
By: Delegates R. Baker and Muse

Requested: November 14, 1995

Introduced and read first time: January 10, 1996

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Juvenile Justice - Shelter Care - Maximum Time Period**

3 FOR the purpose of increasing the maximum period of time, with certain exceptions, for
4 which shelter care may be ordered for a child who may be delinquent, in need of
5 supervision, or in need of assistance; making a certain technical change; and
6 generally relating to detention and shelter care in juvenile causes.

7 BY repealing and reenacting, with amendments,
8 Article - Courts and Judicial Proceedings
9 Section 3-815
10 Annotated Code of Maryland
11 (1995 Replacement Volume and 1995 Supplement)

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

14 **Article - Courts and Judicial Proceedings**

15 3-815.

16 (a) Only the court or an intake officer may authorize detention or shelter care for
17 a child who may be in need of supervision or delinquent. The local department, pursuant
18 to regulations promulgated by the Department of Human Resources, may authorize
19 shelter care for a child who may be in need of assistance.

20 (b) If a child is taken into custody, the child may be placed in detention prior to
21 a hearing if:

22 (1) Such action is required to protect the child or person and property of
23 others;

24 (2) The child is likely to leave the jurisdiction of the court; or

25 (3) There are no parents, guardian, or custodian or other person able to
26 provide supervision and care for the child and return the child to the court when
27 required.

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1 (c) A child taken into custody may be placed in emergency shelter care prior to a
2 hearing if:

3 (1) One or more of the circumstances stated in subsection (b) of this section
4 exist; and

5 (2) (i) 1. Continuation of the child in the child's home is contrary to
6 the welfare of the child; and

7 2. Removal of the child from the child's home is reasonable
8 under the circumstances due to an alleged emergency situation and in order to provide
9 for the safety of the child; or

10 (ii) 1. Reasonable, but unsuccessful, efforts have been made to
11 prevent or eliminate the need for removal from the child's home; and

12 2. As appropriate, reasonable efforts are being made to return
13 the child to the child's home.

14 (d) (1) If the child is not released, the intake officer or the official who
15 authorized detention or shelter care shall immediately file a petition to authorize
16 continued detention or shelter care.

17 (2) A hearing on the petition shall be held not later than the next court day,
18 unless extended by the court upon good cause shown.

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

22 (4) Except as provided in [paragraph (5)] PARAGRAPHS (5) AND (6) of this
23 subsection, shelter care may not be ordered for a period of more than [30] 45 days unless
24 an adjudicatory or waiver hearing is held.

25 (5) For a child in need of assistance, shelter care may be extended for an
26 additional period of not more than 30 days if the court finds after a hearing held as part
27 of the adjudication that continued shelter care is necessary to providefor the safety of the
28 child.

29 (6) For a child in need of supervision or a delinquent child, shelter care may
30 be extended for an additional period of not more than 30 days if the court finds after a
31 hearing held as part of the adjudication that continued shelter care isconsistent with the
32 circumstances stated in subsections (b) and (c) of this section.

33 (7) (i) An adjudicatory or waiver hearing shall be held no later than 30
34 days after the date a petition for detention is granted.

35 (ii) If a child is detained after an adjudicatory hearing,a disposition
36 hearing shall be held no later than 14 days after the adjudicatory hearing.

37 (iii) Detention time may be extended in increments of not more than 14
38 days where the petition charges the child with a delinquent act and where the court finds,
39 after a subsequent hearing, that extended detention is necessary either:

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1 1. For the protection of the child; or

2 2. For the protection of the community.

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

6 (2) A court order under this paragraph shall contain a written
7 determination of whether or not the criteria contained in subsection (c)(1) and (2) of this
8 section have been met.

9 (f) Shelter care may only be continued beyond emergency shelter care if the court
10 has found that:

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

13 (2) (i) Removal of the child from the child's home is necessary due to an
14 alleged emergency situation and in order to provide for the safety of the child; or

15 (ii) Reasonable, but unsuccessful, efforts were made to prevent or
16 eliminate the need for removal of the child from the home.

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

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

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

25 (g) A child alleged to be delinquent may not be detained in a jail or other facility
26 for the detention of adults.

27 (h) (1) (i) A child alleged to be in need of supervision or in need of assistance
28 may not be placed in detention and may not be placed in a State mental health facility.

29 (ii) If the child is alleged to be in need of assistance by reason of a
30 mental handicap, the child may be placed in shelter care facilities maintained or licensed
31 by the Department of Health and Mental Hygiene or if these facilities are not available,
32 then in a private home or shelter care facility approved by the court.

33 (iii) If the child is alleged to be in need of assistance for any other
34 reason, or in need of supervision, he may be placed in shelter care facilities maintained or
35 approved by the Social Services Administration, or the Department of Juvenile Justice, or
36 in a private home or shelter care facility approved by the court.

37 (2) A child alleged to be in need of supervision or in need of assistance may
38 not be placed in a shelter care facility that is not operating in compliance with applicable
39 State licensing laws.

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

- 6 (i) Health care services;
- 7 (ii) Counseling services;
- 8 (iii) Education services;
- 9 (iv) Social work services; and
- 10 (v) Drug and alcohol abuse assessment or treatment services.

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

12 (i) The local department of social services or the Department of
13 Juvenile Justice to develop a plan within 45 days of placement of a child in a shelter care
14 facility to assess the child's treatment needs; and

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

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

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