

HOUSE BILL 309

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1998 Regular Session
8lr6155
CF 8lr6092

By: **Chairman, Judiciary Committee (Departmental - Juvenile Justice) and
Delegates Vallario, Doory, Bissett, M. Burns, Dembrow, Genn, Grosfeld,
Harkins, Montague, Preis, and Turner**

Introduced and read first time: January 29, 1998

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Juvenile Justice Act of 1998**

3 FOR the purpose of altering the jurisdiction of the juvenile court; establishing certain
4 exceptions; modifying juvenile confidentiality requirements pertaining to
5 certain records; permitting law enforcement agencies to include certain juvenile
6 record information in law enforcement computer information systems for certain
7 purposes; establishing a Commission on Juvenile Justice Jurisdiction;
8 establishing the duties and responsibilities, membership, reporting
9 requirements, and the termination of the Commission; providing that certain
10 organizations are eligible to receive Juvenile Justice Facilities Capital Program
11 funds; and generally relating to the jurisdiction of the juvenile court and the
12 juvenile justice system.

13 BY repealing and reenacting, with amendments,
14 Article - Courts and Judicial Proceedings
15 Section 3-804, 3-806, and 3-828(a) and (b)
16 Annotated Code of Maryland
17 (1995 Replacement Volume and 1997 Supplement)

18 BY repealing and reenacting, without amendments,
19 Article 27 - Crimes and Punishments
20 Section 743(a)
21 Annotated Code of Maryland
22 (1996 Replacement Volume and 1997 Supplement)

23 BY repealing and reenacting, with amendments,
24 Article 27 - Crimes and Punishments
25 Section 743(e) and (f), 747(a), and 750A
26 Annotated Code of Maryland
27 (1996 Replacement Volume and 1997 Supplement)

1 BY repealing and reenacting, with amendments,
2 Article 83C - Juvenile Justice
3 Section 4-101(d)
4 Annotated Code of Maryland
5 (1995 Replacement Volume and 1997 Supplement)

6 BY adding to
7 Article 83C - Juvenile Justice
8 Section 2-133
9 Annotated Code of Maryland
10 (1995 Replacement Volume and 1997 Supplement)

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

13 **Article - Courts and Judicial Proceedings**

14 3-804.

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

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

18 (2) With respect to any child who is under the jurisdiction of the juvenile
19 court and previously has been adjudicated a child in need of assistance, all
20 termination of parental rights proceedings and related adoption proceedings.

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

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

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

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

34 (1) A child at least 14 years old alleged to have done an act which, if
35 committed by an adult, would be a crime punishable by death or life imprisonment, as
36 well as all other charges against the child arising out of the same incident, unless an

1 order removing the proceeding to the court has been filed under Article 27, § 594A of
2 the Code;

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

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

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

13 (i) Abduction;

14 (ii) Kidnapping;

15 (iii) Second degree murder;

16 (iv) Manslaughter, except involuntary manslaughter;

17 (v) Second degree rape;

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

19 (vii) Second degree sexual offense in violation of Article 27, §
20 464A(a)(1) of the Code;

21 (viii) Third degree sexual offense in violation of Article 27, §
22 464B(a)(1) of the Code;

23 (ix) A crime in violation of Article 27, § 36B, § 373, § 374, § 445, §
24 446, or § 481C of the Code;

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

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

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

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

32 (xiv) Attempted murder in the second degree in violation of Article
33 27, § 411A of the Code;

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

3 (xvi) Attempted robbery with a dangerous or deadly weapon under
4 Article 27, § 488 of the Code; OR

5 (5) THE SUBSEQUENT ACTS OF A CHILD WHO HAS BEEN CONVICTED AS
6 AN ADULT OF A CRIME OTHER THAN:

7 (I) A VIOLATION OF THE TRANSPORTATION ARTICLE OR OTHER
8 TRAFFIC LAW OR ORDINANCE FOR WHICH A PENALTY OF INCARCERATION IS NOT
9 AUTHORIZED; OR

10 (II) A VIOLATION OF ANY LAW GOVERNING THE USE OR OPERATION
11 OF A BOAT FOR WHICH A PENALTY OF INCARCERATION IS NOT AUTHORIZED.

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

17 3-806.

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

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

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

29 (d) FOR ANY SUBSEQUENT CRIMINAL ACT, THE COURT'S JURISDICTION IS
30 TERMINATED OVER A PERSON WHO HAS BEEN CONVICTED AS AN ADULT OF A CRIME
31 OTHER THAN:

32 (1) A VIOLATION OF THE TRANSPORTATION ARTICLE OR OTHER TRAFFIC
33 LAW OR ORDINANCE FOR WHICH A PENALTY OF INCARCERATION IS NOT
34 AUTHORIZED; OR

35 (2) A VIOLATION OF ANY LAW GOVERNING THE USE OR OPERATION OF A
36 BOAT FOR WHICH A PENALTY OF INCARCERATION IS NOT AUTHORIZED.

1 (E) If the court in a child in need of assistance proceeding places a child in the
2 care and custody of a person other than the parent, guardian, or custodian who had
3 custody at the time the petition is filed, the custody order of the court shall continue
4 after the termination of the child in need of assistance proceeding unless:

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

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

8 3-828.

9 (a) (1) A police record concerning a child is confidential and shall be
10 maintained separate from those of adults. Its contents may not be divulged, by
11 subpoena or otherwise, except by order of the court upon good cause shown or as
12 otherwise provided in § 7-303 of the Education Article.

13 (2) This subsection does not prohibit:

14 (I) [access] ACCESS to and confidential use of the record by the
15 Department of Juvenile Justice or in the investigation and prosecution of the child by
16 any law enforcement agency; OR

17 (II) A LAW ENFORCEMENT AGENCY OR THE CRIMINAL JUSTICE
18 INFORMATION SYSTEM FROM INCLUDING, IN THE LAW ENFORCEMENT COMPUTER
19 INFORMATION SYSTEM, INFORMATION ABOUT AN OUTSTANDING JUVENILE COURT
20 ORDERED WRIT OF ATTACHMENT, FOR THE SOLE PURPOSE OF APPREHENDING A
21 CHILD NAMED IN THE WRIT.

22 (b) (1) A court record pertaining to a child is confidential and its contents
23 may not be divulged, by subpoena or otherwise, except by order of the court upon good
24 cause shown or as provided in § 7-303 of the Education Article.

25 (2) This subsection does not prohibit access to and the use of the court
26 record or fingerprints of a child described under the Criminal Justice Information
27 System subtitle of Article 27 of the Code in a proceeding in the court involving the
28 child, by personnel of the court, the State's Attorney, counsel for the child, a
29 court-appointed special advocate for the child, or authorized personnel of the
30 Department of Juvenile Justice, or, in a proceeding involving a child alleged to be in
31 need of assistance, by authorized personnel of the Social Services Administration and
32 local departments of social services of the Department of Human Resources in order
33 to conduct a child abuse or neglect investigation or to comply with requirements
34 imposed under Title IV-E of the Social Security Act.

35 (3) Information obtained from a juvenile court record by authorized
36 personnel of the Department of Human Resources under paragraph (2) of this
37 subsection is subject to the provisions of Article 88A, § 6 of the Code.

38 (4) (i) Except as provided in subparagraph (ii) of this paragraph, this
39 subsection does not prohibit access to and confidential use of the court record or

1 fingerprints of a child described under the Criminal Justice Information System
2 subtitle of Article 27 of the Code in an investigation and prosecution by a law
3 enforcement agency.

4 (ii) The court record or fingerprints of a child described under
5 Article 27, §§ 747(a)(21) AND (22) and 747A of the Code may not be disclosed to:

6 1. A federal criminal justice agency or information center; or

7 2. Any law enforcement agency other than a law enforcement
8 agency of the State or a political subdivision of the State.

9 (5) (i) This subsection does not prohibit access to and use of a court
10 record by a judicial officer who is authorized under the Maryland Rules to determine
11 a defendant's eligibility for pretrial release, counsel for the defendant, or the State's
12 Attorney if:

13 1. The individual who is the subject of the court record is
14 charged as an adult with an offense;

15 2. The access to and use of the court record is strictly limited
16 for the purpose of determining the defendant's eligibility for pretrial release; and

17 3. The court record concerns an adjudication of delinquency
18 that occurred within 3 years of the date the individual is charged as an adult.

19 (ii) The Court of Appeals may adopt rules to implement the
20 provisions of this paragraph.

21 **Article 27 - Crimes and Punishments**

22 743.

23 (a) As used in this subtitle, the following words have the meanings indicated.

24 (e) "Criminal history record information" means data initiated or collected by
25 a criminal justice agency on a person pertaining to a reportable event and includes
26 data from an agency that is required to report to the central repository under Title 12
27 of the Health - General Article. The term does not include:

28 (1) Data contained in intelligence or investigatory files or police
29 work-product records used solely for police investigation purposes;

30 (2) Data pertaining to a proceeding under Subtitle 8 of Title 3 of the
31 Courts Article (Juvenile Causes), but it does include:

32 (i) Data pertaining to a person following waiver of jurisdiction by a
33 juvenile court; and

1 (ii) Information described under § 747(a)(21) AND (22) and § 747A of
2 this subtitle;

3 (3) Wanted posters, police blotter entries, court records of public judicial
4 proceedings, or published court opinions;

5 (4) Data pertaining to violations of the traffic laws of the State or any
6 other traffic law, ordinance, or regulation, or violations of any local ordinances, or any
7 State or local regulations, or violations of the Natural Resources Article or public local
8 laws;

9 (5) Data concerning the point system established by the Motor Vehicle
10 Administration in accordance with the provisions of Title 16 of the Transportation
11 Article; or

12 (6) Presentence investigation and other reports prepared by a probation
13 department for use by a court in the exercise of criminal jurisdiction or by the
14 Governor in the exercise of his power of pardon, reprieve, commutation, or nolle
15 prosequi.

16 (f) "Criminal justice agency" means any government agency or subunit of any
17 such agency which is authorized by law to exercise the power of arrest, detention,
18 prosecution, adjudication, correctional supervision, custodial treatment or
19 confinement under Title 12 of the Health - General Article, rehabilitation, or release
20 of persons suspected, charged, or convicted of a crime or relieved of criminal
21 punishment by a verdict of not criminally responsible, or is responsible for criminal
22 identification activities and the collection, storage, and dissemination of criminal
23 history record information, and which allocates a substantial portion of its annual
24 budget to any of these functions. The term does not include the Department of
25 Juvenile Justice or a juvenile court, except as provided under § 747(a)(21) AND (22)
26 and § 747A of this subtitle, but it does include the following agencies, when exercising
27 jurisdiction over criminal matters or alternative dispositions of criminal matters, or
28 criminal history record information:

29 (1) State, county, and municipal police departments and agencies,
30 sheriffs' offices, correctional facilities, jails, and detention centers;

31 (2) Any agency required to report to the central repository under §
32 12-107 or § 12-112 of the Health - General Article;

33 (3) The offices of the Attorney General, the State's Attorneys, and any
34 other person authorized by law to prosecute persons accused of criminal offenses; or

35 (4) The Administrative Office of the Courts, the Court of Appeals, the
36 Court of Special Appeals, the circuit courts, the District Court of Maryland, and the
37 offices of the clerks of these courts.

38 747.

39 (a) The following events are reportable events under this subtitle:

- 1 (1) Issuance or withdrawal of an arrest warrant;
- 2 (2) An arrest;
- 3 (3) Release of a person after arrest without the filing of a charge;
- 4 (4) Presentment of an indictment, filing of a criminal information, or
5 filing of a statement of charges after arrest;
- 6 (5) A release pending trial or appeal;
- 7 (6) Commitment to a place of pretrial detention;
- 8 (7) Dismissal or quashing of an indictment or criminal information;
- 9 (8) A nolle prosequi;
- 10 (9) Placement of a charge on the stet docket;
- 11 (10) An acquittal, conviction, verdict of not criminally responsible, or
12 other disposition at or following trial, including a finding of probation before
13 judgment;
- 14 (11) Imposition of a sentence;
- 15 (12) Commitment to a correctional facility, whether State or locally
16 operated;
- 17 (13) Commitment to the Department of Health and Mental Hygiene
18 under § 12-105 or § 12-111 of the Health - General Article as incompetent to stand
19 trial or not criminally responsible;
- 20 (14) Release from detention or confinement;
- 21 (15) Conditional release, revocation of conditional release, or discharge of
22 an individual committed to the Department of Health and Mental Hygiene as
23 incompetent to stand trial or as not criminally responsible;
- 24 (16) An escape from confinement, or escape from commitment;
- 25 (17) A pardon, reprieve, commutation of sentence, or other change in a
26 sentence, including a change ordered by a court;
- 27 (18) Entry of an appeal to an appellate court;
- 28 (19) Judgment of an appellate court;
- 29 (20) Order of a court in a collateral proceeding that affects a person's
30 conviction, sentence, or confinement;
- 31 (21) An adjudication of a child as delinquent:

1 (i) If the child is at least 14 years old, for an act described in §
2 3-804(e)(1) of the Courts and Judicial Proceedings Article; and

3 (ii) If the child is at least 16 years old, for an act described in §
4 3-804(e)(4) or (5) of the Courts and Judicial Proceedings Article; [and]

5 (22) ISSUANCE OR WITHDRAWAL OF A WRIT OF ATTACHMENT BY A
6 JUVENILE COURT; AND

7 (23) Any other event arising out of or occurring during the course of
8 criminal justice proceedings declared to be reportable by rule or regulation of the
9 Secretary or the Court of Appeals.

10 750A.

11 (a) Except as provided in subsection (b) of this section, notwithstanding any
12 other provision of this subtitle, no record may be maintained or disseminated in a
13 manner inconsistent with the provisions of § 3-828 of the Courts and Judicial
14 Proceedings Article.

15 (b) Notwithstanding § 3-828(a) of the Courts and Judicial Proceedings Article,
16 a reportable event described under § 747(a)(21) AND (22) of this subtitle and
17 fingerprinting of a child required under § 747A of this subtitle need not be maintained
18 separate and apart from those of adults.

19 **Article 83C - Juvenile Justice**

20 4-101.

21 (d) "Juvenile program" means any:

22 (1) Program that:

23 (i) Meets the definition in §§ 2-120 and 2-121 of this article; and

24 (ii) Provides residential services to youth placed by the
25 Department; or

26 (2) Nonresidential program that provides educational, vocational,
27 recreational, counseling, or other day services under contract to the [Department]
28 STATE.

29 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
30 read as follows:

Article 83C - Juvenile Justice

2 2-133.

3 (A) THERE IS A COMMISSION ON JUVENILE JUSTICE JURISDICTION IN THE
4 DEPARTMENT OF JUVENILE JUSTICE.

5 (B) THE PURPOSE OF THE COMMISSION ON JUVENILE JUSTICE JURISDICTION
6 SHALL BE TO:

7 (1) CONSIDER THE IMPACT OF RECENT CHANGES IN JUVENILE COURT
8 JURISDICTION ON:

9 (I) THE RESPECTIVE CASELOADS OF JUVENILE COURTS AND
10 ADULT CRIMINAL COURTS;

11 (II) THE LEVEL AND INCIDENCE OF CRIMES AND DELINQUENT
12 ACTS COMMITTED BY YOUTHFUL OFFENDERS; AND

13 (III) SERVICES PROVIDED BY PUBLIC AND PRIVATE ENTITIES;

14 (2) UTILIZE RESOURCES WITHIN THE DEPARTMENT TO STUDY AND
15 DOCUMENT THE EFFECTS OF:

16 (I) EXISTING AND ALTERNATIVE SANCTION MECHANISMS;

17 (II) INCENTIVES AND SYSTEMS OF INCENTIVE;

18 (III) JOB OPPORTUNITIES AND JOB TRAINING PROGRAMS AND
19 WHAT EFFECT THEY MIGHT HAVE ON RECIDIVISM; AND

20 (IV) EDUCATION AND SPECIAL EDUCATION SERVICES PROVIDED TO
21 YOUTHFUL OFFENDERS;

22 (3) CONSIDER THE IMPACT OF ANY CHANGES IN FEDERAL JUVENILE
23 JUSTICE LAW OR JURISDICTION;

24 (4) RECOMMEND AND PROPOSE FEASIBLE STRATEGIES AND AVENUES
25 WITHIN THE DEPARTMENT, ELSEWHERE IN STATE GOVERNMENT, AND IN THE
26 PRIVATE AND NONPROFIT SECTORS, THAT MIGHT LIMIT CRIMES AND DELINQUENT
27 ACTS BY YOUTHFUL OFFENDERS; AND

28 (5) PROVIDE ON AN ANNUAL BASIS ANY RECOMMENDATIONS FOR
29 CHANGES TO THE JURISDICTION OF THE JUVENILE COURT.

30 (C) THE COMMISSION SHALL CONSIST OF:

31 (1) THE SECRETARY OF JUVENILE JUSTICE;

32 (2) THE SECRETARY OF PUBLIC SAFETY AND CORRECTIONAL SERVICES;

- 1 (3) THE SECRETARY OF HUMAN RESOURCES;
- 2 (4) THE STATE SUPERINTENDENT OF SCHOOLS;
- 3 (5) THE SPECIAL SECRETARY FOR CHILDREN, YOUTH AND FAMILIES;
- 4 (6) THE ATTORNEY GENERAL;
- 5 (7) THE SECRETARY OF STATE POLICE;
- 6 (8) THE CHIEF PUBLIC DEFENDER;
- 7 (9) TWO MEMBERS OF THE STATE JUDICIARY SELECTED BY THE CHIEF
8 JUDGE OF THE COURT OF APPEALS;
- 9 (10) TWO MEMBERS OF THE SENATE OF MARYLAND SELECTED BY THE
10 PRESIDENT OF THE SENATE;
- 11 (11) TWO MEMBERS OF THE HOUSE OF DELEGATES SELECTED BY THE
12 SPEAKER OF THE HOUSE; AND
- 13 (12) THE FOLLOWING MEMBERS SELECTED BY THE SECRETARY OF
14 JUVENILE JUSTICE:
- 15 (I) THE CHIEF OF A POLICE DEPARTMENT IN A MAJOR
16 METROPOLITAN AREA;
- 17 (II) THE STATE'S ATTORNEY OF A COUNTY IN A MAJOR
18 METROPOLITAN AREA;
- 19 (III) A REPRESENTATIVE FROM A VICTIM'S ADVOCACY GROUP;
- 20 (IV) A PERSON WITH A BACKGROUND IN CRIMINAL AND JUVENILE
21 JUSTICE WHO IS A RECOGNIZED EXPERT IN THE FIELD; AND
- 22 (V) A PERSON FAMILIAR WITH COMPUTER SYSTEMS OR DATA
23 PROCESSING.
- 24 (D) THE MEMBERS OF THE COMMISSION MAY ELECT TO SERVE PERSONALLY
25 ON THE COMMISSION OR MAY DESIGNATE A MEMBER OF THEIR RESPECTIVE OFFICE,
26 DEPARTMENT, OR AGENCY TO REPRESENT THEM AND TO ACT FOR THEM TO THE
27 SAME EFFECT AS IF THEY WERE PRESENT.
- 28 (E) (1) THE SECRETARY OF JUVENILE JUSTICE SHALL SERVE AS THE
29 CHAIRMAN OF THE COMMISSION.
- 30 (2) FROM AMONG ITS MEMBERS, THE COMMISSION AT ITS INITIAL
31 ORGANIZATIONAL MEETING SHALL ELECT A VICE CHAIRMAN.
- 32 (F) THE COMMISSION SHALL MEET AT THE TIMES THAT THE CHAIRMAN
33 DETERMINES.

1 (G) A MEMBER OF THE COMMISSION:

2 (1) MAY NOT RECEIVE COMPENSATION; BUT

3 (2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE
4 STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

5 (H) STAFF SUPPORT FOR THE COMMISSION SHALL BE PROVIDED BY THE
6 DEPARTMENT.

7 (I) ON SEPTEMBER 30, 2000, THE COMMISSION SHALL SUBMIT A REPORT ON
8 THE RESULTS OF ITS INVESTIGATION AND STUDY, TOGETHER WITH ANY RESULTING
9 POLICY RECOMMENDATIONS, TO THE GOVERNOR AND, SUBJECT TO § 2-1246 OF THE
10 STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY.

11 SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act
12 shall remain effective for a period of 2 years and, at the end of September 30, 2000,
13 with no further action required by the General Assembly, Section 2 of this Act shall be
14 abrogated and of no further force and effect.

15 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take
16 effect October 1, 1998.