

Article - Courts and Judicial Proceedings

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§3–8A–10. IN EFFECT

(a) This section does not apply to allegations that a child is in need of assistance, as defined in § 3–801 of this title.

(b) An intake officer shall receive:

(1) Complaints from a person or agency having knowledge of facts which may cause a person to be subject to the jurisdiction of the court under this subtitle; and

(2) Citations issued by a police officer under § 3–8A–33 of this subtitle.

(c) (1) Except as otherwise provided in this subsection, in considering the complaint, the intake officer shall make an inquiry within 25 days as to whether the court has jurisdiction and whether judicial action is in the best interests of the public or the child.

(2) An inquiry need not include an interview of the child who is the subject of the complaint if the complaint alleges the commission of an act that would be a felony if committed by an adult or alleges a violation of § 4–203 or § 4–204 of the Criminal Law Article.

(3) Subject to the provisions of § 3–8A–10.1 of this subtitle, in accordance with this section, the intake officer may, after such inquiry and within 25 days of receiving the complaint:

(i) Authorize the filing of a petition or a peace order request or both;

(ii) Propose an informal adjustment of the matter; or

(iii) Refuse authorization to file a petition or a peace order request or both.

(4) (i) If a complaint is filed that alleges the commission of an act which would be a felony if committed by an adult or alleges a violation of § 4–203 or § 4–204 of the Criminal Law Article, and if the intake officer denies authorization to file a petition or proposes an informal adjustment, the intake officer shall immediately:

1. Forward the complaint to the State’s Attorney; and

2. Forward a copy of the entire intake case file to the State’s Attorney with information as to any and all prior intake involvement with the child.

(ii) The State’s Attorney shall make a preliminary review as to whether the court has jurisdiction and whether judicial action is in the best interests

of the public or the child. The need for restitution may be considered as one factor in the public interest. After the preliminary review the State's Attorney shall, within 30 days of the receipt of the complaint by the State's Attorney, unless the court extends the time:

1. File a petition or a peace order request or both;
2. Refer the complaint to the Department of Juvenile Services for informal disposition; or
3. Dismiss the complaint.

(iii) This subsection may not be construed or interpreted to limit the authority of the State's Attorney to seek a waiver under § 3-8A-06 of this subtitle.

(c-1) (1) In this subsection, "seriously emotionally disturbed" has the meaning stated in § 15-130 of the Health - General Article.

(2) (i) As soon as possible and in no event later than 25 days after receipt of a complaint, the intake officer shall discuss with the child who is the subject of a complaint and the child's parent or guardian information regarding a referral for a mental health and substance abuse screening of the child.

(ii) The screening authorized under subparagraph (i) of this paragraph shall be conducted by a person who:

1. Has been selected by the child's parent or guardian;
 2. Has been approved by the child's health insurance carrier;
- and
3. Is:
 - A. A qualified health, mental health, or substance abuse professional; or
 - B. Staff trained by a qualified health, mental health, or substance abuse professional.

(iii) Within 15 days of the date of the discussion with the child and the child's parent or guardian, the intake officer shall document whether the child's parent or guardian made an appointment for a mental health and substance abuse screening of the child who is the subject of a complaint.

(3) If, as a result of the screening authorized under paragraph (2) of this subsection, it is determined that the child is a mentally handicapped or seriously emotionally disturbed child, or is a substance abuser, the qualified health, mental health, or substance abuse professional or staff, no later than 5 working days after

the screening, shall conduct a comprehensive mental health or substance abuse assessment of the child.

(4) The Department of Juvenile Services and the Department of Health and Mental Hygiene:

(i) May not disclose to any person any information received by the departments relating to a specific mental health and substance abuse screening or assessment conducted under this section that could identify the child who was the subject of the screening or assessment; and

(ii) May make public other information unless prohibited by law.

(5) The Secretary of Juvenile Services and the Secretary of Health and Mental Hygiene jointly shall adopt any regulation necessary to carry out this subsection.

(d) (1) Subject to the provisions of § 3–8A–10.1 of this subtitle, the intake officer may authorize the filing of a petition or a peace order request or both if, based upon the complaint and the inquiry, the intake officer concludes that the court has jurisdiction over the matter and that judicial action is in the best interests of the public or the child.

(2) An inquiry need not include an interview of the child who is the subject of the complaint if the complaint alleges the commission of an act that would be a felony if committed by an adult or alleges a violation of § 4–203 or § 4–204 of the Criminal Law Article.

(3) In delinquency cases, the need for restitution may be considered by the intake officer as one factor in the public interest.

(4) The intake officer shall inform the following persons of any authorization decision specified in paragraph (1) of this subsection and the reasons for the decision:

- (i) The child who is the subject of the complaint, if practicable;
- (ii) The parent, guardian, or custodian of the child who is the subject of the complaint;
- (iii) The victim;
- (iv) The arresting police officer; and
- (v) The person or agency that filed the complaint or caused it to be filed.

(e) (1) Subject to the provisions of § 3–8A–10.1 of this subtitle, the intake

officer may propose an informal adjustment of the matter if, based on the complaint and the inquiry, the intake officer concludes that the court has jurisdiction but that an informal adjustment, rather than judicial action, is in the best interests of the public and the child.

(2) The intake officer shall propose an informal adjustment by informing the victim, the child, and the child's parent or guardian of the nature of the complaint, the objectives of the adjustment process, and the conditions and procedures under which it will be conducted.

(3) The intake officer may not proceed with an informal adjustment unless the victim, the child, and the child's parent or guardian consent to the informal adjustment procedure.

(f) (1) During the informal adjustment process, the child shall be subject to such supervision as the intake officer deems appropriate and if the intake officer decides to have an intake conference, the child and the child's parent or guardian shall appear at the intake conference.

(2) The informal adjustment process may not exceed 90 days unless:

(i) That time is extended by the court; or

(ii) The intake officer determines that additional time is necessary for the child to complete a substance abuse treatment program that is part of the informal adjustment process.

(3) If the victim, the child, and the child's parent or guardian do not consent to an informal adjustment, the intake officer shall authorize the filing of a petition or a peace order request or both or deny authorization to file a petition or a peace order request or both under subsection (g) of this section.

(4) If at any time before the completion of an agreed upon informal adjustment the intake officer believes that the informal adjustment cannot be completed successfully, the intake officer shall authorize the filing of a petition or a peace order request or both or deny authorization to file a petition or a peace order request or both under subsection (g) of this section.

(g) (1) If based upon the complaint and the inquiry, the intake officer concludes that the court has no jurisdiction, or that neither an informal adjustment nor judicial action is appropriate, the intake officer may deny authorization to file a petition or a peace order request or both.

(2) If the intake officer denies authorization to file a petition or a peace order request or both, the intake officer shall inform the following persons of the decision, the reasons for it, and their right of review provided in this section:

(i) The victim;

(ii) The arresting police officer; and
(iii) The person or agency that filed the complaint or caused it to be filed.

(3) The intake officer shall inform the persons specified in paragraph (2) of this subsection of the decision to deny authorization to file a petition for the alleged commission of a delinquent act through use of the form prescribed by § 3–8A–11 of this subtitle.

(h) (1) If the complaint alleges the commission of a delinquent act and the intake officer denies authorization to file a petition, the following persons may appeal the denial to the State’s Attorney:

(i) The victim;
(ii) The arresting police officer; and
(iii) The person or agency that filed the complaint or caused it to be filed.

(2) In order for an appeal to be made, it must be received by the State’s Attorney’s office within 30 days after the form prescribed by § 3–8A–11 of this subtitle is mailed by the juvenile intake officer to the person being informed of the intake officer’s decision.

(3) (i) The State’s Attorney shall review the denial.

(ii) If the State’s Attorney concludes that the court has jurisdiction and that judicial action is in the best interests of the public or the child, the State’s Attorney may file a petition.

(iii) This petition shall be filed within 30 days of the receipt of the complainant’s appeal.

(i) (1) If authorization to file a petition for a complaint which alleges a child is in need of supervision or if authorization to file a peace order request is denied, the person or agency that filed the complaint or caused it to be filed, within 15 days of personal notice of the denial to that person or agency or the mailing to the last known address, may submit the denial for review by the Department of Juvenile Services Area Director for the area in which the complaint was filed.

(2) The Department of Juvenile Services Area Director shall review the denial.

(3) If, within 15 days, the Department of Juvenile Services Area Director concludes that the court has jurisdiction and that judicial action is in the best interests of the public and the child, the Department of Juvenile Services Area Director may

authorize the filing of a petition in writing.

(4) The petition shall be filed within 5 days of the decision.

(j) (1) If the complaint alleges that a minor 16 years of age or older has committed an act in violation of any provision of the Maryland Vehicle Law or other traffic law or ordinance under the jurisdiction of the juvenile court, the complaint shall be filed directly with the State's Attorney of the jurisdiction in which the alleged violation occurred.

(2) If the State's Attorney elects to proceed with the case, the State's Attorney may prepare a petition for filing with the court of proper jurisdiction.

(k) (1) If the intake officer receives a citation other than a citation authorized under § 10–108 of the Criminal Law Article, the intake officer may:

(i) Refer the child to an alcohol or substance abuse education or rehabilitation program;

(ii) Assign the child to a supervised work program for not more than 20 hours for the first violation and not more than 40 hours for the second or subsequent violation;

(iii) Require the parent or guardian of the child to withdraw the parent's or guardian's consent to the child's license to drive, and advise the Motor Vehicle Administration of the withdrawal of consent; or

(iv) Forward the citation to the State's Attorney.

(2) The intake officer shall forward the citation, other than a citation authorized under § 10–108 of the Criminal Law Article, to the State's Attorney if:

(i) The parent or guardian of the child refuses to withdraw consent to the child's license to drive;

(ii) The child fails to comply with an alcohol or substance abuse education or rehabilitation program referral; or

(iii) The child fails to comply with a supervised work program assignment.

(l) (1) If the intake officer receives a citation authorized under § 10–108 of the Criminal Law Article, the intake officer may:

(i) Refer the child to a smoking cessation clinic, or other suitable presentation of the hazards associated with tobacco use;

(ii) Assign the child to a supervised work program for not more than

20 hours for the first violation and not more than 40 hours for a second or subsequent violation; or

(iii) Forward the citation to the State's Attorney.

(2) The intake officer shall forward the citation authorized under § 10–108 of the Criminal Law Article to the State's Attorney if the child fails to comply with a smoking program referral or a supervised work program assignment described under paragraph (1) of this subsection.

(m) (1) Except as provided in paragraph (2) of this subsection, within 15 days after a law enforcement officer takes a child into custody under this subtitle the law enforcement officer shall file a complaint with an intake officer.

(2) If a child is referred to a diversion program, the law enforcement officer may file the complaint with an intake officer more than 30 days after but no later than 120 days after the law enforcement officer took the child into custody.

(n) The court may dismiss a petition or a peace order request for failure to comply with this section only if the respondent has demonstrated actual prejudice.

3–8A–10. // EFFECTIVE JUNE 30, 2016 PER CHAPTER 413 OF 2013 //

(a) This section does not apply to allegations that a child is in need of assistance, as defined in § 3–801 of this title.

(b) An intake officer shall receive:

(1) Complaints from a person or agency having knowledge of facts which may cause a person to be subject to the jurisdiction of the court under this subtitle; and

(2) Citations issued by a police officer under § 3–8A–33 of this subtitle.

(c) (1) Except as otherwise provided in this subsection, in considering the complaint, the intake officer shall make an inquiry within 25 days as to whether the court has jurisdiction and whether judicial action is in the best interests of the public or the child.

(2) An inquiry need not include an interview of the child who is the subject of the complaint if the complaint alleges the commission of an act that would be a felony if committed by an adult or alleges a violation of § 4–203 or § 4–204 of the Criminal Law Article.

(3) In accordance with this section, the intake officer may, after such inquiry and within 25 days of receiving the complaint:

(i) Authorize the filing of a petition or a peace order request or both;

- (ii) Propose an informal adjustment of the matter; or
- (iii) Refuse authorization to file a petition or a peace order request or both.

(4) (i) If a complaint is filed that alleges the commission of an act which would be a felony if committed by an adult or alleges a violation of § 4–203 or § 4–204 of the Criminal Law Article, and if the intake officer denies authorization to file a petition or proposes an informal adjustment, the intake officer shall immediately:

1. Forward the complaint to the State’s Attorney; and
2. Forward a copy of the entire intake case file to the State’s Attorney with information as to any and all prior intake involvement with the child.

(ii) The State’s Attorney shall make a preliminary review as to whether the court has jurisdiction and whether judicial action is in the best interests of the public or the child. The need for restitution may be considered as one factor in the public interest. After the preliminary review the State’s Attorney shall, within 30 days of the receipt of the complaint by the State’s Attorney, unless the court extends the time:

1. File a petition or a peace order request or both;
2. Refer the complaint to the Department of Juvenile Services for informal disposition; or
3. Dismiss the complaint.

(iii) This subsection may not be construed or interpreted to limit the authority of the State’s Attorney to seek a waiver under § 3–8A–06 of this subtitle.

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(ii) The screening authorized under subparagraph (i) of this paragraph shall be conducted by a person who:

1. Has been selected by the child’s parent or guardian;
2. Has been approved by the child’s health insurance carrier;

and

3. Is:

A. A qualified health, mental health, or substance abuse professional; or

B. Staff trained by a qualified health, mental health, or substance abuse professional.

(iii) Within 15 days of the date of the discussion with the child and the child's parent or guardian, the intake officer shall document whether the child's parent or guardian made an appointment for a mental health and substance abuse screening of the child who is the subject of a complaint.

(3) If, as a result of the screening authorized under paragraph (2) of this subsection, it is determined that the child is a mentally handicapped or seriously emotionally disturbed child, or is a substance abuser, the qualified health, mental health, or substance abuse professional or staff, no later than 5 working days after the screening, shall conduct a comprehensive mental health or substance abuse assessment of the child.

(4) The Department of Juvenile Services and the Department of Health and Mental Hygiene:

(i) May not disclose to any person any information received by the departments relating to a specific mental health and substance abuse screening or assessment conducted under this section that could identify the child who was the subject of the screening or assessment; and

(ii) May make public other information unless prohibited by law.

(5) The Secretary of Juvenile Services and the Secretary of Health and Mental Hygiene jointly shall adopt any regulation necessary to carry out this subsection.

(d) (1) The intake officer may authorize the filing of a petition or a peace order request or both if, based upon the complaint and the inquiry, the intake officer concludes that the court has jurisdiction over the matter and that judicial action is in the best interests of the public or the child.

(2) An inquiry need not include an interview of the child who is the subject of the complaint if the complaint alleges the commission of an act that would be a felony if committed by an adult or alleges a violation of § 4-203 or § 4-204 of the Criminal Law Article.

(3) In delinquency cases, the need for restitution may be considered by the intake officer as one factor in the public interest.

(4) The intake officer shall inform the following persons of any

authorization decision specified in paragraph (1) of this subsection and the reasons for the decision:

- (i) The child who is the subject of the complaint, if practicable;
- (ii) The parent, guardian, or custodian of the child who is the subject of the complaint;
- (iii) The victim;
- (iv) The arresting police officer; and
- (v) The person or agency that filed the complaint or caused it to be filed.

(e) (1) The intake officer may propose an informal adjustment of the matter if, based on the complaint and the inquiry, the intake officer concludes that the court has jurisdiction but that an informal adjustment, rather than judicial action, is in the best interests of the public and the child.

(2) The intake officer shall propose an informal adjustment by informing the victim, the child, and the child's parent or guardian of the nature of the complaint, the objectives of the adjustment process, and the conditions and procedures under which it will be conducted.

(3) The intake officer may not proceed with an informal adjustment unless the victim, the child, and the child's parent or guardian consent to the informal adjustment procedure.

(f) (1) During the informal adjustment process, the child shall be subject to such supervision as the intake officer deems appropriate and if the intake officer decides to have an intake conference, the child and the child's parent or guardian shall appear at the intake conference.

(2) The informal adjustment process may not exceed 90 days unless:

- (i) That time is extended by the court; or
- (ii) The intake officer determines that additional time is necessary for the child to complete a substance abuse treatment program that is part of the informal adjustment process.

(3) If the victim, the child, and the child's parent or guardian do not consent to an informal adjustment, the intake officer shall authorize the filing of a petition or a peace order request or both or deny authorization to file a petition or a peace order request or both under subsection (g) of this section.

(4) If at any time before the completion of an agreed upon informal

adjustment the intake officer believes that the informal adjustment cannot be completed successfully, the intake officer shall authorize the filing of a petition or a peace order request or both or deny authorization to file a petition or a peace order request or both under subsection (g) of this section.

(g) (1) If based upon the complaint and the inquiry, the intake officer concludes that the court has no jurisdiction, or that neither an informal adjustment nor judicial action is appropriate, the intake officer may deny authorization to file a petition or a peace order request or both.

(2) If the intake officer denies authorization to file a petition or a peace order request or both, the intake officer shall inform the following persons of the decision, the reasons for it, and their right of review provided in this section:

- (i) The victim;
- (ii) The arresting police officer; and
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(3) The intake officer shall inform the persons specified in paragraph (2) of this subsection of the decision to deny authorization to file a petition for the alleged commission of a delinquent act through use of the form prescribed by § 3–8A–11 of this subtitle.

(h) (1) If the complaint alleges the commission of a delinquent act and the intake officer denies authorization to file a petition, the following persons may appeal the denial to the State’s Attorney:

- (i) The victim;
- (ii) The arresting police officer; and
- (iii) The person or agency that filed the complaint or caused it to be filed.

(2) In order for an appeal to be made, it must be received by the State’s Attorney’s office within 30 days after the form prescribed by § 3–8A–11 of this subtitle is mailed by the juvenile intake officer to the person being informed of the intake officer’s decision.

(3) (i) The State’s Attorney shall review the denial.

(ii) If the State’s Attorney concludes that the court has jurisdiction and that judicial action is in the best interests of the public or the child, the State’s Attorney may file a petition.

(iii) This petition shall be filed within 30 days of the receipt of the complainant's appeal.

(i) (1) If authorization to file a petition for a complaint which alleges a child is in need of supervision or if authorization to file a peace order request is denied, the person or agency that filed the complaint or caused it to be filed, within 15 days of personal notice of the denial to that person or agency or the mailing to the last known address, may submit the denial for review by the Department of Juvenile Services Area Director for the area in which the complaint was filed.

(2) The Department of Juvenile Services Area Director shall review the denial.

(3) If, within 15 days, the Department of Juvenile Services Area Director concludes that the court has jurisdiction and that judicial action is in the best interests of the public and the child, the Department of Juvenile Services Area Director may authorize the filing of a petition in writing.

(4) The petition shall be filed within 5 days of the decision.

(j) (1) If the complaint alleges that a minor 16 years of age or older has committed an act in violation of any provision of the Maryland Vehicle Law or other traffic law or ordinance under the jurisdiction of the juvenile court, the complaint shall be filed directly with the State's Attorney of the jurisdiction in which the alleged violation occurred.

(2) If the State's Attorney elects to proceed with the case, the State's Attorney may prepare a petition for filing with the court of proper jurisdiction.

(k) (1) If the intake officer receives a citation other than a citation authorized under § 10-108 of the Criminal Law Article, the intake officer may:

(i) Refer the child to an alcohol or substance abuse education or rehabilitation program;

(ii) Assign the child to a supervised work program for not more than 20 hours for the first violation and not more than 40 hours for the second or subsequent violation;

(iii) Require the parent or guardian of the child to withdraw the parent's or guardian's consent to the child's license to drive, and advise the Motor Vehicle Administration of the withdrawal of consent; or

(iv) Forward the citation to the State's Attorney.

(2) The intake officer shall forward the citation, other than a citation authorized under § 10-108 of the Criminal Law Article, to the State's Attorney if:

(i) The parent or guardian of the child refuses to withdraw consent to the child's license to drive;

(ii) The child fails to comply with an alcohol or substance abuse education or rehabilitation program referral; or

(iii) The child fails to comply with a supervised work program assignment.

(l) (1) If the intake officer receives a citation authorized under § 10–108 of the Criminal Law Article, the intake officer may:

(i) Refer the child to a smoking cessation clinic, or other suitable presentation of the hazards associated with tobacco use;

(ii) Assign the child to a supervised work program for not more than 20 hours for the first violation and not more than 40 hours for a second or subsequent violation; or

(iii) Forward the citation to the State's Attorney.

(2) The intake officer shall forward the citation authorized under § 10–108 of the Criminal Law Article to the State's Attorney if the child fails to comply with a smoking program referral or a supervised work program assignment described under paragraph (1) of this subsection.

(m) (1) Except as provided in paragraph (2) of this subsection, within 15 days after a law enforcement officer takes a child into custody under this subtitle the law enforcement officer shall file a complaint with an intake officer.

(2) If a child is referred to a diversion program, the law enforcement officer may file the complaint with an intake officer more than 30 days after but no later than 120 days after the law enforcement officer took the child into custody.

(n) The court may dismiss a petition or a peace order request for failure to comply with this section only if the respondent has demonstrated actual prejudice.

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