

# HOUSE BILL 1098

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By: **Delegates Impallaria, Dwyer, McDonough, and Stocksdale**

Introduced and read first time: February 7, 2008

Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Juveniles - Drug-Related Delinquency - Drug Screening of Parent,**  
3 **Guardian, or Custodian**

4 FOR the purpose of authorizing a juvenile court, when a child is adjudicated  
5 delinquent for a certain act involving a controlled dangerous substance, to order  
6 the child's parent, guardian, or custodian to submit to a certain screening for  
7 substance abuse as a condition of the child's probation, disposition, or treatment  
8 service plan; authorizing a juvenile court to order the parent, guardian, or  
9 custodian to participate in certain substance abuse treatment or counseling  
10 under certain conditions; providing that information relating to screening,  
11 treatment, or counseling ordered by a court under this Act is confidential, not  
12 admissible as evidence in certain proceedings, and may not disqualify the  
13 parent, guardian, or custodian from State or local government employment; and  
14 generally relating to drug screening, treatment, and counseling of the parent,  
15 guardian, or custodian of a child adjudicated delinquent for certain  
16 drug-related acts.

17 BY repealing and reenacting, without amendments,  
18 Article - Courts and Judicial Proceedings  
19 Section 3-8A-01(a), (h), (l), (m), and (v), 3-8A-02(a)(2) and (3), 3-8A-19(b)(1),  
20 (c), and (d)(1) and (2), 3-8A-20.1(a), and 3-8A-26  
21 Annotated Code of Maryland  
22 (2006 Replacement Volume and 2007 Supplement)

23 BY adding  
24 Article - Courts and Judicial Proceedings  
25 Section 3-8A-26.1  
26 Annotated Code of Maryland  
27 (2006 Replacement Volume and 2007 Supplement)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **Article – Courts and Judicial Proceedings**

4 3–8A–01.

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

7 (h) (1) “Community detention” means a program monitored by the  
8 Department of Juvenile Services in which a delinquent child or a child alleged to be  
9 delinquent is placed in the home of a parent, guardian, custodian, or other fit person,  
10 or in shelter care, as a condition of probation or as an alternative to detention.

11 (2) “Community detention” includes electronic monitoring.

12 (l) “Delinquent act” means an act which would be a crime if committed by an  
13 adult.

14 (m) “Delinquent child” is a child who has committed a delinquent act and  
15 requires guidance, treatment, or rehabilitation.

16 (v) “Party” includes a child who is the subject of a petition or a peace order  
17 request, the child’s parent, guardian, or custodian, the petitioner and an adult who is  
18 charged under § 3–8A–30 of this subtitle.

19 3–8A–02.

20 (a) The purposes of this subtitle are:

21 (2) To hold parents of children found to be delinquent responsible for  
22 the child’s behavior and accountable to the victim and the community;

23 (3) To hold parents of children found to be delinquent or in need of  
24 supervision responsible, where possible, for remedying the circumstances that  
25 required the court’s intervention;

26 3–8A–19.

27 (b) (1) After an adjudicatory hearing the court shall hold a separate  
28 disposition hearing, unless the petition or citation is dismissed or unless such hearing  
29 is waived in writing by all of the parties.

30 (c) The priorities in making a disposition are consistent with the purposes  
31 specified in § 3–8A–02 of this subtitle.

1 (d) (1) In making a disposition on a petition under this subtitle, the court  
2 may:

3 (i) Place the child on probation or under supervision in his own  
4 home or in the custody or under the guardianship of a relative or other fit person,  
5 upon terms the court deems appropriate, including community detention;

6 (ii) Subject to the provisions of paragraph (2) of this subsection,  
7 commit the child to the custody or under the guardianship of the Department of  
8 Juvenile Services, the Department of Health and Mental Hygiene, or a public or  
9 licensed private agency on terms that the court considers appropriate to meet the  
10 priorities set forth in § 3-8A-02 of this subtitle, including designation of the type of  
11 facility where the child is to be accommodated, until custody or guardianship is  
12 terminated with approval of the court or as required under § 3-8A-24 of this subtitle;  
13 or

14 (iii) Order the child, parents, guardian, or custodian of the child  
15 to participate in rehabilitative services that are in the best interest of the child and  
16 the family.

17 (2) In addition to the provisions of paragraph (1) of this subsection, in  
18 making a disposition on a petition, the court may adopt a treatment service plan, as  
19 defined in § 3-8A-20.1 of this subtitle.

20 3-8A-20.1.

21 (a) (1) In this section, "treatment service plan" means a plan  
22 recommended at a disposition hearing under § 3-8A-19 of this subtitle or at a  
23 disposition review hearing under this section by the Department of Juvenile Services  
24 to the court proposing specific assistance, guidance, treatment, or rehabilitation of a  
25 child.

26 (2) In making a treatment service plan, a juvenile counselor shall  
27 meet with the child who is the subject of the treatment service plan and the child's  
28 parent, guardian, or legal custodian to discuss the treatment service plan.

29 (3) If a child's parent, guardian, or legal custodian is unable or refuses  
30 to meet with the juvenile counselor, the treatment service plan shall indicate that the  
31 parent, guardian, or legal custodian is unable or refuses to meet, and the reason for  
32 the inability or refusal to meet, if known.

33 (4) At a minimum, the treatment service plan shall include:

34 (i) The recommended level of supervision for the child;

35 (ii) Specific goals for the child and family to meet, along with  
36 timelines for meeting those goals;

1 (iii) A statement of any condition that the child's parent,  
2 guardian, or legal custodian must change in order to alleviate any risks to the child;

3 (iv) A statement of the services to be provided to the child and  
4 child's family; and

5 (v) Any other information that may be necessary to make a  
6 disposition consistent with the child's best interests and the protection of the public  
7 interest.

8 3-8A-26.

9 Pursuant to the procedure provided in the Maryland Rules, the court may make  
10 an appropriate order directing, restraining, or otherwise controlling the conduct of a  
11 person who is properly before the court under this subtitle, if:

12 (1) The court finds that the conduct:

13 (i) Is or may be detrimental or harmful to a child over whom  
14 the court has jurisdiction; or

15 (ii) Will tend to defeat the execution of an order or disposition  
16 made or to be made; or

17 (iii) Will assist in the rehabilitation of or is necessary for the  
18 welfare of the child; and

19 (2) Notice of the application or motion and its grounds has been given  
20 as prescribed by the Maryland Rules.

21 **3-8A-26.1.**

22 (A) **THIS SECTION APPLIES IN AN ACTION IN WHICH A CHILD IS**  
23 **ADJUDICATED DELINQUENT FOR COMMITTING AN ACT UNDER TITLE 5 OF THE**  
24 **CRIMINAL LAW ARTICLE.**

25 (B) **IN ACCORDANCE WITH § 3-8A-26 OF THIS SUBTITLE AND AS A**  
26 **CONDITION OF A CHILD'S PROBATION UNDER COMMUNITY DETENTION,**  
27 **DISPOSITION UNDER § 3-8A-19 OF THIS SUBTITLE, OR TREATMENT SERVICE**  
28 **PLAN UNDER § 3-8A-20.1 OF THIS SUBTITLE, THE COURT MAY ORDER THE**  
29 **CHILD'S PARENT, GUARDIAN, OR CUSTODIAN TO SUBMIT TO A SCREENING FOR**  
30 **SUBSTANCE ABUSE AND PARTICIPATE IN SUBSTANCE ABUSE TREATMENT OR**  
31 **COUNSELING.**

32 (C) **INFORMATION RELATING TO A PARENT, GUARDIAN, OR CUSTODIAN**  
33 **THAT WAS OBTAINED AS A RESULT OF COURT-ORDERED SCREENING OR**

1 SUBSTANCE ABUSE TREATMENT OR COUNSELING UNDER SUBSECTION (B) OF  
2 THIS SECTION:

3 (1) IS CONFIDENTIAL AND MAY NOT BE OPEN TO INSPECTION  
4 EXCEPT BY ORDER OF THE COURT OR AS OTHERWISE EXPRESSLY PROVIDED BY  
5 LAW;

6 (2) IS NOT ADMISSIBLE AS EVIDENCE AGAINST THE PARENT,  
7 GUARDIAN, OR CUSTODIAN:

8 (I) IN ANY CRIMINAL PROCEEDING PRIOR TO CONVICTION;  
9 OR

10 (II) IN ANY CIVIL PROCEEDING NOT CONDUCTED UNDER  
11 THIS SUBTITLE; AND

12 (3) MAY NOT BE USED TO DISQUALIFY THE PARENT, GUARDIAN,  
13 OR CUSTODIAN WITH RESPECT TO EMPLOYMENT BY THE STATE OR ANY  
14 POLITICAL SUBDIVISION OF THE STATE.

15 (D) THE COURT OF APPEALS MAY ADOPT RULES TO IMPLEMENT THE  
16 PROVISIONS OF THIS SECTION.

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
18 October 1, 2008.