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**By: Delegate Bissett**

Introduced and read first time: January 23, 1997

Assigned to: Judiciary

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A BILL ENTITLED

1 AN ACT concerning

**2 Juvenile Causes - Jurisdiction - Child Alleged to be Delinquent or in Need of Supervision**

3 FOR the purpose of narrowing the original jurisdiction of the juvenile court by lowering  
4 the age at which an individual alleged to be delinquent or in need of supervision is  
5 considered an adult and not subject to juvenile court jurisdiction; lowering the age  
6 at which juvenile court jurisdiction is terminated over an individual convicted of a  
7 certain crime; lowering the age at which an individual received at certain facilities  
8 shall be delivered to the juvenile court or transferred to certain other facilities  
9 unless the juvenile court has waived jurisdiction over the individual; lowering the  
10 age at which the juvenile court may waive exclusive jurisdiction over an individual of  
11 a certain age or an individual charged with a certain crime; lowering the age at  
12 which an individual committed or transferred to a certain facility shall be detained  
13 and treated separately from other persons of at least a certain age in the same  
14 facility; prohibiting a court from transferring a case involving an individual who is at  
15 least a certain age to the juvenile court under certain circumstances; making a  
16 technical change; amending the definition of certain terms; and generally relating to  
17 the jurisdiction of the juvenile court.

18 BY repealing and reenacting, without amendments,  
19 Article - Courts and Judicial Proceedings  
20 Section 3-801(f)  
21 Annotated Code of Maryland  
22 (1995 Replacement Volume and 1996 Supplement)

23 BY repealing and reenacting, with amendments,  
24 Article - Courts and Judicial Proceedings  
25 Section 3-801(c), (d), and (e), 3-804, 3-806, 3-807, 3-816, 3-817(a), and 3-823  
26 Annotated Code of Maryland  
27 (1995 Replacement Volume and 1996 Supplement)

28 BY repealing and reenacting, with amendments,  
29 Article 27 - Crimes and Punishments  
30 Section 594A  
31 Annotated Code of Maryland  
32 (1996 Replacement Volume)

2

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

3 **Article - Courts and Judicial Proceedings**

4 3-801.

5 (c) ["Adult"] EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION,  
6 "ADULT" means a person who is [18 years old or older] AT LEAST 16 YEARS OLD.

7 (d) ["Child"] EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION,  
8 "CHILD" means a person under the age of [18] 16 years.

9 (e) "Child in need of assistance" [is a child] MEANS A PERSON UNDER THE  
10 AGE OF 18 YEARS who requires the assistance of the court because:

11 (1) He is mentally handicapped or is not receiving ordinary and proper care  
12 and attention, and

13 (2) His parents, guardian, or custodian are unable or unwilling to give  
14 proper care and attention to the child and his problems provided, however, a child shall  
15 not be deemed to be in need of assistance for the sole reason he is being furnished  
16 nonmedical remedial care and treatment recognized by State law.

17 (f) "Child in need of supervision" is a child who requires guidance, treatment, or  
18 rehabilitation and:

19 (1) Is required by law to attend school and is habitually truant;

20 (2) Is habitually disobedient, ungovernable, and beyond the control of the  
21 person having custody of him;

22 (3) Departs himself so as to injure or endanger himself or others; or

23 (4) Has committed an offense applicable only to children.

24 3-804.

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

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

28 (2) Except in Montgomery County, with respect to any child who is under  
29 the jurisdiction of the juvenile court and previously has been adjudicated a child in need  
30 of assistance, all termination of parental rights proceedings and related adoption  
31 proceedings.

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

34 (c) The court has concurrent jurisdiction over proceedings against an adult for the  
35 violation of § 3-831 of this subtitle. However, the court may waive its jurisdiction under  
36 this subsection upon its own motion or upon the motion of any party to the proceeding, if  
37 charges against the adult arising from the same incident are pending in the criminal court.

3

1 Upon motion by either the State's Attorney or the adult charged under § 3-831, the court  
2 shall waive its jurisdiction, and the adult shall be tried in the criminal court according to  
3 the usual criminal procedure.

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

7 (e) The court does not have jurisdiction over[:

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

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

29 (vii) Second degree sexual offense in violation of Article 27, §  
30 464A(a)(1) of the Code;

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

33 (ix) A crime in violation of Article 27, § 36B, § 373, § 374, § 445, § 446,  
34 § 481C, or § 481E of the Code;

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

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

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

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

5 (xiv) Attempted murder in the second degree in violation of Article 27,  
6 § 411A of the Code;

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

9 (xvi) Attempted robbery with a dangerous or deadly weapon under  
10 Article 27, § 488 of the Code.

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 3-806.

17 (a) If the court obtains jurisdiction over a child, that jurisdiction continues until  
18 that person reaches 21 years of age unless terminated sooner.

19 (b) This section does not affect the jurisdiction of other courts over a person who  
20 commits an offense after he reaches the age of [18] 16.

21 (c) Unless otherwise ordered by the court, the court's jurisdiction is terminated  
22 over a person who has reached [18] 16 years of age when he is convicted of a crime,  
23 including manslaughter by automobile, unauthorized use or occupancy of a motor vehicle,  
24 or operating a vehicle while under the influence of intoxicating liquors or drugs, but  
25 excluding a conviction for a violation of any other traffic law or ordinance or any  
26 provision of the State Boat Act, or the fish and wildlife laws of the State.

27 (d) If the court in a child in need of assistance proceeding places a child in the  
28 care and custody of a person other than the parent, guardian, or custodian who had  
29 custody at the time the petition is filed, the custody order of the court shall continue after  
30 the termination of the child in need of assistance proceeding unless:

31 (1) The custody order is terminated by the court; or

32 (2) The custody order is modified by an order of any other court with  
33 jurisdiction.

34 3-807.

35 (a) A person subject to the jurisdiction of the court may not be prosecuted for a  
36 criminal offense committed before he reached [18] 16 years of age unless jurisdiction has  
37 been waived.

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1 (b) The court has exclusive original jurisdiction, but only for the purpose of  
2 waiving it, over a person 21 years of age or older who is alleged to have committed a  
3 delinquent act while a child.

4 3-816.

5 (a) The official in charge of a jail or other facility for the detention of adult  
6 offenders or persons charged with crime shall inform the court or the intake officer  
7 immediately when a person, who is or appears to be under the age of [18] 16 years, is  
8 received at the facility and shall deliver him to the court upon request or transfer him to  
9 the facility designated by the intake officer or the court, unless the court has waived its  
10 jurisdiction with respect to the person and he is being proceeded against as an adult.

11 (b) When a case is transferred to another court for criminal prosecution, the child  
12 shall promptly be transferred to the appropriate officer or adult detention facility in  
13 accordance with the law governing the detention of persons charged with crime.

14 (c) A child may not be transported together with adults who have been charged  
15 with or convicted of a crime unless the court has waived its jurisdiction and the child is  
16 being proceeded against as an adult.

17 3-817.

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

20 (1) A child who is [15 years old or older] AT LEAST 14 YEARS OLD; or

21 (2) A child who has not reached his [15th] 14TH birthday, but who is  
22 charged with committing an act which if committed by an adult, would be punishable by  
23 death or life imprisonment.

24 3-823.

25 (a) A child may not be detained at, or committed or transferred to a penal  
26 institution or other facility used primarily for the confinement of adults charged with or  
27 convicted of a crime, except pursuant to § 3-816(b).

28 (b) A child who is not delinquent may not be committed or transferred to a facility  
29 used for the confinement of delinquent children.

30 (c) Unless an individualized treatment plan developed under § 10-706 of the  
31 Health - General Article indicates otherwise:

32 (1) A child may not be committed or transferred to any public or private  
33 facility or institution unless the child is placed in accommodations that are separate from  
34 other persons [18 years of age or older] AT LEAST 16 YEARS OLD who are confined to  
35 that facility or institution; and

36 (2) The child may not be treated in any group with persons who are [18  
37 years of age or older] AT LEAST 16 YEARS OLD.

6

1           **Article 27 - Crimes and Punishments**

2 594A.

3           (a) In any case, except as provided in subsection (b), involving a child who has  
4 reached 14 years of age but has not reached [18] 16 years of age at the time of any  
5 alleged offense excluded under the provisions of § 3-804(e)[(1) or (4)] of the Courts and  
6 Judicial Proceedings Article, the court exercising jurisdiction may transfer the case to the  
7 juvenile court if a waiver is believed to be in the interests of the child or society.

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

9                   (1) The child has previously been waived to juvenile court and adjudicated  
10 delinquent; OR

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

14                   (3) The alleged offense is murder in the first degree and the accused child is  
15 16 or 17 at the time the alleged offense was committed].

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

18                   (1) Age of child;

19                   (2) Mental and physical condition of child;

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

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

23                   (5) The public safety.

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

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

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

32           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed  
33 only prospectively and may not be applied or interpreted to have any effect on or  
34 application to any alleged delinquent act that was committed before the effective date of  
35 this Act or any petition that was filed before the effective date of this Act alleging that a  
36 child is in need of supervision.

37           SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
38 October 1, 1997.

