

CF HB 418

By: Senators McCabe and Jimeno

Introduced and read first time: January 31, 1997

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Juvenile Court - Jurisdiction - Crimes of Violence Near Schools**

3 FOR the purpose of prohibiting a court from transferring to the juvenile court a case
4 involving certain children who are alleged to have committed or aided and abetted
5 in the commission of a crime of violence within a certain distance from school
6 property; narrowing the original jurisdiction of the juvenile court to preclude the
7 juvenile court from exercising jurisdiction over certain children who are alleged to
8 have committed or aided and abetted in the commission of a crime of violence
9 within a certain distance from certain school property; allowing a county board of
10 education or the Board of School Commissioners of Baltimore City to adopt
11 regulations requiring the posting of certain signs; making this Act applicable to
12 children who have attained a certain age and who have a certain school enrollment
13 status; and generally relating to the jurisdiction of the juvenile court.

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

19 BY repealing and reenacting, without amendments,
20 Article - Courts and Judicial Proceedings
21 Section 3-801(a) and (i)
22 Annotated Code of Maryland
23 (1995 Replacement Volume and 1996 Supplement)

24 BY repealing and reenacting, with amendments,
25 Article - Courts and Judicial Proceedings
26 Section 3-804
27 Annotated Code of Maryland
28 (1995 Replacement Volume and 1996 Supplement)

29 BY repealing and reenacting, with amendments,
30 Article - Education
31 Section 4-124

2

1 Annotated Code of Maryland
2 (1997 Replacement Volume)

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

5 **Article 27 - Crimes and Punishments**

6 594A.

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

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

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

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

18 (3) The alleged offense is murder in the first degree and the accused child is
19 16 or 17 at the time the alleged offense was committed; OR

20 (4) (I) THE ALLEGED OFFENSE IS A CRIME OF VIOLENCE, AS DEFINED
21 IN § 643B OF THIS ARTICLE, OR AIDING AND ABETTING IN THE COMMISSION OF A
22 CRIME OF VIOLENCE;

23 (II) THE ALLEGED OFFENSE:

24 1. WAS COMMITTED IN, ON, OR WITHIN 1,000 FEET OF ANY
25 REAL PROPERTY OWNED BY OR LEASED TO ANY ELEMENTARY SCHOOL OR
26 SECONDARY SCHOOL AND USED FOR ELEMENTARY OR SECONDARY EDUCATION;
27 OR

28 2. WAS COMMITTED IN A SCHOOL VEHICLE, AS DEFINED
29 UNDER § 11-154 OF THE TRANSPORTATION ARTICLE; AND

30 (III) AT THE TIME THE ALLEGED OFFENSE WAS COMMITTED, THE
31 ACCUSED CHILD:

32 1. WAS AT LEAST 14 YEARS OLD;

33 2. WAS NOT ENROLLED IN THE ELEMENTARY OR
34 SECONDARY SCHOOL THAT WAS THE OWNER OR LESSEE OF THE PROPERTY WHERE
35 THE ALLEGED OFFENSE WAS COMMITTED; OR

36 3. WAS SUSPENDED OR EXPELLED FROM THAT
37 ELEMENTARY OR SECONDARY SCHOOL.

3

1 **Article - Courts and Judicial Proceedings**

2 3-801.

3 (a) In this subtitle, the following words have the meanings indicated, unless the
4 context of their use indicates otherwise.

5 (i) "Court" means the circuit court of a county or Baltimore City sitting as the
6 juvenile court. In Montgomery County, it means the District Court sitting as the juvenile
7 court.

8 3-804.

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

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

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

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

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

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

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

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

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

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

4

1 (4) A CHILD AT LEAST 14 YEARS OLD ALLEGED TO HAVE DONE AN ACT
2 THAT IS A CRIME OF VIOLENCE, AS DEFINED IN ARTICLE 27, § 643B OF THE CODE, OR
3 THAT IS AIDING AND ABETTING IN THE COMMISSION OF A CRIME OF VIOLENCE, IF:

4 (I) THE ALLEGED OFFENSE WAS COMMITTED IN, ON, OR WITHIN
5 1,000 FEET OF ANY REAL PROPERTY OWNED BY OR LEASED TO ANY ELEMENTARY
6 SCHOOL OR SECONDARY SCHOOL AND USED FOR ELEMENTARY OR SECONDARY
7 EDUCATION, OR IN A SCHOOL VEHICLE, AS DEFINED UNDER § 11-154 OF THE
8 TRANSPORTATION ARTICLE; AND

9 (II) AT THE TIME THE ALLEGED OFFENSE WAS COMMITTED, THE
10 ACCUSED CHILD:

11 1. WAS NOT ENROLLED IN THE ELEMENTARY OR
12 SECONDARY SCHOOL THAT WAS THE OWNER OR LESSEE OF THE PROPERTY WHERE
13 THE ALLEGED OFFENSE WAS COMMITTED; OR

14 2. WAS SUSPENDED OR EXPELLED FROM THAT
15 ELEMENTARY OR SECONDARY SCHOOL; OR

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

20 (i) Abduction;

21 (ii) Kidnapping;

22 (iii) Second degree murder;

23 (iv) Manslaughter, except involuntary manslaughter;

24 (v) Second degree rape;

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

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

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

30 (ix) A crime in violation of Article 27, § 36B, § 373, § 374, § 445, § 446,
31 § 481C, or § 481E of the Code;

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

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

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

5

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

3 (xiv) Attempted murder in the second degree in violation of Article 27,
4 § 411A of the Code;

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

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

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

14 **Article - Education**

15 4-124.

16 (a) A county board may adopt regulations requiring the posting of TWO
17 SEPARATE signs THAT:

18 (1) [designating] DESIGNATE the areas within 1,000 feet of public and
19 nonpublic elementary and secondary schools as "drug free school zones"; AND

20 (2) STATE THESE WORDS: "WARNING - OPERATION SAFE PLACE".

21 (b) [The] BOTH signs shall be ATTACHED TO A COMMON SIGNPOST AND
22 designed in order to provide notice of the provisions of Article 27, § 286D of the Code
23 AND § 3-804(E)(4) OF THE COURTS ARTICLE.

24 (c) In Baltimore City, all new and replacement signs shall include a hot line
25 number to report information concerning suspected illegal drug activity.

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