

# HOUSE BILL 916

E3

(3lr2030)

## ENROLLED BILL

— Judiciary/Judicial Proceedings —

Introduced by **Delegates Valentino-Smith, M. Washington, Braveboy, Carter, Dumais, Gaines, Hucker, Lee, Rosenberg, Simmons, Swain, Valderrama, and Waldstreicher**

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 Law – Dispositions – Placement Guidance**

3 FOR the purpose of prohibiting the juvenile court, except under certain circumstances,  
4 from committing a child who has committed a certain offense to the Department  
5 of Juvenile Services for out-of-home placement; providing for the construction  
6 of this Act; and generally relating to juvenile law.

7 BY repealing and reenacting, with amendments,  
8 Article – Courts and Judicial Proceedings  
9 Section 3–8A–19(d)  
10 Annotated Code of Maryland  
11 (2006 Replacement Volume and 2012 Supplement)

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### EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

*Italics* indicate opposite chamber/conference committee amendments.



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–19.

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

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

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

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

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

24 **(3) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OR (III)**  
25 **OF THIS PARAGRAPH, A CHILD MAY NOT BE COMMITTED TO THE DEPARTMENT**  
26 **OF JUVENILE SERVICES FOR OUT-OF-HOME PLACEMENT IF THE MOST SERIOUS**  
27 **OFFENSE IS:**

28 **1. POSSESSION OF MARIJUANA UNDER §**  
29 **5–601(C)(2)(II) OF THE CRIMINAL LAW ARTICLE;**

30 **2. POSSESSION OR PURCHASE OF A**  
31 **NONCONTROLLED SUBSTANCE UNDER § 5–618 OF THE CRIMINAL LAW ARTICLE;**

32 **3. DISTURBING THE PEACE OR DISORDERLY**  
33 **CONDUCT UNDER § 10–201 OF THE CRIMINAL LAW ARTICLE;**

1                   4.    MALICIOUS DESTRUCTION OF PROPERTY UNDER §  
2 6-301 OF THE CRIMINAL LAW ARTICLE;

3                   5.    AN OFFENSE INVOLVING INHALANTS UNDER §  
4 5-708 OF THE CRIMINAL LAW ARTICLE;

5                   6.    AN OFFENSE INVOLVING PROSTITUTION UNDER §  
6 11-306 OF THE CRIMINAL LAW ARTICLE;

7                   7.    THEFT UNDER § 7-104(G)(2) OR (3) OF THE  
8 CRIMINAL LAW ARTICLE; OR

9                   8.    TRESPASS UNDER § 6-402(B)(1) OR § 6-403(C)(1)  
10 OF THE CRIMINAL LAW ARTICLE.

11                   (ii) A CHILD WHOSE MOST SERIOUS OFFENSE IS AN  
12 OFFENSE LISTED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH MAY BE  
13 COMMITTED TO THE DEPARTMENT OF JUVENILE SERVICES FOR OUT-OF-HOME  
14 PLACEMENT IF:

15                   1.    THE CHILD PREVIOUSLY HAS BEEN ADJUDICATED  
16 DELINQUENT FOR THREE OR MORE OFFENSES ARISING FROM SEPARATE AND  
17 INDEPENDENT CIRCUMSTANCES;

18                   2.    THE CHILD WAIVES THE PROHIBITION DESCRIBED  
19 IN SUBPARAGRAPH (I) OF THIS PARAGRAPH AND THE COURT ACCEPTS THE  
20 WAIVER AS KNOWING, INTELLIGENT, AND VOLUNTARY; OR

21                   3.    THE COURT MAKES A WRITTEN FINDING,  
22 ~~INCLUDING THE SPECIFIC FACTS SUPPORTING THE FINDING, THAT SUCH~~  
23 ~~PLACEMENT IS NECESSARY FOR THE SAFETY OF THE CHILD OR THE~~  
24 ~~PROTECTION OF THE PUBLIC IN ACCORDANCE WITH SUBPARAGRAPH (III) OF~~  
25 THIS PARAGRAPH.

26                   (iii) A CHILD WHOSE MOST SERIOUS OFFENSE IS AN  
27 OFFENSE LISTED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH MAY BE  
28 COMMITTED TO THE DEPARTMENT OF JUVENILE SERVICES FOR OUT-OF-HOME  
29 PLACEMENT IF THE COURT MAKES A WRITTEN FINDING, INCLUDING THE  
30 SPECIFIC FACTS SUPPORTING THE FINDING, ~~THAT:~~

31                   ~~1.    A.    THE PLACEMENT IS REQUIRED TO PROTECT~~  
32 ~~THE CHILD OR PERSON AND PROPERTY OF OTHERS;~~

1 ~~**B. THE CHILD IS LIKELY TO LEAVE THE**~~  
2 ~~**JURISDICTION OF THE COURT; OR**~~

3 ~~**C. THERE IS NO PARENT, GUARDIAN, OR CUSTODIAN**~~  
4 ~~**OR OTHER PERSON ABLE TO PROVIDE SUPERVISION AND CARE FOR THE CHILD**~~  
5 ~~**AND RETURN THE CHILD TO THE COURT WHEN REQUIRED; AND**~~

6 ~~**2. THE PLACEMENT IS REASONABLE UNDER THE**~~  
7 ~~**CIRCUMSTANCES DUE TO AN ALLEGED EMERGENCY SITUATION AND IN ORDER**~~  
8 ~~**TO PROVIDE FOR THE SAFETY OF THE CHILD THAT AN OUT-OF-HOME**~~  
9 ~~**PLACEMENT IS NECESSARY FOR THE WELFARE OF THE CHILD OR IN THE**~~  
10 ~~**INTEREST OF PUBLIC SAFETY.**~~

11 ~~**(H) (IV)**~~ THIS PARAGRAPH MAY NOT BE CONSTRUED TO  
12 PROHIBIT THE COURT FROM COMMITTING THE CHILD TO ANOTHER  
13 APPROPRIATE AGENCY.

14 [(3)] (4) A child committed under paragraph (1)(ii) of this subsection  
15 may not be accommodated in a facility that has reached budgeted capacity if a bed is  
16 available in another comparable facility in the State, unless the placement to the  
17 facility that has reached budgeted capacity has been recommended by the Department  
18 of Juvenile Services.

19 [(4)] (5) The court shall consider any oral address made in  
20 accordance with § 11-403 of the Criminal Procedure Article or any victim impact  
21 statement, as described in § 11-402 of the Criminal Procedure Article, in determining  
22 an appropriate disposition on a petition.

23 [(5)] (6) (i) If the court finds that a child enrolled in a public  
24 elementary or secondary school is delinquent or in need of supervision and commits  
25 the child to the custody or under the guardianship of the Department of Juvenile  
26 Services, the court may notify the county superintendent, the supervisor of pupil  
27 personnel, or any other official designated by the county superintendent of the fact  
28 that the child has been found to be delinquent or in need of supervision and has been  
29 committed to the custody or under the guardianship of the Department of Juvenile  
30 Services.

31 (ii) If the court rescinds the commitment order for a child  
32 enrolled in a public elementary or secondary school, the court may notify the county  
33 superintendent, the supervisor of pupil personnel, or any other official designated by  
34 the county superintendent of the fact that the child is no longer committed to the  
35 custody of the Department of Juvenile Services.

1                   (iii) The notice authorized under subparagraphs (i) and (ii) of  
2 this paragraph may not include any order or pleading related to the delinquency or  
3 child in need of supervision case.

4           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
5 October 1, 2013.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.