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By: **Delegates Montague, Vallario, and Dembrow (Commission on Juvenile Justice Jurisdiction)**

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Assigned to: Judiciary

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Committee Report: Favorable with amendments

House action: Adopted

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CHAPTER 463

1 AN ACT concerning

2 **Juvenile Law - Detained Juvenile Defendants - Transfer of Cases to**  
3 **Juvenile Court**

4 FOR the purpose of requiring the court that has criminal jurisdiction over a case  
5 involving a child who is alleged to have committed an offense excluded from the  
6 jurisdiction of the juvenile court to make a determination as to whether to  
7 transfer the case to the juvenile court within a certain time period; requiring  
8 that a hearing on a motion requesting that a child be held in a secure juvenile  
9 facility pending a transfer determination be held within a certain time period;  
10 requiring the court that has criminal jurisdiction to consider a victim impact  
11 statement in determining whether to transfer jurisdiction to the juvenile court;  
12 authorizing the District Court to order that a certain study be made or that a  
13 child be held in a secure juvenile facility under certain circumstances; requiring  
14 the District Court to take certain actions ~~if the District Court determines at a~~  
15 ~~bail review hearing that a child shall remain in custody if a child remains in~~  
16 custody for any reason after a bail review hearing; requiring a circuit court to  
17 take certain actions on receipt of a District Court case file indicating that the  
18 case involves a ~~detained~~ child who was detained after a bail review hearing;  
19 clarifying language; defining a certain term; providing for the application of this  
20 Act; and generally relating to procedures involving certain detained juvenile  
21 defendants and the transfer of cases from criminal court to juvenile court.

22 BY repealing and reenacting, with amendments,  
23 Article - Criminal Procedure  
24 Section 4-202  
25 Annotated Code of Maryland

1 (As enacted by Chapter \_\_\_\_\_(S.B. 1) of the Acts of the General Assembly of 2001)

2 BY adding to

3 Article - Criminal Procedure

4 Section 4-202.1

5 Annotated Code of Maryland

6 (As enacted by Chapter \_\_\_\_\_(S.B. 1) of the Acts of the General Assembly of 2001)

7 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

8 MARYLAND, That the Laws of Maryland read as follows:

9 **Article - Criminal Procedure**

10 4-202.

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

12 (2) "Victim" has the meaning stated in § 11-104 of this article.

13 (3) "Victim's representative" has the meaning stated in § 11-104 of this  
14 article.

15 (b) Except as provided in subsection (c) of this section, a court exercising  
16 CRIMINAL jurisdiction in a case involving a child may transfer the case to the juvenile  
17 court if:

18 (1) the accused child was at least 14 but not 18 years of age when the  
19 alleged crime was committed;

20 (2) the alleged crime is excluded from the jurisdiction of the juvenile  
21 court under § 3-804(e)(1), (4), or (5) of the Courts Article; and

22 (3) the court believes that a transfer of its jurisdiction is in the interest of  
23 the child or society.

24 (c) The court may not transfer a case to the juvenile court under subsection (b)  
25 of this section if:

26 (1) the child previously has been transferred to juvenile court and  
27 adjudicated delinquent;

28 (2) the child was convicted in an unrelated case excluded from the  
29 jurisdiction of the juvenile court under § 3-804(e)(1) or (4) of the Courts Article; or

30 (3) the alleged crime is murder in the first degree and the accused child  
31 was 16 or 17 years of age when the alleged crime was committed.

32 (d) In determining whether to transfer jurisdiction under this section, the  
33 court shall consider:

- 1 (1) the age of the child;
- 2 (2) the mental and physical condition of the child;
- 3 (3) the amenability of the child to treatment in an institution, facility, or  
4 program available to delinquent children;
- 5 (4) the nature of the alleged crime; and
- 6 (5) the public safety.

7 (e) ~~(4)~~ In making a determination under this section, the court may  
8 [request] ORDER that a study be made concerning the child, the family of the child,  
9 the environment of the child, and other matters concerning the disposition of the case.

10 ~~(2) THE COURT SHALL ORDER THAT A STUDY BE MADE IF REQUIRED~~  
11 ~~UNDER THE PROVISIONS OF § 4-202.1 OF THIS SUBTITLE.~~

12 (F) THE COURT SHALL MAKE A TRANSFER DETERMINATION WITHIN 10 DAYS  
13 AFTER THE DATE OF A TRANSFER HEARING.

14 [(f)] (G) If the court transfers its jurisdiction under this section, the court may  
15 order the child held for an adjudicatory hearing under the regular procedure of the  
16 juvenile court.

17 [(g)] (H) (1) Pending a determination under this section to transfer its  
18 jurisdiction, the court may order a child to be held in a SECURE juvenile facility.

19 (2) A HEARING ON A MOTION REQUESTING THAT A CHILD BE HELD IN A  
20 JUVENILE FACILITY PENDING A TRANSFER DETERMINATION SHALL BE HELD NOT  
21 LATER THAN THE NEXT COURT DAY, UNLESS EXTENDED BY THE COURT FOR GOOD  
22 CAUSE SHOWN.

23 [(h)] (I) (1) A victim or victim's representative shall be given notice of the  
24 transfer hearing as provided under § 11-104 of this article.

25 (2) (i) A victim or a victim's representative may submit a victim  
26 impact statement to the court as provided in § 11-402 of this article.

27 (ii) This paragraph does not preclude a victim or victim's  
28 representative who has not filed a notification request form under § 11-104 of this  
29 article from submitting a victim impact statement to the court.

30 (iii) The court [may] SHALL consider a victim impact statement in  
31 determining whether to transfer jurisdiction under this section.

32 (J) ~~SUBJECT TO THE REQUIREMENTS OF § 4-202.1(B)(2)(III) OF THIS SUBTITLE,~~  
33 ~~AT AT A BAIL REVIEW OR PRELIMINARY HEARING BEFORE THE DISTRICT COURT~~  
34 ~~INVOLVING A CHILD WHOSE CASE IS ELIGIBLE FOR TRANSFER UNDER SUBSECTIONS~~  
35 ~~(B)(1) AND (2) AND (C) OF THIS SECTION, THE DISTRICT COURT MAY ORDER THAT A~~  
36 ~~STUDY BE MADE UNDER THE PROVISIONS OF SUBSECTION (E) OF THIS SECTION, OR~~

1 THAT THE CHILD BE HELD IN A SECURE JUVENILE FACILITY UNDER THE  
2 PROVISIONS OF SUBSECTION (H) OF THIS SECTION, REGARDLESS OF WHETHER THE  
3 DISTRICT COURT HAS CRIMINAL JURISDICTION OVER THE CASE.

4 4-202.1.

5 (A) IN THIS SECTION, "CHILD" MEANS A DEFENDANT WHO IS UNDER THE AGE  
6 OF 18 YEARS AND WHOSE CASE IS ELIGIBLE FOR TRANSFER UNDER THE PROVISIONS  
7 OF § 4-202(B)(1) AND (2) AND (C) OF THIS SUBTITLE.

8 (B) ~~IF THE DISTRICT COURT DETERMINES AT A BAIL REVIEW HEARING THAT A~~  
9 ~~CHILD SHALL REMAIN~~ REMAINS IN CUSTODY FOR ANY REASON AFTER A BAIL  
10 REVIEW HEARING:

11 (1) IN THE CASE OF A CHILD CHARGED WITH A FELONY THAT IS NOT  
12 WITHIN THE JURISDICTION OF THE DISTRICT COURT, THE DISTRICT COURT SHALL:

13 (I) CLEARLY INDICATE ON THE CASE FILE AND IN COMPUTER  
14 RECORDS THAT THE CASE INVOLVES A DETAINED CHILD; AND

15 (II) SET A PRELIMINARY HEARING TO BE HELD WITHIN 15 DAYS  
16 AFTER THE BAIL REVIEW HEARING; OR

17 (2) IN THE CASE OF A CHILD CHARGED WITH A CRIME IN THE DISTRICT  
18 COURT, THE DISTRICT COURT ~~SHALL~~:

19 (I) SHALL CLEARLY INDICATE ON THE CASE FILE AND IN  
20 COMPUTER RECORDS THAT THE CASE INVOLVES A DETAINED CHILD;

21 (II) SHALL SET A TRANSFER HEARING UNDER § 4-202 OF THIS  
22 SUBTITLE TO BE HELD WITHIN 30 DAYS AFTER THE FILING OF THE CHARGING  
23 DOCUMENT;

24 (III) MAY ORDER THAT A STUDY BE MADE UNDER § 4-202 OF THIS  
25 SUBTITLE; AND

26 (IV) SHALL REQUIRE THAT PROMPT NOTICE BE GIVEN TO COUNSEL  
27 FOR THE CHILD, OR, IF THE CHILD IS NOT REPRESENTED BY COUNSEL, TO THE  
28 OFFICE OF THE PUBLIC DEFENDER.

29 (C) ON RECEIPT OF A DISTRICT COURT CASE FILE THAT INDICATES THAT THE  
30 CASE INVOLVES A ~~DETAINED~~ CHILD WHO WAS DETAINED AFTER A BAIL REVIEW  
31 HEARING UNDER SUBSECTION (B) OF THIS SECTION, A CIRCUIT COURT ~~SHALL~~:

32 (1) UNLESS PREVIOUSLY SET BY THE DISTRICT COURT UNDER  
33 SUBSECTION (B)(2) OF THIS SECTION, SHALL SET A TRANSFER HEARING UNDER §  
34 4-202 OF THIS SUBTITLE TO BE HELD WITHIN 30 DAYS AFTER THE FILING OF THE  
35 CHARGING DOCUMENT IN THE CIRCUIT COURT;

1           (2)       UNLESS PREVIOUSLY ORDERED BY THE DISTRICT COURT UNDER  
2 SUBSECTION (B)(2) OF THIS SECTION, MAY ORDER THAT A STUDY BE MADE UNDER §  
3 4-202 OF THIS SUBTITLE; AND

4           (3)       SHALL REQUIRE THAT PROMPT NOTICE BE GIVEN TO COUNSEL FOR  
5 THE CHILD, OR, IF THE CHILD IS NOT REPRESENTED BY COUNSEL, TO THE OFFICE OF  
6 THE PUBLIC DEFENDER.

7       SECTION 2. AND BE IT FURTHER ENACTED, That the provisions of this Act  
8 shall be construed prospectively to apply only to offenses committed on or after the  
9 effective date of this Act and may not be applied or interpreted to have any effect on  
10 or application to offenses that were committed before the effective date of this Act.

11       SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
12 October 1, 2001.