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By: **Delegates Marriott, Benson, Grosfeld, Howard, V. Jones, Kirk,  
Nathan-Pulliam, Patterson, Phillips, Proctor, and Rawlings**

Introduced and read first time: February 3, 2000

Assigned to: Judiciary

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A BILL ENTITLED

1 AN ACT concerning

2 **Juvenile Law - Confinement of Children in Adult Correctional Facilities**

3 FOR the purpose of prohibiting a court exercising criminal jurisdiction from ordering  
4 a minor to be held in an adult correctional facility pending a determination as to  
5 whether to transfer jurisdiction to the juvenile court; requiring the official in  
6 charge of an adult correctional facility to take certain actions when an  
7 individual who is or appears to be a child is received at an adult correctional  
8 facility except under certain circumstances; prohibiting a child from being held  
9 in an adult correctional facility or being transported with certain adults except  
10 under certain circumstances; defining a certain term; and generally relating to  
11 the confinement of children in adult correctional facilities.

12 BY repealing and reenacting, with amendments,  
13 Article 27 - Crimes and Punishments  
14 Section 594A(g)  
15 Annotated Code of Maryland  
16 (1996 Replacement Volume and 1999 Supplement)

17 BY repealing and reenacting, with amendments,  
18 Article - Courts and Judicial Proceedings  
19 Section 3-801, 3-815(g), (h), and (i), 3-816, and 3-823  
20 Annotated Code of Maryland  
21 (1998 Replacement Volume and 1999 Supplement)

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

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**Article 27 - Crimes and Punishments**

2 594A.

3 (g) [The court may order a minor to be held in a juvenile facility pending]  
4 PENDING a determination under this section to waive jurisdiction over [the] A case  
5 involving [the] A minor to the juvenile court, THE COURT:

6 (1) MAY ORDER THE MINOR TO BE HELD IN A JUVENILE FACILITY; AND

7 (2) MAY NOT ORDER THE MINOR TO BE HELD IN A CORRECTIONAL  
8 FACILITY, AS DEFINED IN § 3-801 OF THE COURTS ARTICLE.

9

**Article - Courts and Judicial Proceedings**

10 3-801.

11 (a) In this subtitle, the following words have the meanings indicated, unless  
12 the context of their use indicates otherwise.

13 (b) "Adjudicatory hearing" means a hearing to determine whether the  
14 allegations in the petition, other than allegations that the child requires the court's  
15 assistance, treatment, guidance or rehabilitation, are true.

16 (c) "Adult" means a person who is 18 years old or older.

17 (d) "Child" means a person under the age of 18 years.

18 (e) "Child in need of assistance" is a child who requires the assistance of the  
19 court because:

20 (1) The child is mentally handicapped or is not receiving ordinary and  
21 proper care and attention, and

22 (2) The child's parents, guardian, or custodian are unable or unwilling to  
23 give proper care and attention to the child and the child's problems provided, however,  
24 a child shall not be deemed to be in need of assistance for the sole reason that the  
25 child is being furnished nonmedical remedial care and treatment recognized by State  
26 law.

27 (f) "Child in need of supervision" is a child who requires guidance, treatment,  
28 or rehabilitation and:

29 (1) Is required by law to attend school and is habitually truant;

30 (2) Is habitually disobedient, ungovernable, and beyond the control of  
31 the person having custody of him;

32 (3) Departs himself so as to injure or endanger himself or others; or

33 (4) Has committed an offense applicable only to children.

1 (g) "Citation" means the written form issued by a police officer which serves  
2 as the initial pleading against a child for a violation and which is adequate process to  
3 give the court jurisdiction over the person cited.

4 (h) "Commit" means to transfer legal custody.

5 (i) "CORRECTIONAL FACILITY" MEANS A FACILITY THAT IS OPERATED FOR  
6 THE PURPOSE OF DETAINING OR CONFINING ADULTS WHO ARE CHARGED WITH OR  
7 FOUND GUILTY OF A CRIME.

8 (J) "Court" means the circuit court of a county or Baltimore City sitting as the  
9 juvenile court. In Montgomery County, it means the District Court sitting as the  
10 juvenile court and following the applicable rules of the circuit court.

11 [(j)] (K) "Custodian" means a person or agency to whom legal custody of a  
12 child has been given by order of the court, other than the child's parent or legal  
13 guardian.

14 [(k)] (L) "Delinquent act" means an act which would be a crime if committed  
15 by an adult.

16 [(l)] (M) "Delinquent child" is a child who has committed a delinquent act and  
17 requires guidance, treatment, or rehabilitation.

18 [(m)] (N) "Detention" means the temporary care of children who, pending court  
19 disposition, require secure custody for the protection of themselves or the community,  
20 in physically restricting facilities.

21 [(n)] (O) "Disposition hearing" means a hearing to determine:

22 (1) Whether a child needs or requires the court's assistance, guidance,  
23 treatment or rehabilitation; and if so

24 (2) The nature of the assistance, guidance, treatment or rehabilitation.

25 [(o)] (P) "Intake officer" means the person assigned to the court by the  
26 Department of Juvenile Justice to provide the intake services set forth in this  
27 subtitle.

28 [(p)] (Q) "Local department" means the local department of social services for  
29 the jurisdiction in which the court is located.

30 [(q)] (R) "Mentally handicapped child" means a child who is or may be  
31 mentally retarded or mentally ill.

32 [(r)] (S) "Party" includes a child who is the subject of a petition, the child's  
33 parent, guardian, or custodian, the petitioner and an adult who is charged under §  
34 3-831 of this subtitle.

35 [(s)] (T) (1) "Shelter care" means the temporary care of children in  
36 physically unrestricting facilities.

1 (2) "Shelter care" does not mean care in a State mental health facility.

2 [(t)] (U) (1) "Victim" means a person who suffers direct or threatened  
3 physical, emotional, or financial harm as a result of a delinquent act.

4 (2) "Victim" includes a family member of a minor, disabled, or a deceased  
5 victim.

6 (3) "Victim" includes, if the victim is not an individual, the victim's agent  
7 or designee.

8 [(u)] (V) "Violation" means a violation of § 400, § 400A, § 400B, § 401, or §  
9 405A of Article 27 of the Code and § 26-103 of the Education Article for which a  
10 citation is issued.

11 [(v)] (W) "Witness" means any person who is or expects to be a State's witness.  
12 3-815.

13 (g) [A child alleged to be delinquent may not be detained in a jail or other  
14 facility for the detention of adults.

15 (h)] (1) (i) A child alleged to be in need of supervision or in need of  
16 assistance may not be placed in detention and may not be placed in a State mental  
17 health facility.

18 (ii) If the child is alleged to be in need of assistance by reason of a  
19 mental handicap, the child may be placed in shelter care facilities maintained or  
20 licensed by the Department of Health and Mental Hygiene or if these facilities are not  
21 available, then in a private home or shelter care facility approved by the court.

22 (iii) If the child is alleged to be in need of assistance for any other  
23 reason, or in need of supervision, he may be placed in shelter care facilities  
24 maintained or approved by the Social Services Administration, or the Department of  
25 Juvenile Justice, or in a private home or shelter care facility approved by the court.

26 (2) A child alleged to be in need of supervision or in need of assistance  
27 may not be placed in a shelter care facility that is not operating in compliance with  
28 applicable State licensing laws.

29 (3) The Secretary of Human Resources and the Secretary of the  
30 Department of Juvenile Justice together, when appropriate, with the Secretary of  
31 Health and Mental Hygiene shall jointly adopt regulations to ensure that any child  
32 placed in shelter care pursuant to a petition filed under subsection (d) of this section  
33 be provided appropriate services, including:

34 (i) Health care services;

35 (ii) Counseling services;

36 (iii) Education services;

- 1 (iv) Social work services; and  
2 (v) Drug and alcohol abuse assessment or treatment services.

3 (4) In addition to any other provision, the regulations shall require:

4 (i) The local department of social services or the Department of  
5 Juvenile Justice to develop a plan within 45 days of placement of a child in a shelter  
6 care facility to assess the child's treatment needs; and

7 (ii) The plan to be submitted to all parties to the petition and their  
8 counsel.

9 [(i)] (H) The intake officer or the official who authorized detention or shelter  
10 care shall immediately give written notice of the authorization for detention or shelter  
11 care to the child's parent, guardian, or custodian, and to the court. The notice shall be  
12 accompanied by a statement of the reasons for taking the child into custody and  
13 placing him in detention or shelter care. This notice may be combined with the notice  
14 required under subsection (d) of this section.

15 3-816.

16 [(a)] EXCEPT AS OTHERWISE PROVIDED IN § 3-823(B) OF THIS SUBTITLE, [The]  
17 THE official in charge of a [jail or other facility for the detention of adult offenders or  
18 persons charged with crime] CORRECTIONAL FACILITY shall inform the court or the  
19 intake officer immediately when [a person, who is or appears to be under the age of  
20 18 years,] AN INDIVIDUAL WHO IS OR APPEARS TO BE A CHILD is received at the  
21 facility and shall deliver [him] THE INDIVIDUAL to the court upon request or transfer  
22 [him] THE INDIVIDUAL to the facility designated by the intake officer or the court [,  
23 unless the court has waived its jurisdiction with respect to the person and he is being  
24 proceeded against as an adult].

25 [(b)] When a case is transferred to another court for criminal prosecution, the  
26 child shall promptly be transferred to the appropriate officer or adult detention  
27 facility in accordance with the law governing the detention of persons charged with  
28 crime.

29 (c) A child may not be transported together with adults who have been  
30 charged with or convicted of a crime unless the court has waived its jurisdiction and  
31 the child is being proceeded against as an adult.]

32 3-823.

33 (a) [A] EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A child  
34 may not be:

35 (1) [detained] DETAINED at, or committed or transferred to a [penal  
36 institution or other facility used primarily for the confinement of adults charged with  
37 or convicted of a crime, except pursuant to § 3-816(b)] CORRECTIONAL FACILITY; OR

1           (2)     TRANSPORTED TOGETHER WITH ADULTS WHO HAVE BEEN CHARGED  
2 WITH OR CONVICTED OF A CRIME.

3     (b)     A CHILD WHO IS CHARGED AS AN ADULT WITH A CRIME AND IS  
4 CONVICTED OF THE CRIME MAY BE:

5           (1)     CONFINED IN OR TRANSFERRED TO A CORRECTIONAL FACILITY; AND

6           (2)     TRANSPORTED TOGETHER WITH ADULTS CHARGED WITH OR  
7 CONVICTED OF A CRIME.

8     (C)     A child who is not delinquent may not be committed or transferred to a  
9 facility used for the confinement of delinquent children.

10    [(c)]   (D)     Unless an individualized treatment plan developed under § 10-706 of  
11 the Health - General Article indicates otherwise:

12           (1)     A child may not be committed or transferred to any public or private  
13 facility or institution unless the child is placed in accommodations that are separate  
14 from other persons 18 years of age or older who are confined to that facility or  
15 institution; and

16           (2)     The child may not be treated in any group with persons who are 18  
17 years of age or older.

18     SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
19 October 1, 2000.