
By: Delegate Fulton

Requested: September 14, 1995

Introduced and read first time: January 10, 1996

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Juvenile Court - Jurisdiction**

3 FOR the purpose of narrowing the original jurisdiction of the juvenile court to preclude
4 the juvenile court from exercising jurisdiction over a child who is alleged to have
5 committed certain crimes; specifying the types of cases that a criminal court may
6 transfer to the juvenile court and that the juvenile court may transfer to a criminal
7 court; and generally relating to the jurisdiction of the juvenile court.

8 BY repealing and reenacting, with amendments,
9 Article - Courts and Judicial Proceedings
10 Section 3-804 and 3-817(a)
11 Annotated Code of Maryland
12 (1995 Replacement Volume and 1995 Supplement)

13 BY repealing and reenacting, with amendments,
14 Article 27 - Crimes and Punishments
15 Section 594A
16 Annotated Code of Maryland
17 (1992 Replacement Volume and 1995 Supplement)

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

20 **Article - Courts and Judicial Proceedings**

21 3-804.

22 (a) The court has exclusive original jurisdiction over a child alleged to be
23 delinquent, in need of supervision, in need of assistance or who has received a citation for
24 a violation.

25 (b) The court has exclusive original jurisdiction over proceedings arising under
26 the Interstate Compact on Juveniles.

27 (c) The court has concurrent jurisdiction over proceedings against an adult for the
28 violation of § 3-831 of this subtitle. However, the court may waive its jurisdiction under
29 this subsection upon its own motion or upon the motion of any party to the proceeding, if

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1 charges against the adult arising from the same incident are pending in the criminal court.
2 Upon motion by either the State's Attorney or the adult charged under §3-831, the court
3 shall waive its jurisdiction, and the adult shall be tried in the criminal court according to
4 the usual criminal procedure.

5 (d) The jurisdiction of the court is concurrent with that of the District Court in
6 any criminal case arising under the compulsory public school attendance laws of this
7 State.

8 (e) The court does not have jurisdiction over:

9 (1) A child [at least 14 years old] alleged to have done an act which, if
10 committed by an adult, would be a crime punishable by death or life imprisonment, as
11 well as all other charges against the child arising out of the same incident, unless an order
12 removing the proceeding to the court has been filed under Article 27, §594A of the Code;

13 (2) A child at least 16 years old alleged to have done an act in violation of
14 any provision of the Transportation Article or other traffic law or ordinance, except an
15 act that prescribes a penalty of incarceration;

16 (3) A child at least 16 years old alleged to have done an act in violation of
17 any provision of law, rule, or regulation governing the use or operation of a boat, except
18 an act that prescribes a penalty of incarceration; or

19 (4) A child [at least 16 years old] alleged to have committed any of the
20 following crimes, as well as all other charges against the child arising out of the same
21 incident, unless an order removing the proceeding to the court has been filed under
22 Article 27, § 594A of the Code:

23 (i) Abduction;

24 (ii) Kidnapping;

25 (iii) Second degree murder;

26 (iv) Manslaughter, except involuntary manslaughter;

27 (v) Mayhem or maiming in violation of Article 27, § 384, §385, or §
28 386 of the Code;

29 (vi) Second degree rape;

30 (vii) Robbery with a dangerous or deadly weapon or attempted robbery
31 with a dangerous or deadly weapon;

32 (viii) Second degree sexual offense in violation of Article 27, §
33 464A(a)(1) of the Code;

34 (ix) Third degree sexual offense in violation of Article 27, § 464B(a)(1)
35 of the Code;

36 (x) A crime in violation of Article 27, § 36B, § 373, § 374, § 445, § 446,
37 § 481C, or § 481E of the Code;

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1 (xi) Using, wearing, carrying, or transporting of firearm during and in
2 relation to a drug trafficking crime in violation of Article 27, § 281A of the Code;

3 (xii) Use of a firearm in violation of Article 27, § 291A of the Code;

4 (xiii) Carjacking or armed carjacking in violation of Article 27, § 348A
5 of the Code;

6 (xiv) Assault with intent to murder;

7 (xv) Assault with intent to rape;

8 (xvi) Assault with intent to rob; or

9 (xvii) Assault with intent to commit a sexual offense in the first or
10 second degree.

11 (f) If the child is charged with two or more violations of the Maryland Vehicle
12 Law, another traffic law or ordinance, or the State Boat Act, allegedly arising out of the
13 same incident and which would result in the child being brought before both the court
14 and a court exercising criminal jurisdiction, the court has exclusive jurisdiction over all of
15 the charges.

16 3-817.

17 (a) The court may waive the exclusive jurisdiction conferred by § 3-804 with
18 respect to a petition alleging delinquency by[:

19 (1) A] A child who is 15 years old or older[; or

20 (2) A child who has not reached his 15th birthday, but who is charged with
21 committing an act which if committed by an adult, would be punishable by death or life
22 imprisonment].

23 **Article 27 - Crimes and Punishments**

24 594A.

25 (a) In any case, except as provided in subsection (b), involving a child [who has
26 reached 14 years of age but] WHO has not reached 18 years of age at the time of any
27 alleged offense excluded under the provisions of § 3-804(e)(1) or (4) of the Courts and
28 Judicial Proceedings Article, the court exercising jurisdiction may transfer the case to the
29 juvenile court if a waiver is believed to be in the interests of the child or society.

30 (b) The court may not transfer a case to the juvenile court under subsection (a) if:

31 (1) The child has previously been waived to juvenile court and adjudicated
32 delinquent;

33 (2) The child was convicted in another unrelated case excluded from the
34 jurisdiction of the juvenile court under § 3-804(e)(1) or (4) of the Courts and Judicial
35 Proceedings Article; or

36 (3) The alleged offense is murder in the first degree and the accused child is
37 16 or 17 at the time the alleged offense was committed.

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1 (c) In making a determination as to waiver of jurisdiction the court shall consider
2 the following:

3 (1) Age of child;

4 (2) Mental and physical condition of child;

5 (3) The child's amenability to treatment in any institution, facility, or
6 program available to delinquents;

7 (4) The nature of the alleged offense; and

8 (5) The public safety.

9 (d) For the purpose of making its determination, the court may request that a
10 study concerning the child, his family, his environment, and other matters relevant to the
11 disposition of the case be made.

12 (e) If the jurisdiction is waived, the court may order the person held for trial
13 under the regular procedures of the juvenile court.

14 (f) The court may order a minor to be held in a juvenile facility pending a
15 determination under this section to waive jurisdiction over the case involving the minor to
16 the juvenile court.

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
18 October 1, 1996.