
By: **Delegates Zirkin, Cadden, Gutierrez, Morhaim, and Quinter**

Introduced and read first time: February 11, 2005

Assigned to: Ways and Means

Committee Report: Favorable

House action: Adopted

Read second time: March 22, 2005

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
 18 take certain actions; requiring certain reports to be provided by the Unit;
 19 defining certain terms; and generally relating to the establishment of the
 20 Juvenile Justice Monitoring Unit of the Office of the Attorney General.

21 BY repealing

22 Article 49D - Office for Children, Youth, and Families

23 Section 40 through 45

24 Annotated Code of Maryland

25 (2003 Replacement Volume and 2004 Supplement)

26 BY repealing and reenacting, with amendments,

1 Article 83C - Juvenile Services
2 Section 2-118(d), (g), and (h) and 2-119
3 Annotated Code of Maryland
4 (2003 Replacement Volume and 2004 Supplement)

5 BY repealing and reenacting, with amendments,
6 Article 88A - Department of Human Resources
7 Section 6(b)
8 Annotated Code of Maryland
9 (2003 Replacement Volume and 2004 Supplement)

10 BY adding to
11 Article - State Government
12 Section 6-301 through 6-306, inclusive, to be under the new subtitle "Subtitle 3.
13 Juvenile Justice Monitoring Unit"
14 Annotated Code of Maryland
15 (2004 Replacement Volume)

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

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

19 [40.

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

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

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

24 (d) "Facility" means:

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

26 (2) A residential facility owned by the Department but privately
27 operated.

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

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

32 (f) "Independent juvenile justice monitor" means an individual employed by
33 the Office for Children, Youth, and Families to determine whether the needs of

1 children under the jurisdiction of the Department are being met in compliance with
2 State law, that their rights are being upheld, and that they are not being abused.

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

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

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

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

8 [41.

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

11 [42.

12 (a) The Office shall include:

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

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

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

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

21 [43.

22 The Office shall:

23 (1) Evaluate at each facility:

24 (i) The child advocacy grievance process;

25 (ii) The Department's monitoring process;

26 (iii) The treatment of and services to youth;

27 (iv) The physical conditions of the facility; and

28 (v) The adequacy of staffing;

1 (2) Review all reports of disciplinary actions, grievances, and grievance
2 dispositions received from each facility and alterations in the status or placement of a
3 child that result in more security, additional obligations, or less personal freedom;

4 (3) Receive copies of the grievances submitted to the Department;

5 (4) Perform unannounced site visits and on-site inspections of facilities;

6 (5) Receive and review all incident reports submitted to the Department
7 from facilities;

8 (6) Receive reports of the findings of child protective services
9 investigations of allegations of abuse or neglect of a child in a facility; and

10 (7) Be available to attend meetings of the Advisory Boards established
11 under Article 83C, § 2-119 of the Code.]

12 [44.

13 The Office may:

14 (1) Review relevant laws, policies, procedures, and juvenile justice
15 records, including records relating to individual youth;

16 (2) On request, conduct interviews with staff, youth, and others;

17 (3) Review investigative reports produced by the Department relating to
18 youth in facilities; and

19 (4) Participate, within the context of the local department of social
20 services' multidisciplinary team process, in a child protective services investigation
21 conducted under Title 5, Subtitle 7 of the Family Law Article concerning any
22 allegation of abuse or neglect within any assigned facility.]

23 [45.

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

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

29 (2) Findings, actions, and recommendations, related to the
30 investigations of disciplinary actions, grievances, incident reports, and alleged cases
31 of child abuse and neglect; and

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

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

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

6 (3) The report shall include:

7 (i) All activities of the Office;

8 (ii) Actions taken by the Department resulting from the findings
9 and recommendations of the Independent Monitor, including the Department's
10 response; and

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

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

20

Article 83C - Juvenile Services

21 2-118.

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

24 (2) The policy shall:

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

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

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

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

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

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

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

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

15 (2) If the Department does not respond to a request for information, the
16 monitor may conduct a reasonable investigation relating to the original request for
17 information.

18 2-119.

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

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

24 (c) [The independent monitor established under Article 49D of the Code] A
25 REPRESENTATIVE FROM THE JUVENILE JUSTICE MONITORING UNIT OF THE OFFICE
26 OF THE ATTORNEY GENERAL ESTABLISHED UNDER TITLE 6, SUBTITLE 3 OF THE
27 STATE GOVERNMENT ARTICLE shall be available to attend meetings of each advisory
28 board.

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

30 6.

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

36 (1) Shall be disclosed:

- 1 (i) Under a court order; or
- 2 (ii) Under an order of an administrative law judge, if the request for
3 disclosure concerns a case pending before the Office of Administrative Hearings and
4 provisions are made to comply with other State or federal confidentiality laws and to
5 protect the identity of the reporter or other person whose life or safety is likely to be
6 endangered by disclosure; and
- 7 (2) May be disclosed on request:
- 8 (i) To personnel of local or State departments of social services, law
9 enforcement personnel, and members of multidisciplinary case consultation teams,
10 who are investigating a report of known or suspected child abuse or neglect or who
11 are providing services to a child or family that is the subject of the report;
- 12 (ii) To local or State officials responsible for the administration of
13 child protective services or child care, foster care, and adoption licensing, approval, or
14 regulations as necessary to carry out their official functions;
- 15 (iii) To the State Council on Child Abuse and Neglect, the State
16 Citizens Review Board for Children, or their designees, or a child fatality review team
17 as necessary to carry out their official functions;
- 18 (iv) To a person who is the alleged child abuser or the person who is
19 suspected of child neglect if that person is responsible for the child's welfare and
20 provisions are made for the protection of the identity of the reporter or any other
21 person whose life or safety is likely to be endangered by disclosing the information;
- 22 (v) To a licensed practitioner who, or an agency, institution, or
23 program which, is providing treatment or care to a child who is the subject of a report
24 of child abuse or neglect for a purpose relevant to the provision of the treatment or
25 care;
- 26 (vi) To a parent or other person who has permanent or temporary
27 care and custody of a child, if provisions are made for the protection of the identity of
28 the reporter or any other person whose life or safety is likely to be endangered by
29 disclosing the information;
- 30 (vii) To the appropriate public school superintendent for the purpose
31 of carrying out appropriate personnel or administrative actions following a report of
32 suspected child abuse involving a student committed by:
- 33 1. A public school employee in that school system;
- 34 2. An independent contractor who supervises or works
35 directly with students in that school system; or
- 36 3. An employee of an independent contractor, including a bus
37 driver or bus assistant, who supervises or works directly with students in that school
38 system;

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

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

10 **Article - State Government**

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

12 6-301.

13 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
14 INDICATED.

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

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

19 (D) "FACILITY" MEANS:

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

21 (2) A RESIDENTIAL FACILITY OWNED BY THE DEPARTMENT BUT
22 PRIVATELY OPERATED.

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

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

28 (F) "JUVENILE JUSTICE MONITOR" MEANS AN INDIVIDUAL EMPLOYED BY THE
29 OFFICE OF THE ATTORNEY GENERAL TO DETERMINE WHETHER THE NEEDS OF
30 CHILDREN UNDER THE JURISDICTION OF THE DEPARTMENT ARE BEING MET IN
31 COMPLIANCE WITH STATE LAW, THAT THEIR RIGHTS ARE BEING UPHeld, AND THAT
32 THEY ARE NOT BEING ABUSED.

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

34 (H) "SPECIAL SECRETARY" MEANS THE SPECIAL SECRETARY FOR CHILDREN,
35 YOUTH, AND FAMILIES.

1 (I) "UNIT" MEANS THE JUVENILE JUSTICE MONITORING UNIT OF THE OFFICE
2 OF THE ATTORNEY GENERAL.

3 6-302.

4 (A) THERE IS A JUVENILE JUSTICE MONITORING UNIT OF THE OFFICE OF THE
5 ATTORNEY GENERAL.

6 (B) THE FUNCTION OF THE UNIT IS TO INVESTIGATE AND DETERMINE
7 WHETHER THE NEEDS OF CHILDREN UNDER THE JURISDICTION OF THE
8 DEPARTMENT OF JUVENILE SERVICES ARE BEING MET IN COMPLIANCE WITH STATE
9 LAW, THAT THEIR RIGHTS ARE BEING UPHELD, AND THAT THEY ARE NOT BEING
10 ABUSED.

11 6-303.

12 (A) THE UNIT SHALL INCLUDE:

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

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

16 (B) SALARIES OF THE DIRECTOR AND JUVENILE JUSTICE MONITORS AND
17 EXPENSES FOR RENT, EQUIPMENT, SUPPLIES, AND GENERAL OPERATING EXPENSES
18 NECESSARY FOR THE WORK OF THE UNIT SHALL BE AS PROVIDED IN THE STATE
19 BUDGET.

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

23 6-304.

24 THE UNIT SHALL:

25 (1) EVALUATE AT EACH FACILITY:

26 (I) THE CHILD ADVOCACY GRIEVANCE PROCESS;

27 (II) THE DEPARTMENT'S MONITORING PROCESS;

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

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

30 (V) THE ADEQUACY OF STAFFING;

31 (2) REVIEW ALL REPORTS OF DISCIPLINARY ACTIONS, GRIEVANCES,
32 AND GRIEVANCE DISPOSITIONS RECEIVED FROM EACH FACILITY AND ALTERATIONS

1 IN THE STATUS OR PLACEMENT OF A CHILD THAT RESULT IN MORE SECURITY,
2 ADDITIONAL OBLIGATIONS, OR LESS PERSONAL FREEDOM;

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

5 (4) PERFORM UNANNOUNCED SITE VISITS AND ON-SITE INSPECTIONS
6 OF FACILITIES;

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

9 (6) RECEIVE REPORTS OF THE FINDINGS OF CHILD PROTECTIVE
10 SERVICES INVESTIGATIONS OF ALLEGATIONS OF ABUSE OR NEGLECT OF A CHILD IN
11 A FACILITY; AND

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

14 6-305.

15 THE UNIT MAY:

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

18 (2) ON REQUEST, CONDUCT INTERVIEWS WITH STAFF, YOUTH, AND
19 OTHERS;

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

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

27 6-306.

28 (A) THE UNIT SHALL REPORT IN A TIMELY MANNER TO THE SPECIAL
29 SECRETARY, THE SECRETARY, AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE
30 GOVERNMENT ARTICLE, THE SPEAKER OF THE HOUSE OF DELEGATES AND THE
31 PRESIDENT OF THE SENATE:

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

34 (2) FINDINGS, ACTIONS, AND RECOMMENDATIONS, RELATED TO THE
35 INVESTIGATIONS OF DISCIPLINARY ACTIONS, GRIEVANCES, INCIDENT REPORTS, AND
36 ALLEGED CASES OF CHILD ABUSE AND NEGLECT; AND

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

3 (B) (1) THE UNIT SHALL REPORT QUARTERLY TO THE SPECIAL SECRETARY
4 AND THE SECRETARY.

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

8 (3) THE REPORT SHALL INCLUDE:

9 (I) ALL ACTIVITIES OF THE UNIT;

10 (II) ACTIONS TAKEN BY THE DEPARTMENT RESULTING FROM THE
11 FINDINGS AND RECOMMENDATIONS OF THE UNIT, INCLUDING THE DEPARTMENT'S
12 RESPONSE; AND

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

16 (C) BEGINNING IN 2006, ON OR BEFORE NOVEMBER 30 OF EACH YEAR, THE
17 UNIT SHALL REPORT TO THE SPECIAL SECRETARY, THE SECRETARY, THE ADVISORY
18 BOARDS ESTABLISHED UNDER ARTICLE 83C, § 2-119 OF THE CODE, THE GOVERNOR,
19 AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE
20 GENERAL ASSEMBLY, ON ALL THE ACTIVITIES OF THE OFFICE AND THE ACTIONS
21 TAKEN BY THE DEPARTMENT IN RESPONSE TO FINDINGS AND RECOMMENDATIONS
22 OF THE UNIT.

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
24 October 1, 2005.