
By: Delegates Taylor, Vallario, Dewberry, Hurson, Arnick, Busch, Curran, Guns, Harrison, Hixson, Kopp, Menes, Owings, and Rawlings

Requested: November 15, 1996

Introduced and read first time: January 8, 1997

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Juvenile Court - Jurisdiction - Three Delinquent Acts**

3 FOR the purpose of excluding from the original jurisdiction of the juvenile court any
4 proceeding involving a child of a certain age who is alleged to have committed a
5 criminal act and who has been adjudicated delinquent on at least three separate
6 occasions under certain circumstances; providing for the transfer of a case from a
7 court exercising criminal jurisdiction to the juvenile court under certain
8 circumstances; and generally relating to juvenile court jurisdiction.

9 BY repealing and reenacting, with amendments,
10 Article - Courts and Judicial Proceedings
11 Section 3-804
12 Annotated Code of Maryland
13 (1995 Replacement Volume and 1996 Supplement)

14 BY repealing and reenacting, with amendments,
15 Article 27 - Crimes and Punishments
16 Section 594A
17 Annotated Code of Maryland
18 (1996 Replacement Volume)

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

21 **Article - Courts and Judicial Proceedings**

22 3-804.

23 (a) The court has exclusive original jurisdiction over:

24 (1) A child alleged to be delinquent, in need of supervision, in need of
25 assistance or who has received a citation for a violation; and

26 (2) Except in Montgomery County, with respect to any child who is under
27 the jurisdiction of the juvenile court and previously has been adjudicated a child in need

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1 of assistance, all termination of parental rights proceedings and related adoption
2 proceedings.

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

5 (c) The court has concurrent jurisdiction over proceedings against an adult for the
6 violation of § 3-831 of this subtitle. However, the court may waive its jurisdiction under
7 this subsection upon its own motion or upon the motion of any party to the proceeding, if
8 charges against the adult arising from the same incident are pending in the criminal court.
9 Upon motion by either the State's Attorney or the adult charged under § 3-831, the court
10 shall waive its jurisdiction, and the adult shall be tried in the criminal court according to
11 the usual criminal procedure.

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

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

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

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

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

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

30 (i) Abduction;

31 (ii) Kidnapping;

32 (iii) Second degree murder;

33 (iv) Manslaughter, except involuntary manslaughter;

34 (v) Second degree rape;

35 (vi) Robbery with a dangerous or deadly weapon;

36 (vii) Second degree sexual offense in violation of Article 27, §
37 464A(a)(1) of the Code;

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

3 (ix) A crime in violation of Article 27, § 36B, § 373, § 374, § 445, § 446,
4 § 481C, or § 481E of the Code;

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

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

8 (xii) Carjacking or armed carjacking in violation of Article 27, § 348A of
9 the Code;

10 (xiii) Assault in the first degree in violation of Article 27, § 12A-3 of the
11 Code;

12 (xiv) Attempted murder in the second degree in violation of Article 27,
13 § 411A of the Code;

14 (xv) Attempted rape or attempted sexual offense in the second degree
15 under Article 27, § 464F of the Code; or

16 (xvi) Attempted robbery with a dangerous or deadly weapon under
17 Article 27, § 488 of the Code[.]; OR

18 (5) UNLESS AN ORDER REMOVING THE PROCEEDING TO THE COURT
19 HAS BEEN FILED UNDER ARTICLE 27, § 594A OF THE CODE, A CHILD AT LEAST 16
20 YEARS OLD WHO IS ALLEGED TO HAVE DONE AN ACT WHICH IF COMMITTED BY AN
21 ADULT WOULD BE A CRIME AND WHO HAS BEEN ADJUDICATED DELINQUENT ON AT
22 LEAST THREE SEPARATE OCCASIONS IF:

23 (I) EACH ADJUDICATION OF DELINQUENCY AROSE FROM A
24 SEPARATE INCIDENT; AND

25 (II) EACH DELINQUENT ACT THAT RESULTED IN A DELINQUENCY
26 ADJUDICATION OCCURRED ON OR AFTER THE CHILD REACHED 16 YEARS OF AGE.

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

32 **Article 27 - Crimes and Punishments**

33 594A.

34 (a) In any case, except as provided in subsection (b), involving a child who has
35 reached 14 years of age but has not reached 18 years of age at the time of any alleged
36 offense excluded under the provisions of § 3-804(e)(1) [or], (4), OR (5) of the Courts and
37 Judicial Proceedings Article, the court exercising jurisdiction may transfer the case to the
38 juvenile court if a waiver is believed to be in the interests of the child or society.

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

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

4 (2) The child was convicted in another unrelated case excluded from the
5 jurisdiction of the juvenile court under § 3-804(e)(1)[or], (4), OR (5) of the Courts and
6 Judicial Proceedings Article; or

7 (3) The alleged offense is murder in the first degree and the accused child is
8 16 or 17 at the time the alleged offense was committed.

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

11 (1) Age of child;

12 (2) Mental and physical condition of child;

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

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

16 (5) The public safety.

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

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

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

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
26 October 1, 1997.