

HOUSE BILL 261

E3

6lr1160
CF 6lr0895

By: **Delegates Sydnor, Angel, Jalisi, Lam, Moon, Pena–Melnyk, Platt, and P. Young**
Introduced and read first time: January 25, 2016
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Juvenile Causes – Disposition on Delinquency Petition – Required**
3 **Considerations**

4 FOR the purpose of requiring a juvenile court to consider certain factors in determining an
5 appropriate disposition on a petition alleging that a child is a delinquent child; and
6 generally relating to juvenile causes.

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 (2013 Replacement Volume and 2015 Supplement)

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

14 **Article – Courts and Judicial Proceedings**

15 3–8A–19.

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

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

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 to be accommodated, until custody or guardianship is terminated with approval of the court
2 or as required under § 3–8A–24 of this subtitle; or

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

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

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

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

13 2. Possession or purchase of a noncontrolled substance under
14 § 5–618 of the Criminal Law Article;

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

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

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

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

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

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

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

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

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

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

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

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

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

17 (5) The court shall consider any oral address made in accordance with §
18 11-403 of the Criminal Procedure Article or any victim impact statement, as described in
19 § 11-402 of the Criminal Procedure Article, in determining an appropriate disposition on a
20 petition.

21 **(6) IN DETERMINING AN APPROPRIATE DISPOSITION ON A PETITION**
22 **ALLEGING THAT A CHILD IS A DELINQUENT CHILD, THE COURT SHALL CONSIDER**
23 **THE FOLLOWING FACTORS:**

24 **(I) WHETHER THE CHILD HAS EXPERIENCED TRAUMA OR**
25 **ABUSE;**

26 **(II) THE CHILD'S INTELLECTUAL CAPACITY AND EDUCATIONAL**
27 **HISTORY;**

28 **(III) WHETHER THE CHILD HAS A HISTORY OF MENTAL ILLNESS;**

29 **(IV) THE CHILD'S FAMILY AND COMMUNITY ENVIRONMENT;**

30 **(V) THE CHILD'S ABILITY TO APPRECIATE THE RISKS AND**
31 **CONSEQUENCES OF THE CHILD'S CONDUCT;**

32 **(VI) THE CHILD'S ABILITY TO MEANINGFULLY PARTICIPATE IN**
33 **THE PROCEEDING;**

1 **(VII) WHETHER THE CHILD HAS A RELATIONSHIP WITH OR IS**
2 **INFLUENCED BY ANY OTHER INDIVIDUAL ALLEGED TO BE INVOLVED IN THE**
3 **COMMISSION OF THE OFFENSE; AND**

4 **(VIII) THE CHILD'S CAPACITY FOR REHABILITATION.**

5 **[(6)] (7)** (i) If the court finds that a child enrolled in a public
6 elementary or secondary school is delinquent or in need of supervision and commits the
7 child to the custody or under the guardianship of the Department of Juvenile Services, the
8 court may notify the county superintendent, the supervisor of pupil personnel, or any other
9 official designated by the county superintendent of the fact that the child has been found
10 to be delinquent or in need of supervision and has been committed to the custody or under
11 the guardianship of the Department of Juvenile Services.

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

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

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
21 October 1, 2016.