

BY: House Judiciary Committee

AMENDMENTS TO HOUSE BILL NO. 768

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 15, strike “criminal case” and substitute “felony; and requiring a juvenile intake officer to consider a certain condition when releasing certain juveniles pretrial”; and in line 18, after the semicolon, insert “providing that only the State may make a motion to prohibit the release of certain information during a criminal trial”.

On pages 1 and 2, strike beginning with “authorizing” in line 24 on page 1 through “Act;” in line 5 on page 2.

On page 2, in line 12, after “victims” insert “of certain crimes”; in line 17, after “inmate;” insert “transferring from the Maryland Parole Commission to the Department of Public Safety and Correctional Services the responsibility of receiving and sending certain notices; altering a certain time period for providing a certain notice”; strike beginning with “prohibiting” in line 20 down through “assistance;” in line 22; in line 26, after the semicolon, insert “eliminating a certain time period for holding certain restitution hearings; providing the Department of Juvenile Justice with certain responsibilities concerning certain restitution judgements”; in line 31, strike “crime” and substitute “felony”; strike beginning with “altering” in line 31 down through “Fund;” in line 33; and in line 34, strike “a law enforcement officer who was” and substitute “certain persons who were”.

On page 3, in line 4, after “court” insert “after a defendant has been found incompetent to stand trial”.

AMENDMENT NO. 2

On page 3, in line 12, strike the second “through” and substitute a comma; in line 13, strike “776,”; in the same line, after “806” insert “, 807, 809”; after line 21, insert:

“BY repealing

Article 27 - Crimes and Punishments

(Over)

Section 808
Annotated Code of Maryland
(1996 Replacement Volume)”;

and in line 39, after “4-511(f),” insert “4-511A,”.

AMENDMENT NO. 3

On page 5, in line 5, strike both brackets; in the same line, strike “A CRIME” and substitute “, A FELONY, OR A DELINQUENT ACT COMMITTED BY A CHILD THAT WOULD BE A FELONY IF COMMITTED BY AN ADULT”; in line 6, after “court” insert “, JUVENILE INTAKE OFFICER,”; in line 22, after “COMMISSION” insert “, IF PRACTICABLE,”; and in line 23, strike “, IN WRITING, AT LEAST 90” and substitute “IN WRITING AT LEAST 60”.

AMENDMENT NO. 4

On page 6, in line 4, after “prosecutor” insert “, INTAKE OFFICER”; in line 25, strike “and” and substitute:

“(4) ORDER OTHER REASONABLE CONDITIONS TO ENSURE THE SAFETY OF A VICTIM OR WITNESS; AND”;

in line 26, strike “(4)” and substitute “(5)”; and in lines 35 and 36, strike “PARAGRAPHS (1) THROUGH (3) OF SUBSECTION (B)” and substitute “SUBSECTION (B)(1) THROUGH (4)”.

On page 7, in line 2, after the first “court” insert “, JUVENILE INTAKE OFFICER,”; in line 4, strike both brackets; in the same line, strike “A CRIME” and substitute “, A FELONY, OR A DELINQUENT ACT COMMITTED BY A CHILD THAT WOULD BE A FELONY IF COMMITTED BY AN ADULT”; in line 8, strike “ARTICLE” and substitute “SUBHEADING”; and in line 37, strike “§ 808” and substitute “§ 807”.

AMENDMENT NO. 5

On page 9, strike beginning with “A” in line 14 down through “ACT” in line 15 and substitute “THE STATE OR A VICTIM OF OR A WITNESS TO A FELONY OR DELINQUENT ACT THAT WOULD BE A FELONY IF COMMITTED BY AN ADULT”; strike beginning with the second comma in line 18 down through “RELEVANT” in line 20 and substitute “GOOD CAUSE HAS BEEN SHOWN FOR THE RELEASE OF THE INFORMATION”; in line 22, strike “either party or on request of” and substitute “THE STATE OR ON REQUEST OF A VICTIM OR”; and strike beginning with the comma in line 24 down through “relevant” in line 25 and

substitute “GOOD CAUSE IS SHOWN FOR THE RELEASE OF THE INFORMATION”.

AMENDMENT NO. 6

On pages 9 and 10, strike in their entirety the lines beginning with line 26 on page 9 through line 16 on page 10, inclusive.

AMENDMENT NO. 7

On page 10, in line 29, strike “AND” and substitute “; (III)”; and in lines 31 and 32, strike “(iii)” and “(iv)”, respectively, and substitute “(IV)” and “(V)”, respectively.

On pages 12 and 13, strike in their entirety the lines beginning with line 3 on page 12 through line 12 on page 13, inclusive.

AMENDMENT NO. 8

On page 13, in lines 23 and 24, in each instance, after “DISPOSITION” insert “IN A JUVENILE DELINQUENCY PROCEEDING”; and strike beginning with “TO” in line 33 down through “AFFIRMATION” in line 34 and substitute “UNDER OATH OR AFFIRMATION TO ADDRESS THE JUDGE”.

On page 14, strike beginning with “TO” in line 1 down through “AFFIRMATION” in line 2 and substitute “UNDER OATH OR AFFIRMATION TO ADDRESS THE JUDGE”; in line 30, strike “INCLUDES” and substitute “MEANS”; and in line 31, strike “AND” and substitute “OR”.

AMENDMENT NO. 9

On page 15, strike beginning with “OR” in line 4 down through “ADULT” in line 5; in line 13, strike “OR § 808”; and in line 38, strike “INCLUDES” and substitute “MEANS”.

On page 16, in line 1, strike “CRIME; AND” and substitute “FELONY; OR”; in line 3, after “ACT” insert “THAT WOULD BE A FELONY IF COMMITTED BY AN ADULT”; in line 6, strike “CRIME OR DELINQUENT ACT” and substitute “FELONY OR A DELINQUENT ACT THAT WOULD BE A FELONY IF COMMITTED BY AN ADULT”; in line 19, strike “crime” and substitute “FELONY”; and in line 20, after “ACT” insert “THAT WOULD BE A FELONY IF COMMITTED BY AN ADULT”.

(Over)

AMENDMENT NO. 10

On page 17, in lines 19 and 36 and 37, in each instance, strike “Maryland Parole Commission” and substitute “DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES”.

On page 18, in lines 26 and 27, strike “DIVISION OF PAROLE AND PROBATION” and substitute “DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES”.

On page 19, in line 4, after the comma, insert “IF PRACTICABLE,”; in lines 12 and 13, strike “IN ADVANCE, IF POSSIBLE, AND IF NOT, AS SOON AS POSSIBLE REGARDING” and substitute “, IN ADVANCE IF PRACTICABLE, IF”; and in line 14, after “EVENTS” insert “OCCUR”.

AMENDMENT NO. 11

On page 21, in line 31, after “and” insert “WHEN”; and in line 33, strike “AND WITHOUT CHARGE”.

AMENDMENT NO. 12

On page 22, in lines 16 and 17, strike “BY REASON OF INSANITY”; in line 25, strike “WHO” and substitute “:

(1) WHOSE CHILD HAS COMMITTED A CRIME; AND

(2) WHO”;

and in line 26, strike “§ 808” and substitute “§ 807”. On page 24, strike beginning with “On” in line 8 down through “the” in line 9 and substitute “A”; in line 10, strike “the” and substitute “A”; in line 11, strike the second “the” and substitute “A”; after line 30, insert:

“(3) (I) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, IF THE DEFENDANT IS A CHILD, THE COURT MAY ORDER THE CHILD, THE CHILD’S PARENT, OR BOTH TO PAY RESTITUTION TO A VICTIM.

(II) AS AN ABSOLUTE LIMIT AGAINST ONE CHILD, THE CHILD’S

PARENT, OR BOTH, A JUDGMENT OF RESTITUTION ISSUED UNDER THIS SECTION MAY NOT EXCEED \$10,000 FOR ALL ACTS ARISING OUT OF A SINGLE INCIDENT.

(III) A COURT MAY NOT ENTER A JUDGMENT OF RESTITUTION AGAINST A PARENT UNDER THIS SECTION UNLESS THE PARENT HAS BEEN AFFORDED A REASONABLE OPPORTUNITY TO BE HEARD AND TO PRESENT APPROPRIATE EVIDENCE ON THE PARENT’S BEHALF. A HEARING UNDER THIS SECTION MAY BE HELD AS PART OF THE SENTENCING OR DISPOSITION HEARING.”;

and in line 31, strike “(3)” and substitute “(4)”.

On page 25, in lines 1, 8, 13, and 16, strike “(4)”, “(5)”, “(6)”, and “(7)”, respectively, and substitute “(5)”, “(6)”, “(7)”, and “(8)”, respectively; in line 23, after “CONVICTION” insert “OR DISPOSITION IN A JUVENILE DELINQUENCY CASE”; and in line 27, after “SENTENCE” insert “OR DISPOSITION”.

On page 27, in line 4, strike “JUDGEMENT” and substitute “JUDGMENT”; in line 14, after “defendant’s” insert “OR LIABLE PARENT’S”; in line 19, strike “order” and substitute “JUDGMENT”; and in line 38, strike “issues an order” and substitute “ENTERS A JUDGMENT”.

On page 28, in line 18, after “defendant” insert “OR LIABLE PARENT”.

On pages 30 and 31, strike in their entirety the lines beginning with line 1 on page 30 through line 25 on page 31, inclusive.

On page 31, in lines 26 and 34, strike “809.” and “810.”, respectively, and substitute “808.” and “809.”, respectively; and in line 27, strike “or § 808”.

On page 32, in line 13, strike “§ 811” and substitute “§ 810”; in line 24, strike “order” and substitute “JUDGMENT”; in line 26, after “defendant” insert “OR LIABLE PARENT”; and in line 27, strike “§ 812” and substitute “§ 811”.

On page 33, in line 4, strike “811.” and substitute “810.”; and in line 7, strike “§ 810(b)(2)(ii)” and substitute “§ 809”.

(Over)

On page 34, in line 13, strike “812.” and substitute “811.”; in line 14, strike “OR § 808”; and in line 34, after “Division” insert “OR DEPARTMENT OF JUVENILE JUSTICE”.

On page 35, in line 7, after “Division” insert “OR DEPARTMENT OF JUVENILE JUSTICE”; in line 18, after “Division” insert “, DEPARTMENT OF JUVENILE JUSTICE,”; and in line 31, after “Division” insert “OR DEPARTMENT OF JUVENILE JUSTICE”.

AMENDMENT NO. 13

On page 36, in line 33, strike “Personal physical” and substitute “PHYSICAL”; in lines 34 and 36, in each instance, strike the bracket; strike beginning with “First” in line 35 down through “(ii)” in line 36; in the same line, strike “first, second, third, or”; and in the same line, strike “A CRIME” and substitute “; OR (II) A FELONY”.

On page 37, in line 6, strike “REASONABLY”.

AMENDMENT NO. 14

On page 39, in line 8, strike “OR”; and in line 11, after “EXPOSURE” insert “; OR

5. A PAID OR VOLUNTEER FIREFIGHTER, AN EMERGENCY MEDICAL TECHNICIAN, OR RESCUE SQUADMAN WHILE ACTING IN THE PERFORMANCE OF DUTY”.

AMENDMENT NO. 15

On page 41, in lines 16 and 23, in each instance, strike “§ 810” and substitute “§ 809”; and in line 32 and on page 42, in line 9, in each instance, strike “PROMULGATED” and substitute “ADOPTED”.

On page 42, in line 30, strike “Commission,” and substitute “DEPARTMENT, IF PRACTICABLE,”; in the same line, strike “90” and substitute “60”; in line 36, strike “Commission’s” and substitute “DEPARTMENT’S”; and in lines 28, 29, and 35, and on page 43, in lines 14 and 21, in each instance, strike “Commission” and substitute “DEPARTMENT”.

On page 43, in line 20, strike “promulgated” and substitute “ADOPTED”.

On page 44, after line 19, insert:
“4-511A.

(b) (1) In cases where a defendant is sentenced to the Division of Correction, if the victim makes a written request to the [Commission] DEPARTMENT for notification and maintains a current address on file with the [Commission] DEPARTMENT, the [Commission] DEPARTMENT shall notify the victim or designated representative in writing that an inmate is being considered for
a:

(i) Commutation;

(ii) Pardon; or

(iii) Remission of sentence.

(2) If the inmate was convicted of a violent crime:

(i) The victim may submit to the Commission a victim impact statement; and

(ii) The Commission shall make the victim impact statement available for the inmate's review subject to § 4-505(b)(2) of this subtitle.

(3) If a victim impact statement or recommendation is submitted under this section, the Commission shall consider the victim impact statement or recommendation.

(4) The victim may request a meeting with a Commission member.

(5) The victim may designate, in writing to the [Commission] DEPARTMENT, the name and address of a representative to receive notice for the victim.

(6) The [Commission] DEPARTMENT shall promptly notify the victim or the victim's designated representative of the decision of the Commission.”.

(Over)

On page 46, in line 8, after “DEFENDANT” insert “OR CHILD”.

On page 47, in line 2, strike both brackets.

On page 48, in line 33, strike “order” and substitute “JUDGMENT”.