

SENATE BILL 122

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4lr0092

(PRE-FILED)

By: **Chair, Judicial Proceedings Committee (By Request – Departmental – Juvenile Services)**

Requested: November 8, 2013

Introduced and read first time: January 8, 2014

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Juvenile Law – Detention – Community Detention Violation Hearings**

3 FOR the purpose of requiring an intake officer who authorized detention of a child for
4 a violation of community detention to immediately file a certain petition;
5 requiring that a hearing on a certain petition be held no later than the next
6 court day unless extended under certain circumstances; requiring certain notice
7 of the hearing be given to certain persons; and generally relating to violations of
8 community detention.

9 BY repealing and reenacting, with amendments,
10 Article – Courts and Judicial Proceedings
11 Section 3–8A–15
12 Annotated Code of Maryland
13 (2013 Replacement Volume and 2013 Supplement)

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

16 **Article – Courts and Judicial Proceedings**

17 3–8A–15.

18 (a) Only the court or an intake officer may authorize detention, community
19 detention, or shelter care for a child who may be in need of supervision or delinquent.

20 (b) If a child is taken into custody under this subtitle, the child may be
21 placed in detention or community detention prior to a hearing if:

22 (1) Such action is required to protect the child or others; or

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2) The child is likely to leave the jurisdiction of the court.

2 (c) A child taken into custody under this subtitle may be placed in
3 emergency shelter care or community detention prior to a hearing if:

4 (1) (i) Such action is required to protect the child or person and
5 property of others;

6 (ii) The child is likely to leave the jurisdiction of the court; or

7 (iii) There is no parent, guardian, or custodian or other person
8 able to provide supervision and care for the child and return the child to the court
9 when required; and

10 (2) (i) 1. Continuation of the child in the child's home is
11 contrary to the welfare of the child; and

12 2. Removal of the child from the child's home is
13 reasonable under the circumstances due to an alleged emergency situation and in
14 order to provide for the safety of the child; or

15 (ii) 1. Reasonable but unsuccessful efforts have been made
16 to prevent or eliminate the need for removal from the child's home; and

17 2. As appropriate, reasonable efforts are being made to
18 return the child to the child's home.

19 (d) (1) If the child is not released, the intake officer or the official who
20 authorized detention, community detention, or shelter care under this section shall
21 immediately file a petition to authorize continued detention, community detention, or
22 shelter care.

23 (2) A hearing on the petition shall be held not later than the next
24 court day, unless extended for no more than 5 days by the court upon good cause
25 shown.

26 (3) Reasonable notice, oral or written, stating the time, place, and
27 purpose of the hearing, shall be given to the child and, if they can be found, the child's
28 parents, guardian, or custodian.

29 (4) Except as provided in paragraph (5) of this subsection, shelter care
30 may not be ordered for a period of more than 30 days unless an adjudicatory or waiver
31 hearing is held.

32 (5) For a child in need of supervision or a delinquent child, shelter
33 care may be extended for an additional period of not more than 30 days if the court

1 finds after a hearing held as part of the adjudication that continued shelter care is
2 consistent with the circumstances stated in subsections (b) and (c) of this section.

3 (6) (i) An adjudicatory or waiver hearing shall be held no later
4 than 30 days after the date a petition for detention or community detention is granted.

5 (ii) If a child is detained or placed in community detention after
6 an adjudicatory hearing, a disposition hearing shall be held no later than 14 days after
7 the adjudicatory hearing.

8 (iii) Detention or community detention time may be extended in
9 increments of not more than 14 days where the petition charges the child with a
10 delinquent act and where the court finds, after a subsequent hearing, that extended
11 detention or community detention is necessary either:

12 1. For the protection of the child; or

13 2. For the protection of the community.

14 (e) (1) Detention or community detention may not be continued beyond
15 emergency detention or community detention unless, upon an order of court after a
16 hearing, the court has found that one or more of the circumstances stated in
17 subsection (b) of this section exist.

18 (2) A court order under this paragraph shall:

19 (i) Contain a written determination of whether or not the
20 criteria contained in subsection (c)(1) and (2) of this section have been met; and

21 (ii) Specify which of the circumstances stated in subsection (b)
22 of this section exist.

23 (3) (i) If the court has not specifically prohibited community
24 detention, the Department of Juvenile Services may release the child from detention
25 into community detention and place the child in:

26 1. Shelter care; or

27 2. The custody of the child's parent, guardian, custodian,
28 or other person able to provide supervision and care for the child and to return the
29 child to court when required.

30 (ii) If a child who has been released by the Department of
31 Juvenile Services or the court into community detention violates the conditions of
32 community detention, and it is necessary to protect the child or others, an intake
33 officer may authorize the detention of the child.

1 (iii) The Department of Juvenile Services shall promptly notify
2 the court of:

3 1. The release of a child from detention under
4 subparagraph (i) of this paragraph; or

5 2. The return to detention of a child under subparagraph
6 (ii) of this paragraph.

7 (IV) 1. IF A CHILD IS RETURNED TO DETENTION UNDER
8 SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE INTAKE OFFICER WHO
9 AUTHORIZED DETENTION SHALL IMMEDIATELY FILE A PETITION TO AUTHORIZE
10 CONTINUED DETENTION.

11 2. UNLESS EXTENDED BY THE COURT, ON GOOD
12 CAUSE SHOWN FOR NO MORE THAN 5 DAYS, A HEARING ON THE PETITION TO
13 AUTHORIZE CONTINUED DETENTION SHALL BE HELD NO LATER THAN THE NEXT
14 COURT DAY.

15 3. REASONABLE NOTICE, ORAL OR WRITTEN,
16 STATING THE TIME, PLACE, AND PURPOSE OF THE HEARING, SHALL BE GIVEN
17 TO THE CHILD AND, IF THEY CAN BE LOCATED, THE CHILD'S PARENTS,
18 GUARDIAN, OR CUSTODIAN.

19 (f) Shelter care may only be continued beyond emergency shelter care if the
20 court has found that:

21 (1) Continuation of the child in the child's home is contrary to the
22 welfare of the child; and

23 (2) (i) Removal of the child from the child's home is necessary due
24 to an alleged emergency situation and in order to provide for the safety of the child; or

25 (ii) Reasonable but unsuccessful efforts were made to prevent or
26 eliminate the need for removal of the child from the home.

27 (3) (i) If the court continues shelter care on the basis of an alleged
28 emergency, the court shall assess whether the absence of efforts to prevent removal
29 was reasonable.

30 (ii) If the court finds that the absence of efforts to prevent
31 removal was not reasonable, the court shall make a written determination so stating.

32 (4) The court shall make a determination as to whether reasonable
33 efforts are being made to make it possible to return the child to the child's home or
34 whether the absence of such efforts is reasonable.

1 (g) A child alleged to be delinquent may not be detained in a jail or other
2 facility for the detention of adults.

3 (h) (1) A child alleged to be in need of supervision may not be placed in:

4 (i) Detention or community detention;

5 (ii) A State mental health facility; or

6 (iii) A shelter care facility that is not operating in compliance
7 with applicable State licensing laws.

8 (2) Subject to paragraph (1)(iii) of this subsection, a child alleged to be
9 in need of supervision may be placed in shelter care facilities maintained or approved
10 by the Social Services Administration or the Department of Juvenile Services or in a
11 private home or shelter care facility approved by the court.

12 (3) The Secretary of Human Resources and the Secretary of Juvenile
13 Services together, when appropriate, with the Secretary of Health and Mental
14 Hygiene shall jointly adopt regulations to ensure that any child placed in shelter care
15 pursuant to a petition filed under subsection (d) of this section be provided appropriate
16 services, including:

17 (i) Health care services;

18 (ii) Counseling services;

19 (iii) Education services;

20 (iv) Social work services; and

21 (v) Drug and alcohol abuse assessment or treatment services.

22 (4) In addition to any other provision, the regulations shall require:

23 (i) The Department of Juvenile Services to develop a plan
24 within 45 days of placement of a child in a shelter care facility to assess the child's
25 treatment needs; and

26 (ii) The plan to be submitted to all parties to the petition and
27 their counsel.

28 (i) The intake officer or the official who authorized detention, community
29 detention, or shelter care under this subtitle shall immediately give written notice of
30 the authorization for detention, community detention, or shelter care to the child's
31 parent, guardian, or custodian and to the court. The notice shall be accompanied by a

1 statement of the reasons for taking the child into custody and placing him in
2 detention, community detention, or shelter care. This notice may be combined with the
3 notice required under subsection (d) of this section.

4 (j) (1) If a child is alleged to have committed a delinquent act, the court
5 or a juvenile intake officer shall consider including, as a condition of releasing the
6 child pending an adjudicatory or disposition hearing, reasonable protections for the
7 safety of the alleged victim.

8 (2) If a victim has requested reasonable protections for safety, the
9 court or juvenile intake officer shall consider including, as a condition of releasing the
10 child pending an adjudicatory or disposition hearing, provisions regarding no contact
11 with the alleged victim or the alleged victim's premises or place of employment.

12 (k) If a child remains in a facility used for detention for the specific act for
13 which the child has been adjudicated delinquent for more than 25 days after the court
14 has made a disposition on a petition under § 3-8A-19 of this subtitle, the Department
15 of Juvenile Services shall:

16 (1) On the first available court date after the 25th day that the child
17 remains in a facility used for detention, appear at a hearing before the court with the
18 child to explain the reasons for continued detention; and

19 (2) Every 25 days thereafter, appear at another hearing before the
20 court with the child to explain the reasons for continued detention.

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
22 October 1, 2014.