

Article - Courts and Judicial Proceedings

[Previous][Next]

§3–8A–19. IN EFFECT

(a) The provisions of this section do not apply to a peace order request or a peace order proceeding.

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

(2) A disposition hearing may be held on the same day as the adjudicatory hearing if notice of the disposition hearing, as prescribed by the Maryland Rules, is waived on the record by all of the parties.

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

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

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

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

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

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

(3) (i) Except as provided in subparagraph (ii) or (iii) of this paragraph, a child may not be committed to the Department of Juvenile Services for out-of-home placement if the most serious offense is:

1. Possession of marijuana under § 5–601(c)(2)(ii) of the Criminal Law Article;

2. Possession or purchase of a noncontrolled substance under § 5–618 of the Criminal Law Article;

3. Disturbing the peace or disorderly conduct under § 10–201 of the Criminal Law Article;

4. Malicious destruction of property under § 6–301 of the Criminal Law Article;

5. An offense involving inhalants under § 5–708 of the Criminal Law Article;

6. An offense involving prostitution under § 11–306 of the Criminal Law Article;

7. Theft under § 7–104(g)(2) or (3) of the Criminal Law Article;
or

8. Trespass under § 6–402(b)(1) or § 6–403(c)(1) of the Criminal Law Article.

(ii) A child whose most serious offense is an offense listed in subparagraph (i) of this paragraph may be committed to the Department of Juvenile Services for out-of-home placement if:

1. The child previously has been adjudicated delinquent for three or more offenses arising from separate and independent circumstances;

2. The child waives the prohibition described in subparagraph (i) of this paragraph and the court accepts the waiver as knowing, intelligent, and voluntary; or

3. The court makes a written finding in accordance with subparagraph (iii) of this paragraph.

(iii) A child whose most serious offense is an offense listed in subparagraph (i) of this paragraph may be committed to the Department of Juvenile Services for out-of-home placement if the court makes a written finding, including the specific facts supporting the finding, that an out-of-home placement is necessary for the welfare of the child or in the interest of public safety.

(iv) This paragraph may not be construed to prohibit the court from committing the child to another appropriate agency.

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

Services.

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

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

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

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

(e) (1) (i) Subject to the provisions of subparagraphs (iii) and (iv) of this paragraph, in making a disposition on a finding that the child has committed the violation specified in a citation, the court may order the Motor Vehicle Administration to initiate an action, under the motor vehicle laws, to suspend the driving privilege of a child licensed to operate a motor vehicle by the Motor Vehicle Administration for a specified period of not less than 30 days nor more than 90 days.

(ii) In this paragraph, “driver’s license” means a license or permit to drive a motor vehicle that is issued under the laws of this State or any other jurisdiction.

(iii) In making a disposition on a finding that the child has committed a violation of § 10–113 of the Criminal Law Article specified in a citation that involved the use of a driver’s license or a document purporting to be a driver’s license, the court may order the Motor Vehicle Administration to initiate an action under the Maryland Vehicle Law to suspend the driving privilege of a child licensed to operate a motor vehicle by the Motor Vehicle Administration:

1. For a first offense, for 6 months; and
2. For a second or subsequent offense, until the child is 21 years old.

(iv) In making a disposition on a finding that the child has committed

a violation under § 26–103 of the Education Article, the court shall order the Motor Vehicle Administration to initiate an action, under the motor vehicle laws, to suspend the driving privilege of a child licensed to operate a motor vehicle by the Motor Vehicle Administration for a specified period of not less than 30 days nor more than 90 days.

(v) If a child subject to a suspension under this subsection does not hold a license to operate a motor vehicle on the date of the disposition, the suspension shall commence:

1. If the child is at least 16 years of age on the date of the disposition, on the date of the disposition; or

2. If the child is younger than 16 years of age on the date of the disposition, on the date the child reaches the child's 16th birthday.

(2) In addition to the dispositions under paragraph (1) of this subsection, the court also may:

(i) Counsel the child or the parent or both, or order the child to participate in an alcohol or a substance abuse education or rehabilitation program that is in the best interest of the child;

(ii) Impose a civil fine of not more than \$25 for the first violation and a civil fine of not more than \$100 for the second and subsequent violations; or

(iii) Order the child to participate in a supervised work program for not more than 20 hours for the first violation and not more than 40 hours for the second and subsequent violations.

(3) (i) The provisions of paragraphs (1) and (2) of this subsection do not apply to a child found to have committed a violation of § 10–108 of the Criminal Law Article.

(ii) In making a disposition on a finding that the child has committed a violation of § 10–108 of the Criminal Law Article, the court may:

1. Counsel the child or the parent or both, or order the child to participate in a smoking cessation clinic, or other suitable presentation of the hazards associated with tobacco use that is in the best interest of the child;

2. Impose a civil fine of not more than \$25 for the first violation and a civil fine of not more than \$100 for a second or subsequent violation; or

3. Order the child to participate in 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.

(4) (i) In making a disposition on a finding that the child has committed

a violation of Title 4, Subtitle 5 or § 9–504 or § 9–505 of the Criminal Law Article, the court may order the Motor Vehicle Administration to initiate an action, under the Maryland Vehicle Law, to suspend the driving privilege of a child for a specified period not to exceed:

1. For a first offense, 6 months; and
2. For a second or subsequent offense, 1 year or until the person is 21 years old, whichever is longer.

(ii) If a child subject to a suspension under this paragraph does not possess the privilege to drive on the date of the disposition, the suspension shall commence:

1. If the child is at an age that is eligible to obtain the privilege to drive on the date of the disposition, on the date of the disposition; or
2. If the child is younger than an age that is eligible to obtain the privilege to drive on the date of the disposition, on the date the child is eligible to obtain driving privileges.

(5) (i) In making a disposition on a finding that the child has committed a violation under § 21–1128 of the Transportation Article, the court shall order the Motor Vehicle Administration to initiate an action, under the motor vehicle laws, to suspend the driving privilege of a child licensed to operate a motor vehicle by the Motor Vehicle Administration for a specified period of not less than 30 days nor more than 90 days.

(ii) If a child subject to a suspension under this paragraph does not possess the privilege to drive on the date of the disposition, the suspension shall commence:

1. If, on the date of the disposition, the child is at an age that makes a child eligible to obtain the privilege to drive, on the date of the disposition; or
2. If, on the date of the disposition, the child is younger than an age that makes a child eligible to obtain the privilege to drive, on the date the child is eligible to obtain driving privileges.

(f) A guardian appointed under this section has no control over the property of the child unless he receives that express authority from the court.

(g) The court may impose reasonable court costs against a respondent, or the respondent's parent, guardian, or custodian, against whom a finding of delinquency has been entered under the provisions of this section.

(h) A child may be placed in an emergency facility on an emergency basis under Title 10, Subtitle 6, Part IV of the Health – General Article.

(i) The court may not commit a child to the custody of the Department of Health and Mental Hygiene under this section for inpatient care and treatment in a State mental hospital unless the court finds on the record based upon clear and convincing evidence that:

- (1) The child has a mental disorder;
- (2) The child needs inpatient medical care or treatment for the protection of himself or others;
- (3) The child is unable or unwilling to be voluntarily admitted to such facility; and
- (4) There is no less restrictive form of intervention available which is consistent with the child's condition and welfare.

(j) The court may not commit a child to the custody of the Department of Health and Mental Hygiene under this section for inpatient care and treatment in a State mental retardation facility unless the court finds on the record based upon clear and convincing evidence that:

- (1) The child is mentally retarded;
- (2) The condition is of such a nature that for the adequate care or protection of the child or others, the child needs in-residence care or treatment; and
- (3) There is no less restrictive form of care and treatment available which is consistent with the child's welfare and safety.

(k) (1) Any commitment order issued under subsection (i) or (j) of this section shall require the Department of Health and Mental Hygiene to file progress reports with the court at intervals no greater than every 6 months during the life of the order. The Department of Health and Mental Hygiene shall provide the child's attorney of record with a copy of each report. The court shall review each report promptly and consider whether the commitment order should be modified or vacated. After the first 6 months of the commitment and at 6-month intervals thereafter upon the request of any party, the Department or facility, the court shall grant a hearing for the purpose of determining if the standards specified in subsection (i) or (j) of this section continue to be met.

(2) If, at any time after the commitment of the child to a State mental hospital under this section, the individualized treatment plan developed under § 10-706 of the Health – General Article recommends that a child no longer meets the standards specified in subsection (i) of this section, then the court shall grant a hearing to review the commitment order. The court may grant a hearing at any other time for the purpose of determining if the standards specified in subsection (i) of this section continue to be met.

(3) If, at any time after the commitment of the child to a State mental retardation facility under this section, the individualized plan of habilitation developed under § 7–1006 of the Health – General Article recommends that a child no longer meets the standards specified in subsection (j) of this section, then the court shall grant a hearing to review the commitment order. The court may grant a hearing at any other time for the purpose of determining if the standards specified in subsection (j) of this section continue to be met.

(1) (1) When necessary to appropriately administer the commitment of the child, the Department of Juvenile Services, on approval of the Director of Behavioral Health, may transfer a child committed for residential placement from one facility to another facility that is operated, licensed, or contracted by the Department.

(2) A facility to which a child is transferred under paragraph (1) of this subsection shall be:

(i) Consistent with the type of facility designated by the court under subsection (d)(1)(ii) of this section; or

(ii) More secure than the type of facility designated by the court under subsection (d)(1)(ii) of this section.

(3) Prior to transfer, the Department shall notify:

(i) The court;

(ii) The counsel for the child;

(iii) The State’s Attorney; and

(iv) The parent or guardian of the child.

(4) The court may conduct a hearing at any time for the purpose of reviewing the commitment order and the transfer of a child under this subsection.

3–8A–19. // EFFECTIVE JUNE 30, 2016 PER CHAPTER 135 OF 2014 //

(a) The provisions of this section do not apply to a peace order request or a peace order proceeding.

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

(2) A disposition hearing may be held on the same day as the adjudicatory hearing if notice of the disposition hearing, as prescribed by the Maryland Rules, is waived on the record by all of the parties.

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

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

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

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

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

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

(3) (i) Except as provided in subparagraph (ii) or (iii) of this paragraph, a child may not be committed to the Department of Juvenile Services for out-of-home placement if the most serious offense is:

1. Possession of marijuana under § 5–601(c)(2)(ii) of the Criminal Law Article;

2. Possession or purchase of a noncontrolled substance under § 5–618 of the Criminal Law Article;

3. Disturbing the peace or disorderly conduct under § 10–201 of the Criminal Law Article;

4. Malicious destruction of property under § 6–301 of the Criminal Law Article;

5. An offense involving inhalants under § 5–708 of the Criminal Law Article;

6. An offense involving prostitution under § 11–306 of the Criminal Law Article;

7. Theft under § 7–104(g)(2) or (3) of the Criminal Law Article;
or

8. Trespass under § 6–402(b)(1) or § 6–403(c)(1) of the Criminal Law Article.

(ii) A child whose most serious offense is an offense listed in subparagraph (i) of this paragraph may be committed to the Department of Juvenile Services for out-of-home placement if:

1. The child previously has been adjudicated delinquent for three or more offenses arising from separate and independent circumstances;

2. The child waives the prohibition described in subparagraph (i) of this paragraph and the court accepts the waiver as knowing, intelligent, and voluntary; or

3. The court makes a written finding in accordance with subparagraph (iii) of this paragraph.

(iii) A child whose most serious offense is an offense listed in subparagraph (i) of this paragraph may be committed to the Department of Juvenile Services for out-of-home placement if the court makes a written finding, including the specific facts supporting the finding, that an out-of-home placement is necessary for the welfare of the child or in the interest of public safety.

(iv) This paragraph may not be construed to prohibit the court from committing the child to another appropriate agency.

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

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

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

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

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

(e) (1) (i) Subject to the provisions of subparagraphs (iii) and (iv) of this paragraph, in making a disposition on a finding that the child has committed the violation specified in a citation, the court may order the Motor Vehicle Administration to initiate an action, under the motor vehicle laws, to suspend the driving privilege of a child licensed to operate a motor vehicle by the Motor Vehicle Administration for a specified period of not less than 30 days nor more than 90 days.

(ii) In this paragraph, “driver’s license” means a license or permit to drive a motor vehicle that is issued under the laws of this State or any other jurisdiction.

(iii) In making a disposition on a finding that the child has committed a violation of § 10–113 of the Criminal Law Article specified in a citation that involved the use of a driver’s license or a document purporting to be a driver’s license, the court may order the Motor Vehicle Administration to initiate an action under the Maryland Vehicle Law to suspend the driving privilege of a child licensed to operate a motor vehicle by the Motor Vehicle Administration:

1. For a first offense, for 6 months; and
2. For a second or subsequent offense, until the child is 21 years old.

(iv) In making a disposition on a finding that the child has committed a violation under § 26–103 of the Education Article, the court shall order the Motor Vehicle Administration to initiate an action, under the motor vehicle laws, to suspend the driving privilege of a child licensed to operate a motor vehicle by the Motor Vehicle Administration for a specified period of not less than 30 days nor more than 90 days.

(v) If a child subject to a suspension under this subsection does not hold a license to operate a motor vehicle on the date of the disposition, the suspension shall commence:

1. If the child is at least 16 years of age on the date of the disposition, on the date of the disposition; or
2. If the child is younger than 16 years of age on the date of the disposition, on the date the child reaches the child’s 16th birthday.

(2) In addition to the dispositions under paragraph (1) of this subsection, the court also may:

(i) Counsel the child or the parent or both, or order the child to participate in an alcohol or a substance abuse education or rehabilitation program that is in the best interest of the child;

(ii) Impose a civil fine of not more than \$25 for the first violation and a civil fine of not more than \$100 for the second and subsequent violations; or

(iii) Order the child to participate in a supervised work program for not more than 20 hours for the first violation and not more than 40 hours for the second and subsequent violations.

(3) (i) The provisions of paragraphs (1) and (2) of this subsection do not apply to a child found to have committed a violation of § 10–108 of the Criminal Law Article.

(ii) In making a disposition on a finding that the child has committed a violation of § 10–108 of the Criminal Law Article, the court may:

1. Counsel the child or the parent or both, or order the child to participate in a smoking cessation clinic, or other suitable presentation of the hazards associated with tobacco use that is in the best interest of the child;

2. Impose a civil fine of not more than \$25 for the first violation and a civil fine of not more than \$100 for a second or subsequent violation; or

3. Order the child to participate in 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.

(4) (i) In making a disposition on a finding that the child has committed a violation of Title 4, Subtitle 5 or § 9–504 or § 9–505 of the Criminal Law Article, the court may order the Motor Vehicle Administration to initiate an action, under the Maryland Vehicle Law, to suspend the driving privilege of a child for a specified period not to exceed:

1. For a first offense, 6 months; and

2. For a second or subsequent offense, 1 year or until the person is 21 years old, whichever is longer.

(ii) If a child subject to a suspension under this paragraph does not possess the privilege to drive on the date of the disposition, the suspension shall commence:

1. If the child is at an age that is eligible to obtain the privilege

to drive on the date of the disposition, on the date of the disposition; or

2. If the child is younger than an age that is eligible to obtain the privilege to drive on the date of the disposition, on the date the child is eligible to obtain driving privileges.

(5) (i) In making a disposition on a finding that the child has committed a violation under § 21–1128 of the Transportation Article, the court shall order the Motor Vehicle Administration to initiate an action, under the motor vehicle laws, to suspend the driving privilege of a child licensed to operate a motor vehicle by the Motor Vehicle Administration for a specified period of not less than 30 days nor more than 90 days.

(ii) If a child subject to a suspension under this paragraph does not possess the privilege to drive on the date of the disposition, the suspension shall commence:

1. If, on the date of the disposition, the child is at an age that makes a child eligible to obtain the privilege to drive, on the date of the disposition; or

2. If, on the date of the disposition, the child is younger than an age that makes a child eligible to obtain the privilege to drive, on the date the child is eligible to obtain driving privileges.

(f) A guardian appointed under this section has no control over the property of the child unless he receives that express authority from the court.

(g) The court may impose reasonable court costs against a respondent, or the respondent's parent, guardian, or custodian, against whom a finding of delinquency has been entered under the provisions of this section.

(h) A child may be placed in an emergency facility on an emergency basis under Title 10, Subtitle 6, Part IV of the Health – General Article.

(i) The court may not commit a child to the custody of the Department of Health and Mental Hygiene under this section for inpatient care and treatment in a State mental hospital unless the court finds on the record based upon clear and convincing evidence that:

(1) The child has a mental disorder;

(2) The child needs inpatient medical care or treatment for the protection of himself or others;

(3) The child is unable or unwilling to be voluntarily admitted to such facility; and

(4) There is no less restrictive form of intervention available which is

consistent with the child's condition and welfare.

(j) The court may not commit a child to the custody of the Department of Health and Mental Hygiene under this section for inpatient care and treatment in a State mental retardation facility unless the court finds on the record based upon clear and convincing evidence that:

(1) The child is mentally retarded;

(2) The condition is of such a nature that for the adequate care or protection of the child or others, the child needs in-residence care or treatment; and

(3) There is no less restrictive form of care and treatment available which is consistent with the child's welfare and safety.

(k) (1) Any commitment order issued under subsection (i) or (j) of this section shall require the Department of Health and Mental Hygiene to file progress reports with the court at intervals no greater than every 6 months during the life of the order. The Department of Health and Mental Hygiene shall provide the child's attorney of record with a copy of each report. The court shall review each report promptly and consider whether the commitment order should be modified or vacated. After the first 6 months of the commitment and at 6-month intervals thereafter upon the request of any party, the Department or facility, the court shall grant a hearing for the purpose of determining if the standards specified in subsection (i) or (j) of this section continue to be met.

(2) If, at any time after the commitment of the child to a State mental hospital under this section, the individualized treatment plan developed under § 10-706 of the Health – General Article recommends that a child no longer meets the standards specified in subsection (i) of this section, then the court shall grant a hearing to review the commitment order. The court may grant a hearing at any other time for the purpose of determining if the standards specified in subsection (i) of this section continue to be met.

(3) If, at any time after the commitment of the child to a State mental retardation facility under this section, the individualized plan of habilitation developed under § 7-1006 of the Health – General Article recommends that a child no longer meets the standards specified in subsection (j) of this section, then the court shall grant a hearing to review the commitment order. The court may grant a hearing at any other time for the purpose of determining if the standards specified in subsection (j) of this section continue to be met.

[Previous][Next]