
By: **Senators Grosfeld, Britt, Exum, Forehand, Gladden, Kelley, Lawlah,
and McFadden**

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Assigned to: Judicial Proceedings

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CHAPTER _____

1 AN ACT concerning

2 **Juvenile Law - Competency**

3 FOR the purpose of requiring the juvenile court to order a certain evaluation of a
4 certain child under certain circumstances; requiring a certain evaluation to be
5 performed by a qualified expert; providing for the construction of a certain
6 provision of this Act; requiring certain legal pleadings to be served on certain
7 individuals and agencies; specifying certain procedures and conditions under
8 which an examination is to be conducted; requiring a qualified expert to
9 examine a certain child and prepare a certain report; requiring the qualified
10 expert to review certain records and consider certain factors; specifying the
11 contents of a certain report; specifying certain procedures for the filing of certain
12 reports; establishing that a failure to file a certain report may not be, in and of
13 itself, grounds for dismissal of a certain petition; authorizing counsel for the
14 child to be present during an examination of the child; specifying certain
15 procedures for a competency hearing; requiring the court to take certain actions
16 after the court makes a certain determination at a competency hearing;
17 authorizing the court to take certain actions after the court makes a certain
18 determination at a competency hearing; requiring a certain service provider to
19 file a certain report with the court; specifying that the court retains jurisdiction
20 over a certain child for a certain period; requiring the court to dismiss a certain
21 petition under certain circumstances; authorizing the court to order that certain
22 proceedings be instituted under certain circumstances; establishing that certain
23 hearings may be conducted without the presence of the child under certain
24 circumstances; specifying that certain statements, information, and reports are
25 not admissible in a proceeding except under certain circumstances; requiring
26 the Secretary of Health and Mental Hygiene and the Secretary of Juvenile
27 Services to jointly adopt certain regulations; defining certain terms; and

1 generally relating to the competency of a child to participate in certain
2 proceedings.

3 BY repealing and reenacting, with amendments,
4 Article - Courts and Judicial Proceedings
5 Section 3-8A-01
6 Annotated Code of Maryland
7 (2002 Replacement Volume and 2004 Supplement)

8 BY adding to
9 Article - Courts and Judicial Proceedings
10 Section 3-8A-17.1 through 3-8A-17.9
11 Annotated Code of Maryland
12 (2002 Replacement Volume and 2004 Supplement)

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

15 **Article - Courts and Judicial Proceedings**

16 3-8A-01.

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

19 (b) "Adjudicatory hearing" means a hearing under this subtitle to determine
20 whether the allegations in the petition, other than allegations that the child requires
21 treatment, guidance or rehabilitation, are true.

22 (c) "Adult" means an individual who is at least 18 years old.

23 (d) "Child" means an individual under the age of 18 years.

24 (e) "Child in need of supervision" is a child who requires guidance, treatment,
25 or rehabilitation and:

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

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

29 (3) Deports himself so as to injure or endanger himself or others; or

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

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

1 (g) "Commit" means to transfer legal custody.

2 (h) (1) "Community detention" means a program monitored by the
3 Department of Juvenile Services in which a delinquent child or a child alleged to be
4 delinquent is placed in the home of a parent, guardian, custodian, or other fit person,
5 or in shelter care, as a condition of probation or as an alternative to detention.

6 (2) "Community detention" includes electronic monitoring.

7 (I) "COMPETENCY HEARING" MEANS A HEARING UNDER THIS SUBTITLE TO
8 DETERMINE WHETHER A CHILD ALLEGED TO BE DELINQUENT IS MENTALLY
9 COMPETENT TO PARTICIPATE IN A WAIVER HEARING UNDER § 3-8A-06 OF THIS
10 SUBTITLE, AN ADJUDICATORY HEARING UNDER § 3-8A-18 OF THIS SUBTITLE, A
11 DISPOSITION HEARING UNDER § 3-8A-19 OF THIS SUBTITLE, OR A VIOLATION OF
12 PROBATION HEARING.

13 [(i)] (J) "Court" means the circuit court for a county sitting as the juvenile
14 court.

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

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

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

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

25 (O) "DEVELOPMENTAL DISABILITY" MEANS A SEVERE CHRONIC DISABILITY
26 OF A CHILD THAT:

27 (1) IS ATTRIBUTABLE TO A PHYSICAL OR MENTAL IMPAIRMENT, OTHER
28 THAN THE SOLE DIAGNOSIS OF MENTAL ILLNESS, OR TO A COMBINATION OF
29 MENTAL AND PHYSICAL IMPAIRMENTS;

30 (2) IS LIKELY TO CONTINUE INDEFINITELY;

31 (3) RESULTS IN AN INABILITY TO LIVE INDEPENDENTLY WITHOUT
32 EXTERNAL SUPPORT OR CONTINUING AND REGULAR ASSISTANCE; AND

33 (4) REFLECTS THE NEED FOR A COMBINATION AND SEQUENCE OF
34 SPECIAL INTERDISCIPLINARY OR GENERIC CARE, TREATMENT, OR OTHER SERVICES
35 THAT ARE INDIVIDUALLY PLANNED AND COORDINATED FOR THE CHILD.

1 [(n)] (P) "Disposition hearing" means a hearing under this subtitle to
2 determine:

3 (1) Whether a child needs or requires guidance, treatment, or
4 rehabilitation; and if so

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

6 (Q) "INCOMPETENT TO PROCEED" MEANS THAT A CHILD IS NOT ABLE TO:

7 (1) UNDERSTAND THE NATURE OR OBJECT OF THE PROCEEDING; OR

8 (2) ASSIST IN THE CHILD'S DEFENSE.

9 [(o)] (R) "Intake officer" means the person assigned to the court by the
10 Department of Juvenile Services to provide the intake services set forth in this
11 subtitle.

12 (S) (1) "MENTAL DISORDER" MEANS A BEHAVIORAL OR EMOTIONAL
13 ILLNESS THAT RESULTS FROM A PSYCHIATRIC OR NEUROLOGICAL DISORDER.

14 (2) "MENTAL DISORDER" INCLUDES A MENTAL ILLNESS THAT SO
15 SUBSTANTIALLY IMPAIRS THE MENTAL OR EMOTIONAL FUNCTIONING OF A CHILD
16 AS TO MAKE CARE OR TREATMENT NECESSARY OR ADVISABLE FOR THE WELFARE OF
17 THE CHILD OR FOR THE SAFETY OF THE CHILD OR PROPERTY OF ANOTHER.

18 (3) "MENTAL DISORDER" DOES NOT INCLUDE MENTAL RETARDATION.

19 (T) "MENTAL RETARDATION" MEANS A DEVELOPMENTAL DISABILITY THAT IS
20 EVIDENCED BY INTELLECTUAL FUNCTIONING THAT IS SIGNIFICANTLY BELOW
21 AVERAGE AND IMPAIRMENT IN THE ADAPTIVE BEHAVIOR OF A CHILD.

22 [(p)] (U) "Mentally handicapped child" means a child who is or may be
23 mentally retarded or mentally ill.

24 [(q)] (V) "Party" includes a child who is the subject of a petition or a peace
25 order request, the child's parent, guardian, or custodian, the petitioner and an adult
26 who is charged under § 3-8A-30 of this subtitle.

27 [(r)] (W) "Peace order proceeding" means a proceeding under § 3-8A-19.2 or §
28 3-8A-19.4 of this subtitle.

29 [(s)] (X) "Peace order request" means the initial pleading filed with the court
30 under § 3-8A-19.1 of this subtitle.

31 [(t)] (Y) "Petition" means the pleading filed with the court under § 3-8A-13 of
32 this subtitle alleging that a child is a delinquent child or a child in need of supervision
33 or that an adult violated § 3-8A-30 of this subtitle.

34 (Z) "QUALIFIED EXPERT" MEANS A LICENSED PSYCHOLOGIST OR
35 PSYCHIATRIST WHO HAS EXPERTISE IN CHILD DEVELOPMENT, WITH TRAINING IN

1 FORENSIC EVALUATION PROCEDURES THROUGH FORMAL INSTRUCTION,
2 PROFESSIONAL SUPERVISION, OR BOTH, AND WHO IS:

3 (1) FAMILIAR WITH THE COMPETENCY STANDARDS CONTAINED IN THIS
4 SUBTITLE; AND

5 (2) FAMILIAR WITH THE TREATMENT, TRAINING, AND RESTORATION
6 PROGRAMS FOR CHILDREN THAT ARE AVAILABLE IN THIS STATE.

7 [(u)] (AA) "Respondent" means the individual against whom a petition or a
8 peace order request is filed.

9 [(v)] (BB) (1) "Shelter care" means the temporary care of children in
10 physically unrestricting facilities.

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

12 [(w)] (CC) (1) "Victim" means:

13 (i) A person who suffers direct or threatened physical, emotional,
14 or financial harm as a result of a delinquent act; or

15 (ii) An individual against whom an act specified in § 3-8A-19.1(b)
16 of this subtitle is committed or alleged to have been committed.

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

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

21 [(x)] (DD) "Violation" means a violation for which a citation is issued under:

22 (1) § 10-113, § 10-114, § 10-115, or § 10-116 of the Criminal Law Article;

23 (2) § 10-108 of the Criminal Law Article; or

24 (3) § 26-103 of the Education Article.

25 [(y)] (EE) "Witness" means any person who is or expects to be a State's witness.
26 3-8A-17.1.

27 (A) (1) AT ANY TIME AFTER A PETITION ALLEGING THAT A CHILD HAS
28 COMMITTED A DELINQUENT ACT IS FILED WITH THE COURT UNDER THIS SUBTITLE,
29 THE COURT ON ITS OWN MOTION, OR ON MOTION OF THE CHILD'S COUNSEL OR THE
30 STATE'S ATTORNEY, SHALL STAY ALL PROCEEDINGS AND ORDER AN EVALUATION OF
31 THE CHILD'S MENTAL CONDITION AND DEVELOPMENTAL LEVELS IF THE COURT
32 FINDS THAT:

1 (I) THERE IS PROBABLE CAUSE TO BELIEVE THAT THE CHILD HAS
2 COMMITTED THE DELINQUENT ACT; AND

3 (II) THERE IS REASON TO BELIEVE THAT THE CHILD MAY BE
4 INCOMPETENT TO PROCEED WITH A WAIVER HEARING UNDER § 3-8A-06 OF THIS
5 SUBTITLE, AN ADJUDICATORY HEARING UNDER § 3-8A-18 OF THIS SUBTITLE, A
6 DISPOSITION HEARING UNDER § 3-8A-19 OF THIS SUBTITLE, OR A VIOLATION OF
7 PROBATION HEARING.

8 (2) AN EVALUATION ORDERED UNDER PARAGRAPH (1) OF THIS
9 SUBSECTION SHALL BE PERFORMED BY A QUALIFIED EXPERT.

10 (3) THIS SUBSECTION MAY NOT BE CONSTRUED TO PROHIBIT THE
11 STATE OR THE CHILD FROM CALLING OTHER EXPERT WITNESSES TO TESTIFY AT A
12 COMPETENCY HEARING.

13 (B) ANY MOTION QUESTIONING THE CHILD'S COMPETENCY TO PROCEED, AND
14 ANY SUBSEQUENT LEGAL PLEADING RELATING TO THE CHILD'S COMPETENCY TO
15 PROCEED, SHALL BE SERVED ON THE CHILD'S COUNSEL, THE STATE'S ATTORNEY,
16 THE DEPARTMENT OF JUVENILE SERVICES, AND THE DEPARTMENT OF HEALTH AND
17 MENTAL HYGIENE.

18 3-8A-17.2.

19 (A) THE COURT SHALL SET AND MAY CHANGE THE CONDITIONS UNDER
20 WHICH THE EXAMINATION IS TO BE CONDUCTED.

21 (B) ON CONSIDERATION OF THE NATURE OF THE PETITION, THE COURT MAY
22 REQUIRE THE EXAMINATION TO BE CONDUCTED ON AN OUTPATIENT BASIS IF THE
23 CHILD WAS PREVIOUSLY DETAINED UNDER § 3-8A-15 OF THIS SUBTITLE AND SHALL
24 REQUIRE THE EXAMINATION TO BE CONDUCTED ON AN OUTPATIENT BASIS IF THE
25 CHILD WAS NOT PREVIOUSLY DETAINED UNDER § 3-8A-15 OF THIS SUBTITLE.

26 (C) (1) IF A CHILD WAS PREVIOUSLY DETAINED UNDER § 3-8A-15 OF THIS
27 SUBTITLE, THE COURT MAY ORDER THE CHILD TO CONTINUE TO BE DETAINED
28 BEYOND ANY PERIOD SPECIFIED IN § 3-8A-15 OF THIS SUBTITLE UNTIL THE
29 EXAMINATION IS COMPLETED.

30 (2) IF THE COURT FINDS IT APPROPRIATE FOR THE HEALTH OR SAFETY
31 OF THE CHILD, OR FOR THE SAFETY OF OTHERS, THE COURT MAY ORDER
32 CONFINEMENT OF THE JUVENILE, PENDING THE EXAMINATION, IN A MEDICAL
33 FACILITY THAT THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE DESIGNATES
34 AS APPROPRIATE.

35 3-8A-17.3.

36 (A) (1) THE QUALIFIED EXPERT SHALL EXAMINE THE CHILD AND PREPARE
37 A REPORT STATING WHETHER, IN THE EXPERT'S OPINION, THE CHILD IS
38 INCOMPETENT TO PROCEED.

1 (2) IN CONDUCTING THE EXAMINATION, THE QUALIFIED EXPERT SHALL
2 REVIEW ALL AVAILABLE MEDICAL, EDUCATIONAL, AND COURT RECORDS
3 CONCERNING THE CHILD AND THE CHILD'S CASE.

4 (3) IN DETERMINING WHETHER THE CHILD IS INCOMPETENT TO
5 PROCEED, THE QUALIFIED EXPERT SHALL CONSIDER THE FOLLOWING FACTORS:

6 (I) THE CHILD'S AGE, MATURITY LEVEL, DEVELOPMENTAL STAGE,
7 AND DECISION-MAKING ABILITIES;

8 (II) THE CAPACITY OF THE CHILD TO:

9 1. APPRECIATE THE ALLEGATIONS AGAINST THE CHILD;

10 2. APPRECIATE THE RANGE AND NATURE OF ALLOWABLE
11 DISPOSITIONS THAT MAY BE IMPOSED IN THE PROCEEDINGS AGAINST THE CHILD;

12 3. UNDERSTAND THE ROLES OF THE PARTICIPANTS AND
13 THE ADVERSARY NATURE OF THE LEGAL PROCESS;

14 4. DISCLOSE TO COUNSEL FACTS PERTINENT TO THE
15 PROCEEDINGS AT ISSUE;

16 5. DISPLAY APPROPRIATE COURTROOM BEHAVIOR; AND

17 6. TESTIFY RELEVANTLY; AND

18 (III) ANY OTHER FACTORS THAT THE QUALIFIED EXPERT DEEMS TO
19 BE RELEVANT.

20 (4) THE WRITTEN REPORT SUBMITTED BY THE QUALIFIED EXPERT
21 SHALL:

22 (I) IDENTIFY THE SPECIFIC MATTERS REFERRED FOR
23 EVALUATION;

24 (II) DESCRIBE THE PROCEDURES, TECHNIQUES, AND TESTS USED
25 IN THE EXAMINATION AND THE PURPOSES OF EACH;

26 (III) STATE THE QUALIFIED EXPERT'S CLINICAL OBSERVATIONS,
27 FINDINGS, AND OPINIONS ON EACH FACTOR SPECIFIED IN PARAGRAPH (3) OF THIS
28 SUBSECTION, AND IDENTIFY THOSE FACTORS, IF ANY, ON WHICH THE QUALIFIED
29 EXPERT COULD NOT GIVE AN OPINION; AND

30 (IV) IDENTIFY THE SOURCES OF INFORMATION USED BY THE
31 QUALIFIED EXPERT AND PRESENT THE FACTUAL BASIS FOR THE QUALIFIED
32 EXPERT'S CLINICAL FINDINGS AND OPINIONS.

33 (B) (1) IF THE QUALIFIED EXPERT BELIEVES THAT THE CHILD IS
34 INCOMPETENT TO PROCEED, THE REPORT SHALL DESCRIBE THE TREATMENT THAT
35 THE QUALIFIED EXPERT BELIEVES IS NECESSARY FOR THE CHILD TO ATTAIN

1 COMPETENCY TO PROCEED, AND, IN A SEPARATE REPORT, SHALL STATE WHETHER
2 THE CHILD POSES A DANGER TO THE CHILD OR TO THE PERSON OR PROPERTY OF
3 OTHERS.

4 (2) IN DETERMINING THE TREATMENT THAT IS NECESSARY FOR THE
5 CHILD TO ATTAIN COMPETENCY TO PROCEED, THE QUALIFIED EXPERT SHALL
6 CONSIDER AND REPORT ON THE FOLLOWING:

7 (I) THE MENTAL ILLNESS, MENTAL RETARDATION,
8 DEVELOPMENTAL IMMATURITY, OR OTHER DEVELOPMENTAL DISABILITY CAUSING
9 THE CHILD TO BE INCOMPETENT TO PROCEED;

10 (II) THE TREATMENT OR EDUCATION APPROPRIATE FOR THE
11 MENTAL ILLNESS, MENTAL RETARDATION, DEVELOPMENTAL IMMATURITY, OR
12 OTHER DEVELOPMENTAL DISABILITY OF THE CHILD, AND AN EXPLANATION OF
13 EACH OF THE POSSIBLE TREATMENT OR EDUCATION ALTERNATIVES, IN ORDER OF
14 RECOMMENDATION;

15 (III) THE LIKELIHOOD OF THE CHILD ATTAINING COMPETENCY TO
16 PROCEED UNDER THE TREATMENT OR EDUCATION RECOMMENDED, AN
17 ASSESSMENT OF THE PROBABLE DURATION OF THE TREATMENT REQUIRED TO
18 ATTAIN COMPETENCY, AND THE PROBABILITY THAT THE CHILD WILL ATTAIN
19 COMPETENCY TO PROCEED IN THE FORESEEABLE FUTURE; AND

20 (IV) WHETHER THE CHILD MEETS THE CRITERIA FOR
21 INVOLUNTARY ADMISSION UNDER TITLE 10, SUBTITLE 6, PART III OF THE HEALTH -
22 GENERAL ARTICLE.

23 (C) (1) ALL REPORTS REQUIRED UNDER THIS SECTION SHALL BE FILED
24 WITH THE COURT AND SERVED ON THE CHILD'S COUNSEL, THE STATE'S ATTORNEY,
25 AND THE DEPARTMENT OF JUVENILE SERVICES WITHIN 45 DAYS AFTER THE COURT
26 ORDERS THE EXAMINATION.

27 (2) ON GOOD CAUSE SHOWN, THE COURT MAY EXTEND THE TIME
28 PERIOD SPECIFIED IN PARAGRAPH (1) OF THIS SUBSECTION FOR AN ADDITIONAL 15
29 DAYS.

30 (3) FAILURE TO FILE A COMPLETE REPORT WITHIN THE TIME PERIODS
31 SPECIFIED IN THIS SUBSECTION MAY NOT BE, IN AND OF ITSELF, GROUNDS FOR
32 DISMISSAL OF THE PETITION ALLEGING DELINQUENCY.

33 (D) COUNSEL FOR THE CHILD MAY BE PRESENT AT AN EXAMINATION UNDER
34 THIS SECTION.

35 3-8A-17.4.

36 (A) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,
37 WITHIN 15 DAYS AFTER RECEIPT OF A REPORT OF A QUALIFIED EXPERT, THE COURT
38 SHALL HOLD A COMPETENCY HEARING.

1 (2) ON GOOD CAUSE SHOWN, THE COURT MAY EXTEND THE TIME FOR
2 HOLDING THE COMPETENCY HEARING FOR AN ADDITIONAL 15 DAYS.

3 (B) AT THE COMPETENCY HEARING, THE COURT SHALL DETERMINE, BY
4 EVIDENCE PRESENTED ON THE RECORD, WHETHER THE JUVENILE IS INCOMPETENT
5 TO PROCEED.

6 (C) FINDINGS OF FACT SHALL BE BASED ON THE EVALUATION OF THE CHILD
7 BY THE QUALIFIED EXPERT.

8 (D) THE STATE SHALL BEAR THE BURDEN OF PROVING THE CHILD'S
9 COMPETENCY BEYOND A REASONABLE DOUBT.

10 3-8A-17.5.

11 AT A COMPETENCY HEARING, IF THE COURT DETERMINES THAT THE CHILD IS
12 COMPETENT, THE COURT SHALL ENTER AN ORDER STATING THAT THE CHILD IS
13 COMPETENT, LIFT THE STAY IMPOSED UNDER § 3-8A-17.1 OF THIS SUBTITLE, AND
14 PROCEED WITH THE DELINQUENCY PETITION OR VIOLATION OF PROBATION
15 PETITION IN ACCORDANCE WITH THE TIME PERIODS SPECIFIED IN THIS SUBTITLE
16 AND IN THE MARYLAND RULES.

17 3-8A-17.6.

18 AT A COMPETENCY HEARING, IF THE COURT DETERMINES THAT THE CHILD IS
19 UNABLE TO ATTAIN COMPETENCY IN THE FORESEEABLE FUTURE, THE COURT:

20 (1) MAY:

21 (I) ORDER THAT PROCEEDINGS FOR INVOLUNTARY ADMISSION
22 UNDER TITLE 10, SUBTITLE 6, PART III OF THE HEALTH - GENERAL ARTICLE BE
23 INSTITUTED, IF APPROPRIATE; OR

24 (II) DISMISS THE DELINQUENCY PETITION OR VIOLATION OF
25 PROBATION PETITION; AND

26 (2) UNLESS THE COURT FINDS THAT THE CHILD IS A DANGER TO THE
27 CHILD OR THE PERSON OR PROPERTY OF OTHERS, SHALL RELEASE THE CHILD FROM
28 ANY FACILITY.

29 3-8A-17.7.

30 (A) UNLESS THE CASE IS DISMISSED UNDER § 3-8A-17.6 OF THIS SUBTITLE, AT
31 A COMPETENCY HEARING, IF THE COURT DETERMINES THAT A CHILD IS
32 INCOMPETENT TO PROCEED IN THE FORESEEABLE FUTURE, THE COURT SHALL
33 RETAIN JURISDICTION OF THE CHILD FOR NOT MORE THAN 3 YEARS AFTER THE
34 DATE OF THE ORDER OF INCOMPETENCY IF THE CHILD IS ALLEGED TO HAVE
35 COMMITTED AN ACT THAT WOULD BE A FELONY IF COMMITTED BY AN ADULT, AND
36 UP TO 1 YEAR AFTER THE DATE OF THE ORDER OF INCOMPETENCY IF THE CHILD IS

1 ALLEGED TO HAVE COMMITTED AN ACT THAT WOULD BE A MISDEMEANOR IF
2 COMMITTED BY AN ADULT OR IS ALLEGED TO HAVE VIOLATED PROBATION.

3 (B) AT THE END OF ANY PERIOD SPECIFIED IN SUBSECTION (A) OF THIS
4 SECTION, IF THE CHILD HAS NOT ATTAINED COMPETENCY, THE COURT:

5 (1) SHALL DISMISS THE DELINQUENCY PETITION OR THE VIOLATION OF
6 PROBATION PETITION; AND

7 (2) MAY ORDER THAT PROCEEDINGS FOR INVOLUNTARY ADMISSION
8 UNDER TITLE 10, SUBTITLE 6, PART III OF THE HEALTH - GENERAL ARTICLE BE
9 INSTITUTED, IF APPROPRIATE.

10 3-8A-17.8.

11 (A) AT ANY TIME BEFORE AN ADJUDICATION UNDER THIS SUBTITLE, A
12 HEARING ON A PRELIMINARY MOTION ON ANOTHER ISSUE, INCLUDING AN
13 OBJECTION TO THE SUFFICIENCY OF THE PETITION, MAY BE CONDUCTED WITHOUT
14 THE CHILD BEING PRESENT IF THE CHILD'S TESTIMONY IS NOT REQUIRED.

15 (B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, ANY
16 STATEMENT MADE BY THE CHILD OR INFORMATION ELICITED DURING A
17 COMPETENCY HEARING OR IN CONNECTION WITH THE DETERMINATION OF
18 COMPETENCY UNDER THIS SUBTITLE, AND ANY REPORT PREPARED BY A QUALIFIED
19 EXPERT, MAY NOT BE ADMITTED IN EVIDENCE IN ANY PROCEEDING EXCEPT A
20 PROCEEDING RELATING TO THE CHILD'S COMPETENCY TO PROCEED.

21 (2) PARAGRAPH (1) OF THIS SUBSECTION DOES NOT APPLY IF THE
22 COUNSEL FOR THE CHILD INTRODUCES THE REPORT OF THE QUALIFIED EXPERT, OR
23 ANY PART OF IT, IN ANY HEARING OTHER THAN A COMPETENCY HEARING.

24 3-8A-17.9.

25 THE SECRETARY OF HEALTH AND MENTAL HYGIENE AND THE SECRETARY OF
26 JUVENILE SERVICES SHALL JOINTLY ADOPT REGULATIONS TO CARRY OUT THE
27 PROVISIONS OF THIS SUBTITLE RELATING TO COMPETENCY.

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