

HB1187/802017/1

BY: House Judiciary Committee

AMENDMENTS TO HOUSE BILL 1187

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 20, after “circumstances;” insert “repealing a provision of law prohibiting the continuation of detention beyond emergency detention for a certain child except under certain circumstances;”; and in line 27, after “circumstances;” insert “repealing provisions of law authorizing a certain child to be committed to the Department of Juvenile Services for out-of-home placement under certain circumstances;”.

On pages 1 and 2, strike beginning with “authorizing” in line 31 on page 1 down through “exception;” in line 2 on page 2.

On page 2, in line 7, after “Assembly;” insert “requiring the Governor to include in the annual budget bill an appropriation for a certain grant;”; in line 13, after “Assembly;” insert “prohibiting the chair of the Council from being employed by or under contract with the Department of Juvenile Services;”; in line 20, strike “altering certain definitions;”; strike in their entirety lines 23 through 27, inclusive; in line 30, strike “3-8A-01(l) and (dd),”; in the same line, after “3-8A-15(b)” insert “, (f) through (k),”; in line 31, strike “(3)(i), and 3-8A-33(a)” and substitute “(3)”; in line 36, strike “3-8A-15(m)” and substitute “3-8A-15(l)”; and after line 38, insert:

“BY repealing

Article – Courts and Judicial Proceedings

Section 3-8A-15(e)

Annotated Code of Maryland

(2020 Replacement Volume)”.

(Over)

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On page 3, in line 3, after “3–523” insert “and 4–1010”; and in line 14, strike “1(g)(2)” and substitute “1(c) and (g)(2)”.

AMENDMENT NO. 2

On pages 3 and 4, strike in their entirety the lines beginning with line 21 on page 3 through line 5 on page 4, inclusive.

On page 14, strike in their entirety lines 8 through 23, inclusive.

AMENDMENT NO. 3

On page 5, in line 3, strike “**§ 3–705**” and substitute “**§ 3–405**”.

On page 10, after line 19, insert:

“(e) Notwithstanding any other provision of this section, detention may not be continued beyond emergency detention for a child under the age of 12 years unless:

(1) The child is alleged to have committed an act that, if committed by an adult, would be a crime of violence as defined under § 14–101 of the Criminal Law Article; or

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

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

(2) A court order under this paragraph shall:

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

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

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

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

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

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

1. The release of a child from detention under subparagraph (i) of this paragraph; or
2. The return to detention of a child under subparagraph (ii) of this paragraph.

(iv) 1. If a child is returned to detention under subparagraph (ii) of this paragraph, the intake officer who authorized detention shall immediately file a petition to authorize continued detention.

2. A hearing on the petition to authorize continued detention shall be held no later than the next court day, unless extended for no more than 5 days by the court on good cause shown.

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

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[(g)] (F) (1) Shelter care may only be continued beyond emergency shelter care if the court has found that:

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

(ii) 1. Removal of the child from the child's home is necessary due to an alleged emergency situation and in order to provide for the safety of the child;
or

2. Reasonable but unsuccessful efforts were made to prevent or eliminate the need for removal of the child from the home.

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

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

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

[(h)] (G) A child alleged to be delinquent may not be detained in a jail or other facility for the detention of adults.

[(i)] (H) (1) A child alleged to be in need of supervision may not be placed in:

(i) Detention or community detention;

(ii) A State mental health facility; or

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

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

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

(i) Health care services;

(ii) Counseling services;

(iii) Education services;

(iv) Social work services; and

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

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

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

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

~~(j)~~ (I) The intake officer or the official who authorized detention, community detention, or shelter care under this subtitle shall immediately give written notice of the authorization for detention, community detention, or shelter care to the child's parent, guardian, or custodian and to the court. The notice shall be accompanied by a statement of the reasons for taking the child into custody and placing him in detention, community detention, or shelter care. This notice may be combined with the notice required under subsection (d) of this section.

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

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

On page 10, in lines 20 and 30, strike "(l)" and "~~(M)~~", respectively, and substitute "~~(K)~~" and "~~(L)~~", respectively.

On page 11, strike beginning with "Except" in line 9 down through "a" in line 10 and substitute "A".

On page 12, after line 2, insert:

"[(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.]

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

AMENDMENT NO. 4

On page 15, in line 2, after “IN” insert “AGRICULTURE AND IN”.

AMENDMENT NO. 5

On page 16, after line 9, insert:

“4-1010.

BEGINNING IN FISCAL YEAR 2023, THE GOVERNOR SHALL APPROPRIATE AT LEAST \$2,000,000 IN THE ANNUAL BUDGET BILL FOR A GRANT TO ROCA BALTIMORE, LLC.”.

AMENDMENT NO. 6

On page 18, after line 5, insert:

“(c) (1) The Governor shall appoint the chair of the Council.

(2) THE CHAIR OF THE COUNCIL MAY NOT BE EMPLOYED BY OR UNDER CONTRACT WITH THE DEPARTMENT OF JUVENILE SERVICES.”.