly distant in their conversations as the hearing date approached. Father stated that he noticed a pattern where, “the more it seems like if things are going well with Dad, the more she’s drifted back.” Father’s July 11, 2024 report listed

multiple visits occurring after March 10, 2024, but indicated that H.S. refused to visit Father at his home after March 25, 2024.

H.S. stated that she does not want to live with Father because “he has anger issues. He yells too much for me. I’ve never lived with him, so I don’t see really a point.” She also noted that she only had three years remaining before she became an adult and was doing well living with the Caregivers in terms of school performance and mental health. H.S. testified that she had not engaged in self-harm in two years and her depression “is not as bad as it was.” She expressed her belief that it did not make sense for her to move into a home that she was “not familiar with like in a living type of way, not just a visiting way[.]”

Father admitted that he became “heated” in certain conversations, generally when he felt his “rights are being violated[.]” he was “being disrespected[.]” or he felt he was “being taken advantage of.” However, he noted that both Ms. Cannon and Ms. Baker, as well as individuals at H.S.’s middle school, had also raised their voices at him during certain conversations.⁵

Father expressed some concerns with H.S.’s care while with the Caregivers, but testified that would not prevent H.S. from visiting the Caregivers if she were placed in his care. He stated that, if H.S. were placed with him, he would respond to any resistance she gave to living there through conversation “and patience and possibly giving her some space

⁵ In January 2024, the court had ordered Father to complete anger management classes. In Father’s July 2024 report, he stated that he completed a 12-week anger management course in June 2024.

to . . . get used to the surroundings and circumstances” as well as whatever therapy might be needed. He expressed a belief that H.S. would likely not have much resistance to living with him based on “some of her own statements” and her generally good behavior.

The court changed the permanency plan for H.S. from reunification to a concurrent plan of reunification and custody and guardianship with a relative. At the end of the hearing, the court found that H.S. had been doing very well in school while in the Caregivers’ home, and her mental health had significantly improved. Regarding H.S.’s mental health, the court stated: “That alone is an extremely strong safety interest that puts me in a position where I think in the best interest of the child, . . . and reviewing the factors, that . . . it’s best that we keep this case on the concurrent plan.” The court noted that “This is not the unfit parent kind of case. This is more the extraordinary circumstances kind of case.” The court expressed concern that H.S. might “rebel” and it would not “end well” if H.S. were required to live with Father. The court concluded:

It’s certainly possible that [H.S.] may determine to make that move [to Father’s home]. But I’d rather have her do it than it be done by the [c]ourt system. You know, . . . I’m not making any bad findings about [Father]. I’m making a finding here that in [H.S.’s] best interest, where she is is the best place for her to be. And moving her now would be deleterious to her.

In its written order, the court required Father to complete a “Collaborative Problem-Solving parenting course.” Additionally, the court ordered that Father was to have “liberal and unsupervised” visitation “at [H.S.’s] discretion and in consultation with [H.S.’s] therapist.” No minimum visitation frequency was provided.

III. The March 19, 2025 Hearing

Father, Aunt, and Uncle testified at the final hearing on March 19, 2025. H.S. also made unsworn statements.

Father testified that, because his contact with H.S. was entirely at H.S.’s discretion, there were times over the six months prior to the hearing that he was only able to see her during therapy sessions. Father frequently asked H.S. if she wanted to spend time with him, but she would simply reply that she was busy, although she found time to spend weekends with Mother. H.S. explained that, between school, softball, chores, and spending time with the Caregivers’ family, she was “pretty busy,” and did not always feel she had time to explain what she was busy doing. She stated that “if I say I’m busy, my dad should respect that[.]” H.S. said that she stayed the weekend at Mother’s house “roughly once every couple months” but otherwise had limited communication with Mother. Father believed that “one of the only ways [H.S.] and [Father] are going to be able to build a healthy relationship” would be to place H.S. in his care. Father recognized that the move “wouldn’t be a smooth process probably[.]” but he and H.S. “would both learn to deal with it” through patience and communication.

Father testified that he had attempted to be involved in H.S.’s church, school, and medical decisions, but was rarely informed about these issues by the Caregivers. He did not know the name of H.S.’s individual therapist and had only recently learned who her dentist was when he was asked to give permission for a procedure. According to Father, when he asked the Caregivers for this information he was “given either no response or

vague information.” The Caregivers did not consult with Father before signing H.S. up for softball; he found out from H.S. when she asked Father to buy “a couple hundred dollars’ worth of gear[.]” Father also testified that, when H.S. broke her finger during softball practice, he did not find out until three days later when he picked her up from school. Father explained that, as a result of the Caregivers’ lack of co-parenting, he believed they would “just not . . . pay attention to” court orders. However, he admitted that Aunt encouraged H.S. to visit with him, which Aunt corroborated. Uncle testified that the Caregivers “don’t communicate with [Father] as much as [they] should [because] he gets hostile sometimes” due to his frustration. Because Father had “tried to do things to [him] out of spite” in the past, Uncle “avoid[ed] talking to [Father] altogether” and relied on Aunt to communicate with him. Uncle denied that Father had ever reached out to him with any concerns. Aunt testified that she “do[es]n’t really reach out to him,” and relied on H.S. to communicate with Father.

Uncle testified that Aunt was responsible for making doctors’ appointments for H.S. and that H.S. was not seeing a psychiatrist at that time. H.S. stated that Aunt consulted with Mother when making doctors’ appointments, but had recently been “trying to consult with [Father]” because Mother was sometimes hard to reach. H.S. also stated that she had stopped taking her psychiatric medications because it made her “not feel right,” not eat enough, and “not really talk at all.” She stated that she had tried multiple different medications, but felt it was best not to take any because she felt “pretty okay without it.” Uncle testified that he was not aware of any concerns about H.S. not taking her prescribed

medications. He had not met with H.S.’s teachers and did not attend a meeting at the school concerning accommodations for H.S., although he called the school to give a recommendation.

Father testified that H.S. often refused to attend therapy with him, and “just doesn’t want to” visit him. Because of this and the Caregivers’ failure to communicate, the reduction in visitation requested by DSS would “hugely” impact his relationship with H.S. He therefore told H.S. during therapy that, if the Caregivers are given custody, he would cut off contact with her because “if [H.S.] doesn’t really want to be a part of my life now, you know, what’s going to change?” Conversely, he believed that, if he were given custody of H.S., they would have “more of an opportunity to work on [their] relationship” because he would be able to be involved in her day-to-day life as well as in medical appointments and important decisions. Although Aunt did not believe the court should “throw [H.S.] into his house,” she testified that H.S. should have more of a relationship with Father, “maybe like a weekend, or something for now.” Aunt testified that the court order should include more visitation than was previously provided for “because if we get something like we got last time, it’s never going to change.” On cross-examination, Aunt testified that, [o]ther than the way [Father] talks to [H.S.],” Aunt did not “really see an issue” with Father being given custody of H.S. or having a “trial home visit,” and did not believe he would cause her any harm. H.S. stated that she would prefer a visitation schedule in which she would go to Father’s house “twice a week to do dinner on top of our therapy every week.” However, she admitted that when Father asked her to have dinner with him, she would

“usually tell him I’m busy” because she did not like to interrupt her routine. She preferred “to have things planned out beforehand.”

Father testified that, aside from a short conversation a week before the hearing, DSS did not contact him in more than six months. Father described a conversation he had with Aunt in which Aunt said Ms. Baker had not visited the Caregivers’ home in five months and only met with H.S. while she was in school. Uncle testified that DSS never asked him to provide any income verification. Concerning his mental and physical health, Uncle stated that DSS “asked if I had any underlying conditions or anything of the nature and I said no. And that was pretty much it for that as far as I remember.” He did not submit any documentation related to his mental or physical health.

DSS presented a Kinship Caregiver Home Study (the “Suitability Report”), which was admitted into evidence. The document listed only Uncle as H.S.’s caregiver, although it also listed Aunt as a resident of the home. Under a section titled “Kinship Caregiver’s and Household Member’s Physical and Mental Health and Substance Use,” the only comments are: “[Uncle] informed the Department that he does not have any medical issues.”

The court began discussing its findings by stating: “This is clearly an imperfect situation. . . . Lots of mistakes have been made in this case along the way by adults. And I’m not certain that everything the Department has done has been the way it should have been done.” The court noted that “while this is a CINA case, . . . it really smacks of custody in many, many respects.” The court found that H.S.’s “parents both love her[,]” and that

Father “really does care about his daughter, [and] wants what’s best for her.” However, the court emphasized that H.S. was “clearly doing very well where she is.” Although H.S. indicated she was not seeing a psychiatrist or taking her prescribed psychiatric medications, the court found she was “feeling better[,]” in therapy, regularly on time for school, and “getting good grades.” H.S. was “thriving” with the Caregivers, who she referred to as “my family.” The court discussed the negative comments Father had made, such as threatening to cut off contact with H.S. if he were not granted custody, and credited H.S.’s statements about the effect these comments had on her. The court found that, while it was possible that H.S. “would do well anywhere[,] . . . she’s certainly doing well” in the Caregivers’ home. The court placed substantial emphasis on H.S.’s “stated desire to stay where she is[,]” and the general observation that “requiring fifteen-and-a-half-year-olds to do things against their will does not go really well . . . in these custody type situations.” The court recognized that there was some animosity between Father and Uncle, but was hopeful that closing the case would create a less “antagonistic situation.”

The court concluded that “all the factors have been made out by” DSS, and it was in H.S.’s best interest to grant custody and guardianship to Uncle, with “unlimited contact and visitation with the parents.” Counsel for H.S. and DSS requested that Aunt also be granted custody and guardianship, which the court granted over Father’s objection. Father then requested that he be granted joint legal custody of H.S., which the court denied. The written order provided: “contact/visitation between [H.S.] and [Father] is to occur at a

minimum, one time a month. The contact/visits will be arranged between the parties with [Uncle], [Aunt] or [H.S.] retaining discretion as to the terms of the contact/visits.”

DISCUSSION

I. The CINA Finding

“A juvenile court may find that a child is in need of assistance upon a showing, by a preponderance of the evidence, that the child ‘requires court intervention because: (1) [t]he child has been abused, has been neglected, has a developmental disability, or has a mental disorder; and (2) [t]he child’s parents, guardian, or custodian are unable or unwilling to give proper care and attention to the child and the child’s needs.’” *In re M.*, 251 Md. App. 86, 115 (2021) (alterations in original) (quoting CJP § 3-801(f)).

A court must find that “*both* parents are unable or unwilling to give the child proper care and attention” before it may declare the child to be CINA. *In re R.S.*, 470 Md. 380, 417 (2020) (quoting *In re Russell G.*, 108 Md. App. 366, 376-77 (1996)). CJP § 3-819(e) provides:

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

This statutory provision reflects a policy that “[a] child who has at least one parent willing and able to provide the child with proper care and attention should not be taken from both parents and be made a ward of the court.” *Russell G.*, 108 Md. App. at 377. However, even where a child cannot be declared CINA because findings were sustained against only

one parent, the court may only alter the custody arrangement if it affirmatively finds “that the other parent is able and willing to care for the child.” *In re T.K.*, 480 Md. 122, 133 (2022).

Father argues that the court erred in declaring H.S. to be a CINA because it did not find that he was unwilling or unable to care for H.S.’s needs, and that such a finding would not have been supported by the record. He specifically argues that the court’s “conclusory finding” that there were “obstacles” to H.S. being in his care did not equate to his inability to care for her. He also asserts that the court’s finding that he was “completely non-compliant” with DSS is clearly erroneous. DSS responds that all of the court’s findings were supported by the record.

Viewing the record as a whole, we conclude that the court’s CINA finding was sufficient and that an out-of-home placement was warranted. Although the court did not expressly find Father “unable” or “unwilling” to care for H.S., the court implicitly found that Father was unable to care for her mental health needs. This finding is fully supported by the record. H.S. had been sexually abused, had a history of self-harm, and expressed suicidal ideations relating to the prospect of living with either of her parents. There was evidence that Father exhibited certain behaviors that could be especially harmful in light of H.S.’s mental health and trauma history, including difficulty controlling his anger, yelling, threatening to not return H.S. to the Caregivers, and telling H.S. “I wish you were never born.” H.S.’s mental health was at the forefront of the CINA hearing, yet Father and H.S. had only participated in two family therapy sessions. Ms. Cannon testified that H.S.

had never spent the night at Father’s house and that most of her visits with him occurred outside the home. Furthermore, Father resisted cooperation with DSS, including refusing to answer questions appropriately during the home study; refusing to provide DSS with the address of the therapist, resulting in H.S. not attending a family therapy session; and stating that he no longer wanted contact with DSS after reading the court reports. Although we recognize that Father’s testimony contradicted some of this evidence, the juvenile court was free to credit Ms. Cannon’s testimony, and it implicitly did so in declaring H.S. to be a CINA.

Although the court’s adoption of DSS’s allegation in the CINA petition that Father was “completely non-compliant” with DSS was an overstatement based on the overall record, the court’s specific finding on this point is supported by the record. The court found that Father was “not . . . a hundred percent cooperative[,]” but “hasn’t been terrible.” Thus, it is clear that the court did not exclusively rely on the “completely non-compliant” language from the CINA petition in making its determinations.

In summary, the court’s finding that H.S. was a CINA was supported by the record at the adjudication and disposition hearing,⁶ including the implicit finding that Father was

⁶ Although the court’s initial CINA determination was supported by the record at the September 13, 2023 hearing, in light of the court’s statements at the October 15, 2024 hearing that “This is not the unfit parent kind of case[,]” and “I’m not making any bad findings about Dad[,]” and the length of time that has passed, the court should reconsider on remand whether H.S. remains a CINA.

unable or unwilling to care for H.S.’s needs.⁷

II. Caregiver Suitability Report

Father also argues that the court erred in granting custody and guardianship to the Caregivers because it was not presented with, and therefore failed to consider, a caregiver suitability report that complied with express statutory requirements. CJP § 3-819.2(f)(1) provides: “Before granting custody and guardianship under this section, the court shall consider . . . [a] report by a local department . . . on the suitability of the individual to be the guardian of the child.” The report “shall include a . . . [r]eview of the proposed guardian’s physical and mental health history.” CJP § 3-819.2(f)(2). “A court may not enter an order granting custody and guardianship under this section until the report . . . is submitted to and considered by the court.” CJP § 3-819.2(h).

First, DSS failed to submit a caregiver suitability report related to Aunt and provided no information about her physical or mental health. The court’s grant of guardianship and custody of H.S. to Aunt, a non-relative, constitutes clear error under these circumstances.

The Suitability Report concerning Uncle stated only that Uncle “informed the Department that he does not have any medical issues.” Uncle testified that he was never

⁷ Father argues that the court erred in changing the permanency plan after the October 2024 hearing to a concurrent plan of reunification with a parent and custody and guardianship with a relative. At that time, H.S. had been living with the Caregivers for nearly two years. Although Father had made progress since the first hearing and the court stated it was “not making any bad findings” about him, the court appropriately focused its inquiry on H.S.’s best interests. *See In re D.M.*, 250 Md. App. 541, 567-68 (2021). We discern no error.

asked to provide medical documentation or submit to an examination. There was no evidence presented concerning Uncle’s mental health.

The language of CJP § 3-819.2 is clear that “[a] court may not enter an order granting custody and guardianship” without first considering a report that includes a “[r]eview of the proposed guardian’s physical and mental health history.” CJP § 3-819.2(f), (h). Because the Suitability Report here only briefly mentioned Uncle’s lack of current medical issues and made no mention of his mental health history, the court likewise erred by entering the order granting custody and guardianship to Uncle. “[A]dhering to statutory requirements, both procedural and substantive, is critical when the safety of the child and the fundamental rights of parents are at issue.” *In re T.K.*, 480 Md. 122, 144 (2022) (alteration in original) (quoting *In re M.H.*, 252 Md. App. 29, 44 (2021)).

DSS argues that the court’s failure to consider an adequate suitability report prior to granting custody and guardianship to the Caregivers was harmless error. According to DSS, “any deficiencies in the suitability report [were] harmless” because “15-year-old H.S. had been residing with the proposed custodians for over two years, one of the custodians was her uncle, she had a close relationship with both custodians, she considered them family, and she felt safe and secure in their home.” DSS also noted that “[n]o party questioned the health of either Uncle [or Aunt] to serve as H.S.’s legal custodian and guardian.” Father argues that harmless error analysis is not appropriate in this case because, without a complete suitability report, it is impossible to know if the error would have affected the outcome.

The case that resulted in the legislature adopting the mental and physical health history requirement in caretaker suitability reports demonstrates why failure to include such history should not be considered harmless error. The Floor Report for the bill which created caregiver suitability reports provided:

This bill is intended to prevent future cases like that of Ciara Jobes, a 15-year-old who suffered starvation, imprisonment, sexual, and physical abuse and was found dead in a Baltimore apartment in December 2002. Her court-appointed guardian, Satrina Roberts, was convicted of her murder and recently sentenced to 40 years imprisonment. According to *The Baltimore Sun*, Roberts, who was mentally ill, abandoned an application to become Ciara’s foster parent and instead “found a way to circumvent Social Services and the foster care procedure” by seeking to be Ciara’s guardian.

Floor Report for S.B. 746 (Md. 2005). Two newspaper articles attached to co-sponsor Senator Lisa Gladden’s written statement in support of the bill provide further details of the tragedy. In 1998, 11-year-old Ciara Jobes started living with Satrina Roberts, a friend of Ciara’s mother and someone Ciara’s maternal grandmother “considered a daughter,” due to her mother’s neglect and drug addiction. Julie Bykowicz, *40 Years Given in Death of Girl, 15*, BALT. SUN, Feb. 5, 2005, at 1B; Eric Rich, *Guardian Gets 40 Years for Starving Md. Girl*, WASH. POST, Feb. 5, 2005, at B02. In January 2000, Ms. Roberts became Ciara’s legal guardian. Bykowicz, *supra*. No evidence was presented regarding Ms. Roberts’ mental health, and all parties, including Ciara and her mother, wanted Ms. Roberts to be granted guardianship. *Id.*; Rich, *supra*. The juvenile court judge closed the case after granting guardianship, unaware of Ms. Roberts’ diagnosis of bipolar schizophrenic disorder. Bykowicz, *supra*. In December 2002, Ciara was found dead in Ms. Roberts’ home, having been tortured and starved for months. *Id.* The statutory amendment was

intended to prevent a similar situation from occurring by ensuring that judges have information about a potential caretaker’s mental health history prior to granting guardianship. Thus, we do not agree with DSS that a complete lack of evidence of mental health history constitutes harmless error, even where the child has been living with the caretakers and has a close relationship with them.⁸

CONCLUSION

We hold that the juvenile court erred by granting custody and guardianship to the Caregivers without considering a statutorily mandated caregiver suitability report. For these reasons we shall vacate the guardianship order and remand this matter for further proceedings consistent with this opinion.⁹

ORDER GRANTING CUSTODY AND GUARDIANSHIP VACATED. CASE

⁸ Father also argues that the court failed to find at the final hearing that DSS made reasonable efforts toward reunification, and that any such finding would not have been supported by the record. The court did make a reasonable efforts finding in its written order, despite stating from the bench, “I’m not certain that everything the Department has done has been the way it should have been done.” DSS’s efforts need not be perfect for them to be deemed reasonable. *In re Z.F.*, 266 Md. App. 444, 479 (2025) (quoting *In re Shirley B.*, 191 Md. App. 678, 712 (2010)). In any event, the court will need to reevaluate the issue of reasonable efforts in light of our remand for further proceedings.

⁹ Father argues that the court improperly delegated visitation terms to the Caregivers and H.S. A court is required to set a minimum amount of visitation, but may provide a third party the ability to increase visitation beyond that minimum. *In re Mark M.*, 365 Md. 687, 708-09 (2001). Here, the court set the minimum visitation at once per month, although the court specifically expressed its intent at the end of the hearing that the parents were to have “unlimited contact and visitation.” In the event that Father is unhappy with how visitation has actually transpired, he may request the court to set a more specific visitation schedule. Providing H.S. and the Caregivers (those who are most aware of H.S.’s schedule and availability) the opportunity to determine when and where the visits occur is not an improper delegation. However, visitation will need to be reconsidered on remand,

**REMANDED TO THE CIRCUIT
COURT FOR BALTIMORE COUNTY
FOR FURTHER PROCEEDINGS
CONSISTENT WITH THIS OPINION.
APPELLEE TO PAY COSTS.**

particularly now that H.S. is 16 years old and able to file petitions for change in custody or designation of a guardian on her own behalf. Md. Code (1984, 2019 Repl. Vol.), § 9-103 of the Family Law Article; Md. Code (1974, 2022 Repl. Vol.), § 13-702(a)(2) of the Estates & Trusts Article.