

ENROLLED BILL

-- Ways and Means/Judicial Proceedings --

Introduced by **Delegates Zirkin, Cadden, Gutierrez, Morhaim, and Quinter**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Juvenile Justice Monitoring - Transfer to Office of the Attorney General**

3 FOR the purpose of transferring the duties of the Office of the Independent Juvenile
4 Justice Monitor from the Office for Children, Youth, and Families to the Office
5 of the Attorney General; establishing the Juvenile Justice Monitoring Unit of
6 the Office of the Attorney General; requiring the Department of Juvenile
7 Services to adopt a certain policy for addressing disciplinary actions and
8 grievances; requiring the Department to cooperate with the Unit in a certain
9 manner; requiring the Department to respond to certain requests by the Unit in
10 a certain time period; authorizing certain investigations; requiring a
11 representative from the Juvenile Justice Monitoring Unit to be available to
12 attend certain meetings of certain advisory boards; authorizing the disclosure of
13 certain records concerning child abuse and neglect to the Unit under certain
14 circumstances; establishing the function of the Unit; requiring the Unit to
15 employ certain staff; providing for certain salaries and expenses; requiring the
16 Attorney General to set certain salaries, qualifications, and standards in a
17 certain manner; establishing certain duties of the Unit; authorizing the Unit to

1 take certain actions; requiring certain reports to be provided by the Unit;
2 defining certain terms; providing that employees of the Office of the Independent
3 Juvenile Justice Monitor who are transferred to the Office of the Attorney
4 General be transferred without any diminution of their rights, benefits, or
5 employment; authorizing the Governor to transfer certain positions and funds
6 from the Governor's Office for Crime Control and Prevention to the Office of the
7 Attorney General; requiring the Governor to include a certain amount in the
8 annual budget; and generally relating to the establishment of the Juvenile
9 Justice Monitoring Unit of the Office of the Attorney General.

10 BY repealing

11 Article 49D - Office for Children, Youth, and Families
12 Section 40 through 45
13 Annotated Code of Maryland
14 (2003 Replacement Volume and 2004 Supplement)

15 BY repealing and reenacting, with amendments,

16 Article 83C - Juvenile Services
17 Section 2-118(d), (g), and (h) and 2-119
18 Annotated Code of Maryland
19 (2003 Replacement Volume and 2004 Supplement)

20 BY repealing and reenacting, with amendments,

21 Article 88A - Department of Human Resources
22 Section 6(b)
23 Annotated Code of Maryland
24 (2003 Replacement Volume and 2004 Supplement)

25 BY adding to

26 Article - State Government
27 Section 6-301 through 6-306, inclusive, to be under the new subtitle "Subtitle 3.
28 Juvenile Justice Monitoring Unit"
29 Annotated Code of Maryland
30 (2004 Replacement Volume)

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

33 **Article 49D - Office for Children, Youth, and Families**

34 [40.

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

36 (b) "Disciplinary action" means any punitive action against a child that
37 results in more security, additional obligations, or less personal freedom.

1 (c) "Department" means the Department of Juvenile Services.

2 (d) "Facility" means:

3 (1) A residential facility operated by the Department; and

4 (2) A residential facility owned by the Department but privately
5 operated.

6 (e) (1) "Grievance" means a complaint made by a child or on behalf of a child
7 due to a circumstance or action considered to be unjust.

8 (2) "Grievance" does not include an employee grievance, disciplinary
9 appeal, or complaint.

10 (f) "Independent juvenile justice monitor" means an individual employed by
11 the Office for Children, Youth, and Families to determine whether the needs of
12 children under the jurisdiction of the Department are being met in compliance with
13 State law, that their rights are being upheld, and that they are not being abused.

14 (g) "Office" means the Office of the Independent Juvenile Justice Monitor.

15 (h) "Secretary" means the Secretary of Juvenile Services.

16 (i) "Subcabinet" means the Subcabinet for Children, Youth, and Families.

17 (j) "Special Secretary" means the Special Secretary for Children, Youth, and
18 Families.]

19 [41.

20 There is an Office of the Independent Juvenile Justice Monitor in the Office for
21 Children, Youth, and Families.]

22 [42.

23 (a) The Office shall include:

24 (1) A full-time Executive Director; and

25 (2) Staff as provided in the State budget.

26 (b) All salaries for the Executive Director and independent juvenile justice
27 monitors and expenses for rent, equipment, supplies, and general operating expenses
28 necessary for the work of the Office shall be as provided in the State budget.

29 (c) In cooperation with the Secretary of Budget and Management, the Office
30 shall set minimum salaries, qualifications, and standards of training and experience
31 for positions with the Office.]

1 [43.

2 The Office shall:

- 3 (1) Evaluate at each facility:
- 4 (i) The child advocacy grievance process;
- 5 (ii) The Department's monitoring process;
- 6 (iii) The treatment of and services to youth;
- 7 (iv) The physical conditions of the facility; and
- 8 (v) The adequacy of staffing;
- 9 (2) Review all reports of disciplinary actions, grievances, and grievance
10 dispositions received from each facility and alterations in the status or placement of a
11 child that result in more security, additional obligations, or less personal freedom;
- 12 (3) Receive copies of the grievances submitted to the Department;
- 13 (4) Perform unannounced site visits and on-site inspections of facilities;
- 14 (5) Receive and review all incident reports submitted to the Department
15 from facilities;
- 16 (6) Receive reports of the findings of child protective services
17 investigations of allegations of abuse or neglect of a child in a facility; and
- 18 (7) Be available to attend meetings of the Advisory Boards established
19 under Article 83C, § 2-119 of the Code.]

20 [44.

21 The Office may:

- 22 (1) Review relevant laws, policies, procedures, and juvenile justice
23 records, including records relating to individual youth;
- 24 (2) On request, conduct interviews with staff, youth, and others;
- 25 (3) Review investigative reports produced by the Department relating to
26 youth in facilities; and
- 27 (4) Participate, within the context of the local department of social
28 services' multidisciplinary team process, in a child protective services investigation
29 conducted under Title 5, Subtitle 7 of the Family Law Article concerning any
30 allegation of abuse or neglect within any assigned facility.]

1 [45.

2 (a) The Office shall report in a timely manner to the Subcabinet, Special
3 Secretary, the Secretary, and in accordance with § 2-1246 of the State Government
4 Article, the Speaker of the House of Delegates and the President of the Senate:

5 (1) Knowledge of any problem regarding the care, supervision, and
6 treatment of children in facilities;

7 (2) Findings, actions, and recommendations, related to the
8 investigations of disciplinary actions, grievances, incident reports, and alleged cases
9 of child abuse and neglect; and

10 (3) All other findings and actions related to the monitoring required
11 under this subtitle.

12 (b) (1) The Office shall report quarterly to the Special Secretary and the
13 Secretary.

14 (2) A copy of the report shall be provided to the State Advisory Board for
15 Juvenile Services and, in accordance with § 2-1246 of the State Government Article,
16 the General Assembly.

17 (3) The report shall include:

18 (i) All activities of the Office;

19 (ii) Actions taken by the Department resulting from the findings
20 and recommendations of the Independent Monitor, including the Department's
21 response; and

22 (iii) A summary of any violations of the standards and regulations of
23 the Department that remained unabated for 30 days or more during the reporting
24 period.

25 (c) Beginning in 2003, on or before November 30 of each year, the Office shall
26 report to the Special Secretary, the Secretary, the advisory boards established under
27 Article 83C, § 2-119 of the Code, the Governor, and, in accordance with § 2-1246 of
28 the State Government Article, the General Assembly, on all the activities of the Office
29 and the actions taken by the Department in response to findings and
30 recommendations of the Independent Monitor.]

31 **Article 83C - Juvenile Services**

32 2-118.

33 (d) (1) The Department shall adopt a policy for addressing disciplinary
34 actions and grievances within its facilities.

35 (2) The policy shall:

1 (i) Require preparation of a written report of any disciplinary
2 action taken against a child or any grievance which shall be forwarded to the
3 administrative head of the facility;

4 (ii) Require the administrative head of each facility to review all
5 reports of disciplinary actions and grievances; and

6 (iii) Require the Department to forward in a timely manner all
7 reports of disciplinary actions, grievances, and grievance dispositions from each
8 facility to the [Office of the Independent Juvenile Justice Monitor under Article 49D
9 of the Code] JUVENILE JUSTICE MONITORING UNIT OF THE OFFICE OF THE
10 ATTORNEY GENERAL ESTABLISHED UNDER TITLE 6, SUBTITLE 3 OF THE STATE
11 GOVERNMENT ARTICLE.

12 (g) The Department shall cooperate with the [Office of the Independent
13 Juvenile Justice Monitor established under Article 49D of the Code] JUVENILE
14 JUSTICE MONITORING UNIT OF THE OFFICE OF THE ATTORNEY GENERAL
15 ESTABLISHED UNDER TITLE 6, SUBTITLE 3 OF THE STATE GOVERNMENT ARTICLE by:

16 (1) Providing the [Office] UNIT with access to all facilities, reports, and
17 records relating to individual youth upon request;

18 (2) Allowing the [independent] juvenile justice monitors to conduct
19 interviews with staff, youth, and any other individuals upon request; and

20 (3) Submitting corrective action plans and incident reports to the
21 [Office] UNIT in response to findings and recommendations made by the
22 [independent] juvenile justice monitors regarding a facility.

23 (h) (1) The Department shall respond to requests for information pertaining
24 to a facility from [an independent] A juvenile justice monitor within 30 days of the
25 date of the request.

26 (2) If the Department does not respond to a request for information, the
27 monitor may conduct a reasonable investigation relating to the original request for
28 information.

29 2-119.

30 (a) With the consent of the State Advisory Board, the Secretary may establish
31 an advisory board for 1 or more facilities.

32 (b) Each board shall consist of individuals who the Secretary and the State
33 Advisory Board believe may be helpful in matters that relate to the effective operation
34 and improvement of the facilities.

35 (c) [The independent monitor established under Article 49D of the Code] A
36 REPRESENTATIVE FROM THE JUVENILE JUSTICE MONITORING UNIT OF THE OFFICE
37 OF THE ATTORNEY GENERAL ESTABLISHED UNDER TITLE 6, SUBTITLE 3 OF THE

1 STATE GOVERNMENT ARTICLE shall be available to attend meetings of each advisory
2 board.

3 **Article 88A - Department of Human Resources**

4 6.

5 (b) Except as otherwise provided in Title 5, Subtitle 7 of the Family Law
6 Article, § 6A of this subtitle, and this section, all records and reports concerning child
7 abuse or neglect are confidential, and their unauthorized disclosure is a criminal
8 offense subject to the penalty set out in subsection (e) of this section. Reports or
9 records concerning child abuse or neglect:

10 (1) Shall be disclosed:

11 (i) Under a court order; or

12 (ii) Under an order of an administrative law judge, if the request for
13 disclosure concerns a case pending before the Office of Administrative Hearings and
14 provisions are made to comply with other State or federal confidentiality laws and to
15 protect the identity of the reporter or other person whose life or safety is likely to be
16 endangered by disclosure; and

17 (2) May be disclosed on request:

18 (i) To personnel of local or State departments of social services, law
19 enforcement personnel, and members of multidisciplinary case consultation teams,
20 who are investigating a report of known or suspected child abuse or neglect or who
21 are providing services to a child or family that is the subject of the report;

22 (ii) To local or State officials responsible for the administration of
23 child protective services or child care, foster care, and adoption licensing, approval, or
24 regulations as necessary to carry out their official functions;

25 (iii) To the State Council on Child Abuse and Neglect, the State
26 Citizens Review Board for Children, or their designees, or a child fatality review team
27 as necessary to carry out their official functions;

28 (iv) To a person who is the alleged child abuser or the person who is
29 suspected of child neglect if that person is responsible for the child's welfare and
30 provisions are made for the protection of the identity of the reporter or any other
31 person whose life or safety is likely to be endangered by disclosing the information;

32 (v) To a licensed practitioner who, or an agency, institution, or
33 program which, is providing treatment or care to a child who is the subject of a report
34 of child abuse or neglect for a purpose relevant to the provision of the treatment or
35 care;

36 (vi) To a parent or other person who has permanent or temporary
37 care and custody of a child, if provisions are made for the protection of the identity of

1 the reporter or any other person whose life or safety is likely to be endangered by
2 disclosing the information;

3 (vii) To the appropriate public school superintendent for the purpose
4 of carrying out appropriate personnel or administrative actions following a report of
5 suspected child abuse involving a student committed by:

6 1. A public school employee in that school system;

7 2. An independent contractor who supervises or works
8 directly with students in that school system; or

9 3. An employee of an independent contractor, including a bus
10 driver or bus assistant, who supervises or works directly with students in that school
11 system;

12 (viii) To the director of a licensed child care facility or licensed child
13 placement agency for the purpose of carrying out appropriate personnel actions
14 following a report of suspected child neglect or abuse alleged to have been committed
15 by an employee of the facility or agency and involving a child who is currently or who
16 was previously under that facility's or agency's care; or

17 (ix) To the [Office of the Independent Juvenile Justice Monitor
18 established under Article 49D of the Code] JUVENILE JUSTICE MONITORING UNIT OF
19 THE OFFICE OF THE ATTORNEY GENERAL ESTABLISHED UNDER TITLE 6, SUBTITLE 3
20 OF THE STATE GOVERNMENT ARTICLE.

21 **Article - State Government**

22 **SUBTITLE 3. JUVENILE JUSTICE MONITORING UNIT.**

23 6-301.

24 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
25 INDICATED.

26 (B) "DEPARTMENT" MEANS THE DEPARTMENT OF JUVENILE SERVICES.

27 (C) "DISCIPLINARY ACTION" MEANS ANY PUNITIVE ACTION AGAINST A CHILD
28 THAT RESULTS IN MORE SECURITY, ADDITIONAL OBLIGATIONS, OR LESS PERSONAL
29 FREEDOM.

30 (D) "FACILITY" MEANS:

31 (1) A RESIDENTIAL FACILITY OPERATED BY THE DEPARTMENT; AND

32 (2) A RESIDENTIAL FACILITY OWNED BY THE DEPARTMENT BUT
33 PRIVATELY OPERATED.

1 (E) (1) "GRIEVANCE" MEANS A COMPLAINT MADE BY A CHILD OR ON
2 BEHALF OF A CHILD DUE TO A CIRCUMSTANCE OR AN ACTION CONSIDERED TO BE
3 UNJUST.

4 (2) "GRIEVANCE" DOES NOT INCLUDE AN EMPLOYEE GRIEVANCE,
5 DISCIPLINARY APPEAL, OR COMPLAINT.

6 (F) "JUVENILE JUSTICE MONITOR" MEANS AN INDIVIDUAL EMPLOYED BY THE
7 OFFICE OF THE ATTORNEY GENERAL TO DETERMINE WHETHER THE NEEDS OF
8 CHILDREN UNDER THE JURISDICTION OF THE DEPARTMENT ARE BEING MET IN
9 COMPLIANCE WITH STATE LAW, THAT THEIR RIGHTS ARE BEING UPHELD, AND THAT
10 THEY ARE NOT BEING ABUSED.

11 (G) "SECRETARY" MEANS THE SECRETARY OF JUVENILE SERVICES.

12 (H) "SPECIAL SECRETARY" MEANS THE SPECIAL SECRETARY FOR CHILDREN,
13 YOUTH, AND FAMILIES.

14 (I) "UNIT" MEANS THE JUVENILE JUSTICE MONITORING UNIT OF THE OFFICE
15 OF THE ATTORNEY GENERAL.

16 6-302.

17 (A) THERE IS A JUVENILE JUSTICE MONITORING UNIT OF THE OFFICE OF THE
18 ATTORNEY GENERAL.

19 (B) THE FUNCTION OF THE UNIT IS TO INVESTIGATE AND DETERMINE
20 WHETHER THE NEEDS OF CHILDREN UNDER THE JURISDICTION OF THE
21 DEPARTMENT OF JUVENILE SERVICES ARE BEING MET IN COMPLIANCE WITH STATE
22 LAW, THAT THEIR RIGHTS ARE BEING UPHELD, AND THAT THEY ARE NOT BEING
23 ABUSED.

24 6-303.

25 (A) THE UNIT SHALL INCLUDE:

26 (1) A FULL-TIME DIRECTOR OF JUVENILE JUSTICE MONITORING; AND

27 (2) STAFF, INCLUDING JUVENILE JUSTICE MONITORS, AS PROVIDED IN
28 THE STATE BUDGET.

29 (B) SALARIES OF THE DIRECTOR AND JUVENILE JUSTICE MONITORS AND
30 EXPENSES FOR RENT, EQUIPMENT, SUPPLIES, AND GENERAL OPERATING EXPENSES
31 NECESSARY FOR THE WORK OF THE UNIT SHALL BE AS PROVIDED IN THE STATE
32 BUDGET.

33 (C) IN COOPERATION WITH THE SECRETARY OF BUDGET AND MANAGEMENT,
34 THE ATTORNEY GENERAL SHALL SET MINIMUM SALARIES, QUALIFICATIONS, AND
35 STANDARDS OF TRAINING AND EXPERIENCE FOR POSITIONS WITH THE UNIT.

1 6-304.

2 THE UNIT SHALL:

3 (1) EVALUATE AT EACH FACILITY:

4 (I) THE CHILD ADVOCACY GRIEVANCE PROCESS;

5 (II) THE DEPARTMENT'S MONITORING PROCESS;

6 (III) THE TREATMENT OF AND SERVICES TO YOUTH;

7 (IV) THE PHYSICAL CONDITIONS OF THE FACILITY; AND

8 (V) THE ADEQUACY OF STAFFING;

9 (2) REVIEW ALL REPORTS OF DISCIPLINARY ACTIONS, GRIEVANCES,
10 AND GRIEVANCE DISPOSITIONS RECEIVED FROM EACH FACILITY AND ALTERATIONS
11 IN THE STATUS OR PLACEMENT OF A CHILD THAT RESULT IN MORE SECURITY,
12 ADDITIONAL OBLIGATIONS, OR LESS PERSONAL FREEDOM;

13 (3) RECEIVE COPIES OF THE GRIEVANCES SUBMITTED TO THE
14 DEPARTMENT;

15 (4) PERFORM UNANNOUNCED SITE VISITS AND ON-SITE INSPECTIONS
16 OF FACILITIES;

17 (5) RECEIVE AND REVIEW ALL INCIDENT REPORTS SUBMITTED TO THE
18 DEPARTMENT FROM FACILITIES;

19 (6) RECEIVE REPORTS OF THE FINDINGS OF CHILD PROTECTIVE
20 SERVICES INVESTIGATIONS OF ALLEGATIONS OF ABUSE OR NEGLECT OF A CHILD IN
21 A FACILITY; AND

22 (7) HAVE A REPRESENTATIVE AVAILABLE TO ATTEND MEETINGS OF
23 THE ADVISORY BOARDS ESTABLISHED UNDER ARTICLE 83C, § 2-119 OF THE CODE.

24 6-305.

25 THE UNIT MAY:

26 (1) REVIEW RELEVANT LAWS, POLICIES, PROCEDURES, AND JUVENILE
27 JUSTICE RECORDS, INCLUDING RECORDS RELATING TO INDIVIDUAL YOUTH;

28 (2) ON REQUEST, CONDUCT INTERVIEWS WITH STAFF, YOUTH, AND
29 OTHERS;

30 (3) REVIEW INVESTIGATIVE REPORTS PRODUCED BY THE DEPARTMENT
31 RELATING TO YOUTH IN FACILITIES; AND

1 (4) PARTICIPATE, WITHIN THE CONTEXT OF THE LOCAL DEPARTMENT
2 OF SOCIAL SERVICES' MULTIDISCIPLINARY TEAM PROCESS, IN A CHILD PROTECTIVE
3 SERVICES INVESTIGATION CONDUCTED UNDER TITLE 5, SUBTITLE 7 OF THE FAMILY
4 LAW ARTICLE CONCERNING ANY ALLEGATION OF ABUSE OR NEGLECT WITHIN ANY
5 ASSIGNED FACILITY.

6 6-306.

7 (A) THE UNIT SHALL REPORT IN A TIMELY MANNER TO THE SPECIAL
8 SECRETARY, THE SECRETARY, AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE
9 GOVERNMENT ARTICLE, THE SPEAKER OF THE HOUSE OF DELEGATES AND THE
10 PRESIDENT OF THE SENATE:

11 (1) KNOWLEDGE OF ANY PROBLEM REGARDING THE CARE,
12 SUPERVISION, AND TREATMENT OF CHILDREN IN FACILITIES;

13 (2) FINDINGS, ACTIONS, AND RECOMMENDATIONS, RELATED TO THE
14 INVESTIGATIONS OF DISCIPLINARY ACTIONS, GRIEVANCES, INCIDENT REPORTS, AND
15 ALLEGED CASES OF CHILD ABUSE AND NEGLECT; AND

16 (3) ALL OTHER FINDINGS AND ACTIONS RELATED TO THE MONITORING
17 REQUIRED UNDER THIS SUBTITLE.

18 (B) (1) THE UNIT SHALL REPORT QUARTERLY TO THE SPECIAL SECRETARY
19 AND THE SECRETARY.

20 (2) A COPY OF THE REPORT SHALL BE PROVIDED TO THE STATE
21 ADVISORY BOARD FOR JUVENILE SERVICES AND, IN ACCORDANCE WITH § 2-1246 OF
22 THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.

23 (3) THE REPORT SHALL INCLUDE:

24 (I) ALL ACTIVITIES OF THE UNIT;

25 (II) ACTIONS TAKEN BY THE DEPARTMENT RESULTING FROM THE
26 FINDINGS AND RECOMMENDATIONS OF THE UNIT, INCLUDING THE DEPARTMENT'S
27 RESPONSE; AND

28 (III) A SUMMARY OF ANY VIOLATIONS OF THE STANDARDS AND
29 REGULATIONS OF THE DEPARTMENT THAT REMAINED UNABATED FOR 30 DAYS OR
30 MORE DURING THE REPORTING PERIOD.

31 (C) BEGINNING IN 2006, ON OR BEFORE NOVEMBER 30 OF EACH YEAR, THE
32 UNIT SHALL REPORT TO THE SPECIAL SECRETARY, THE SECRETARY, THE ADVISORY
33 BOARDS ESTABLISHED UNDER ARTICLE 83C, § 2-119 OF THE CODE, THE GOVERNOR,
34 AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE
35 GENERAL ASSEMBLY, ON ALL THE ACTIVITIES OF THE OFFICE AND THE ACTIONS
36 TAKEN BY THE DEPARTMENT IN RESPONSE TO FINDINGS AND RECOMMENDATIONS
37 OF THE UNIT.

1 SECTION 2. AND BE IT FURTHER ENACTED, That all employees of the
2 Office of the Independent Juvenile Justice Monitor whose positions are transferred to
3 the Office of the Attorney General by this Act shall be transferred on the effective date
4 of this Act without any diminution of their rights, including collective bargaining
5 rights, benefits, or employment and retirement status.

6 SECTION 3. AND BE IT FURTHER ENACTED, That the Governor may
7 transfer the four regular positions, one contractual position and \$341,424 for the
8 positions from the Governor's Office for Crime Control and Prevention to the Office of
9 the Attorney General.

10 SECTION 4. AND BE IT FURTHER ENACTED, That the Governor shall
11 include in the fiscal year 2007 budget not less than \$538,000 for the purpose of funding
12 the Independent Juvenile Justice Monitor Unit and in each fiscal year thereafter shall
13 include, at a minimum, increases over this amount as provided for in the Department
14 of Budget and Management's annual budget instructions to State agencies.

15 ~~SECTION 2. 5.~~ AND BE IT FURTHER ENACTED, That this Act shall take
16 effect ~~October~~ July 1, 2005.