

BY: Judicial Proceedings Committee

AMENDMENTS TO HOUSE BILL NO. 312

(Third Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 2, strike "Juvenile Law -"; in line 3, before "Restitution" insert "Penalties - Suspension of Driving Privileges and Parental"; in line 6, before "specifying" insert "authorizing the court to order the Motor Vehicle Administration to suspend the driving privilege of a child convicted of a crime or found to have committed a delinquent act involving a destructive device;"; in line 12, before "applies" insert "for offenses committed by a child"; in line 20, before "defining" insert "establishing procedures for the suspension of a child's driving privilege under certain circumstances; requiring a county superintendent of schools to suspend or expel a student convicted of a crime or found to have committed a delinquent act involving a destructive device; establishing procedures for the suspension or expulsion of certain students under certain circumstances; authorizing a county superintendent to require a student or a student's parent to make certain restitution under certain circumstances;"; and in the same line, strike "restitution" and substitute "penalties".

On page 2, after line 26, insert:

"BY repealing and reenacting, with amendments,

Article - Courts and Judicial Proceedings

Section 3-820(d)

Annotated Code of Maryland

(1998 Replacement Volume)

BY repealing and reenacting, with amendments,

Article - Education

Section 7-305

Annotated Code of Maryland

(1997 Replacement Volume and 1998 Supplement)

(Over)

BY repealing and reenacting, with amendments,

Article - Transportation

Section 16-206(a) and (d)

Annotated Code of Maryland

(1998 Replacement Volume and 1998 Supplement)

(As enacted by Chapter 483 of the Acts of the General Assembly of 1998)

BY repealing and reenacting, without amendments,

Article - Transportation

Section 16-206(c)

Annotated Code of Maryland

(1998 Replacement Volume and 1998 Supplement)”.

AMENDMENT NO. 2

On page 4 in line 26, on page 5 in line 36, and on page 6 in line 32, in each instance, strike “§ 807” and substitute “§ 807(A)(3)”.

On page 4, after line 36, insert:

“(D) IN ADDITION TO ANY OTHER PENALTY AUTHORIZED BY LAW, IF THE PERSON CONVICTED OR FOUND TO HAVE COMMITTED A DELINQUENT ACT UNDER THIS SUBHEADING IS A CHILD, THE COURT MAY ORDER THE MOTOR VEHICLE ADMINISTRATION TO INITIATE AN ACTION, UNDER THE MOTOR VEHICLE LAWS, TO SUSPEND THE DRIVING PRIVILEGE OF THE CHILD FOR A SPECIFIED PERIOD NOT TO EXCEED:

(1) FOR A FIRST OFFENSE, 6 MONTHS; AND

(2) FOR A SECOND OR SUBSEQUENT OFFENSE, 1 YEAR OR UNTIL THE PERSON IS 21 YEARS OLD, WHICHEVER IS LONGER.”.

On page 6, after line 6, insert:

“(E) IN ADDITION TO ANY OTHER PENALTY AUTHORIZED BY LAW, IF THE PERSON CONVICTED OR FOUND TO HAVE COMMITTED A DELINQUENT ACT UNDER THIS SECTION IS A CHILD, THE COURT MAY ORDER THE MOTOR VEHICLE

ADMINISTRATION TO INITIATE AN ACTION, UNDER THE MOTOR VEHICLE LAWS, TO SUSPEND THE DRIVING PRIVILEGE OF THE CHILD FOR A SPECIFIED PERIOD NOT TO EXCEED:

(1) FOR A FIRST OFFENSE, 6 MONTHS; AND

(2) FOR A SECOND OR SUBSEQUENT OFFENSE, 1 YEAR OR UNTIL THE PERSON IS 21 YEARS OLD, WHICHEVER IS LONGER.”.

On page 7, after line 5, insert:

“(E) IN ADDITION TO ANY OTHER PENALTY AUTHORIZED BY LAW, IF THE PERSON CONVICTED OR FOUND TO HAVE COMMITTED A DELINQUENT ACT UNDER THIS SECTION IS A CHILD, THE COURT MAY ORDER THE MOTOR VEHICLE ADMINISTRATION TO INITIATE AN ACTION, UNDER THE MOTOR VEHICLE LAWS, TO SUSPEND THE DRIVING PRIVILEGE OF THE CHILD FOR A SPECIFIED PERIOD NOT TO EXCEED:

(1) FOR A FIRST OFFENSE, 6 MONTHS; AND

(2) FOR A SECOND OR SUBSEQUENT OFFENSE, 1 YEAR OR UNTIL THE PERSON IS 21 YEARS OLD, WHICHEVER IS LONGER.”.

On page 15, after line 4, insert:

“Article - Courts and Judicial Proceedings

3-820.

(d) (1) (i) Subject to the provisions of subparagraphs (iii) and (iv) of this paragraph, in making a disposition on a finding that the child has committed the violation specified in a citation, the court may order the Motor Vehicle Administration to initiate an action, under the motor vehicle laws, to suspend the driving privilege of a child licensed to operate a motor vehicle by

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the Motor Vehicle Administration for a specified period of not less than 30 days nor more than 90 days.

(ii) In this paragraph “driver's license” means a license or permit to drive a motor vehicle that is issued under the laws of this State or any other jurisdiction.

(iii) In making a disposition on a finding that the child has committed a violation under Article 27, § 400 of the Code specified in a citation that involved the use of a driver's license or a document purporting to be a driver's license, the court may order the Motor Vehicle Administration to initiate an action under the Maryland Vehicle Law to suspend the driving privilege of a child licensed to operate a motor vehicle by the Motor Vehicle Administration:

1. For a first offense, for 6 months; and
2. For a second or subsequent offense, until the child is 21 years old.

(iv) In making a disposition on a finding that the child has committed a violation under § 26-103 of the Education Article, the court shall order the Motor Vehicle Administration to initiate an action, under the motor vehicle laws, to suspend the driving privilege of a child licensed to operate a motor vehicle by the Motor Vehicle Administration for a specified period of not less than 30 days nor more than 90 days.

(v) If a child subject to a suspension under this subsection does not hold a license to operate a motor vehicle on the date of the disposition, the suspension shall commence:

1. If the child is at least 16 years of age on the date of the disposition, on the date of the disposition; or
2. If the child is younger than 16 years of age on the date of the disposition, on the date the child reaches the child's 16th birthday.

(2) In addition to the dispositions under paragraph (1) of this subsection, the court also may:

(i) Counsel the child or the parent or both, or order the child to participate in an alcohol education or rehabilitation program that is in the best interest of the child;

(ii) Impose a civil fine of not more than \$25 for the first violation and a civil fine of not more than \$100 for the second and subsequent violations; or

(iii) Order the child to participate in a supervised work program for not more than 20 hours for the first violation and not more than 40 hours for the second and subsequent violations.

(3) (i) The provisions of paragraphs (1) and (2) of this subsection do not apply to a child found to have committed a violation under Article 27, § 405A of the Code.

(ii) In making a disposition on a finding that the child has committed a violation under Article 27, § 405A of the Code, the court may:

1. Counsel the child or the parent or both, or order the child to participate in a smoking cessation clinic, or other suitable presentation of the hazards associated with tobacco use that is in the best interest of the child;

2. Impose a civil fine of not more than \$25 for the first violation and a civil fine of not more than \$100 for a second or subsequent violation; or

3. Order the child to participate in a supervised work program for not more than 20 hours for the first violation and not more than 40 hours for a second or subsequent violation.

(4) (I) IN MAKING A DISPOSITION ON A FINDING THAT THE CHILD HAS COMMITTED A VIOLATION UNDER ARTICLE 27, § 139C, § 151A, OR § 151C OF THE CODE, THE COURT MAY ORDER THE MOTOR VEHICLE ADMINISTRATION TO INITIATE AN ACTION, UNDER THE MARYLAND VEHICLE LAW, TO SUSPEND THE DRIVING PRIVILEGE OF A CHILD FOR A SPECIFIED PERIOD NOT TO EXCEED:

1. FOR A FIRST OFFENSE, 6 MONTHS; AND

2. FOR A SECOND OR SUBSEQUENT OFFENSE, 1 YEAR
OR UNTIL THE PERSON IS 21 YEARS OLD, WHICHEVER IS LONGER.

(II) IF A CHILD SUBJECT TO A SUSPENSION UNDER THIS
PARAGRAPH DOES NOT POSSESS THE PRIVILEGE TO DRIVE ON THE DATE OF THE
DISPOSITION, THE SUSPENSION SHALL COMMENCE:

1. IF THE CHILD IS AT AN AGE THAT IS ELIGIBLE TO
OBTAIN THE PRIVILEGE TO DRIVE ON THE DATE OF THE DISPOSITION, ON THE DATE
OF THE DISPOSITION; OR

2. IF THE CHILD IS YOUNGER THAN AN AGE THAT IS
ELIGIBLE TO OBTAIN THE PRIVILEGE TO DRIVE ON THE DATE OF THE DISPOSITION,
ON THE DATE THE CHILD IS ELIGIBLE TO OBTAIN DRIVING PRIVILEGES.

Article - Education

7-305.

(a) (1) In accordance with the rules and regulations of the county board, each
principal of a public school may suspend for cause, for not more than 10 school days, any student in
the school who is under the direction of the principal.

(2) The student or his parent or guardian promptly shall be given a conference
with the principal and any other appropriate personnel during the suspension period.

(b) At the request of a principal, a county superintendent may suspend a student for more
than 10 school days or expel him.

(c) (1) If a principal finds that a suspension of more than 10 school days or expulsion
is warranted, he immediately shall report the matter in writing to the county superintendent.

(2) The county superintendent or his designated representative promptly shall make a thorough investigation of the matter.

(3) If after the investigation the county superintendent finds that a longer suspension or expulsion is warranted, he or his designated representative promptly shall arrange a conference with the student and his parent or guardian.

(4) If after the conference the county superintendent or his designated representative finds that a suspension of more than 10 school days or expulsion is warranted, the student or his parent or guardian may:

(i) Appeal to the county board within 10 days after the determination;

(ii) Be heard before the county board, its designated committee, or a hearing examiner, in accordance with the procedures established under § 6-203 of this article; and

(iii) Bring counsel and witnesses to the hearing.

(5) Unless a public hearing is requested by the parent or guardian of the student, a hearing shall be held out of the presence of all individuals except those whose presence is considered necessary or desirable by the board.

(6) The appeal to the county board does not stay the decision of the county superintendent.

(7) The decision of the county board is final.

(d) (1) Any student expelled or suspended from school:

(i) Shall remain away from the school premises during those hours each school day when the school the student attends is in session; and

(ii) May not participate in school sponsored activities.

(2) The expelled or suspended student may return to the school premises during the prohibited hours only for attendance at a previously scheduled appointment, and if the student is a minor then only if accompanied by his parent or guardian.

(3) Any person who violates paragraph (1) or (2) of this subsection is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$100 for each violation.

(4) (i) If a student has been suspended or expelled, the principal or a designee of the principal may not return the student to the classroom without conferring with the teacher who referred the student to the principal, if the student was referred by a teacher, other teachers as appropriate, other appropriate school personnel, the student, and the student's parent or guardian.

(ii) If the disruptive behavior results in action less than suspension, the principal or a designee of the principal shall confer with the teacher who referred the student to the principal prior to returning the student to that teacher's classroom.

(5) A county superintendent may deny attendance to any student who is currently expelled from another school system for a length of time equal to that expulsion.

(6) A school system shall forward information to another school system relating to the discipline of a student, including information on an expulsion of the student, on receipt of the request for information.

(e) (1) In this subsection, "firearm" means a firearm as defined in 18 U.S.C. § 921.

(2) Except as provided in paragraph (3) of this subsection, if the county superintendent or the superintendent's designated representative finds that a student has brought a firearm onto school property, the student shall be expelled for a minimum of 1 year.

(3) The county superintendent may specify, on a case by case basis, a shorter period of expulsion or an alternative educational setting, if alternative educational settings have been approved by the county board, for a student who has brought a firearm onto school property.

(4) The State Board shall adopt regulations to implement this subsection.

(f) The discipline of a child with a disability, including the suspension, expulsion, or interim alternative placement of the child for disciplinary reasons, shall be conducted in conformance with the requirements of the Individuals with Disabilities Education Act of the United States Code.

(g) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, IF A STUDENT HAS BEEN CONVICTED OR FOUND TO HAVE COMMITTED A DELINQUENT ACT UNDER ARTICLE 27, § 139C, § 151A, OR § 151C OF THE CODE, THE COUNTY SUPERINTENDENT SHALL EITHER:

(I) SUSPEND THE STUDENT FOR MORE THAN 10 DAYS; OR

(II) EXPEL THE STUDENT.

(2) (I) IF A STUDENT IS SUSPENDED OR EXPELLED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE STUDENT OR THE STUDENT'S PARENT OR GUARDIAN MAY:

1. APPEAL TO THE COUNTY BOARD WITHIN 10 DAYS AFTER THE DETERMINATION;

2. BE HEARD BEFORE THE COUNTY BOARD, ITS DESIGNATED COMMITTEE, OR A HEARING EXAMINER, IN ACCORDANCE WITH THE PROCEDURES ESTABLISHED UNDER § 6-203 OF THIS ARTICLE; AND

3. BRING COUNSEL AND WITNESSES TO THE HEARING.

(II) UNLESS A PUBLIC HEARING IS REQUESTED BY THE PARENT OR GUARDIAN OF THE STUDENT, A HEARING SHALL BE HELD OUT OF THE PRESENCE OF ALL INDIVIDUALS EXCEPT THOSE WHOSE PRESENCE IS CONSIDERED NECESSARY OR DESIRABLE BY THE BOARD.

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(III) THE APPEAL TO THE COUNTY BOARD DOES NOT STAY THE DECISION OF THE COUNTY SUPERINTENDENT.

(IV) THE DECISION OF THE COUNTY BOARD IS FINAL.

(3) (I) IF A STUDENT HAS BEEN CONVICTED OR FOUND TO HAVE COMMITTED A DELINQUENT ACT UNDER ARTICLE 27, § 139C, § 151A, OR § 151C OF THE CODE AND DURING OR AS A RESULT OF THE COMMISSION OF THAT VIOLATION DAMAGED, DESTROYED, OR SUBSTANTIALLY DECREASED THE VALUE OF SCHOOL PROPERTY OR PROPERTY OF ANOTHER THAT WAS ON SCHOOL PROPERTY AT THE TIME OF THE VIOLATION, OR OTHERWISE CAUSED AN ECONOMIC LOSS TO THE SCHOOL, THE COUNTY SUPERINTENDENT MAY REQUIRE THE STUDENT OR THE STUDENT'S PARENT TO MAKE RESTITUTION.

(II) THE RESTITUTION MAY BE IN THE FORM OF MONETARY RESTITUTION NOT TO EXCEED THE LESSER OF THE FAIR MARKET VALUE OF THE PROPERTY OR \$2,500, OR THE STUDENT'S ASSIGNMENT TO A SCHOOL WORK PROJECT, OR BOTH.

(H) (1) This subsection does not apply if the student is referred to the Department of Juvenile Justice.

(2) If a student violates a State or local law or regulation and during or as a result of the commission of that violation damaged, destroyed, or substantially decreased the value of school property or property of another that was on school property at the time of the violation, as part of a conference on the matter with the student, the student's parent or guardian and any other appropriate person, the principal shall require the student or the student's parent to make restitution.

(3) The restitution may be in the form of monetary restitution not to exceed the lesser of the fair market value of the property or \$2,500, or the student's assignment to a school work project, or both.

Article - Transportation

16-206.

(a) (1) The Administration may suspend, revoke, or refuse to issue or renew the license of any resident or the privilege to drive of any nonresident on a showing by its records or other sufficient evidence that the applicant or licensee:

(i) Has been convicted of moving violations so often as to indicate an intent to disregard the traffic laws and the safety of other persons on the highways;

(ii) Is an unfit, unsafe, or habitually reckless or negligent driver of a motor vehicle;

(iii) Has permitted an unlawful or fraudulent use of a license, identification card, or a facsimile of a license or identification card;

(iv) Has used a license, identification card, or a facsimile of a license or identification card in an unlawful or fraudulent manner, unless the applicant or licensee is subject to the provisions of subsection (c) of this section;

(v) Has committed an offense in another state that, if committed in this State, would be grounds for suspension or revocation; or

(vi) Has knowingly made a false certification of required security in any application for a certificate of title or for the registration of a vehicle.

(2) The Administration may suspend a license to drive of an individual who fails to attend:

(i) A driver improvement program or an alcohol education program required under § 16-212 of this subtitle; or

(ii) A private alternative program or an alternative program that is

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provided by a political subdivision of this State under § 16-212 of this subtitle.

(3) The Administration may suspend or revoke a provisional license under § 16-213 of this subtitle.

(4) PURSUANT TO A COURT ORDER UNDER ARTICLE 27, § 139C, § 151A, OR § 151C OF THE CODE, THE ADMINISTRATION:

(I) SHALL INITIATE AN ACTION TO SUSPEND THE DRIVING LICENSE OR PRIVILEGE OF AN INDIVIDUAL FOR A TIME SPECIFIED BY THE COURT; AND

(II) MAY ISSUE A WORK-RESTRICTED LICENSE OR WORK-RESTRICTED PRIVILEGE TO DRIVE.

(c) (1) Pursuant to a court order under § 3-820(d) of the Courts Article, the Administration shall initiate an action to suspend the driving privilege of a child for the time specified by the court.

(2) If a child subject to a suspension under § 3-820(d) of the Courts Article does not hold a license to operate a motor vehicle on the date of the court order, the suspension shall commence:

(i) If the child is at least 16 years of age on the date of the disposition, on the date of the disposition; or

(ii) If the child is younger than 16 years of age on the date of the disposition, on the date the child reaches the child's 16th birthday.

(3) On receipt of a notice described under Article 27, § 403(f) of the Code, the Administration shall suspend the license of an individual described under Article 27, § 403(f) of the Code:

(i) For a first offense, for 6 months; and

(ii) For a second or subsequent offense, until the individual is 21 years old or for a period of 1 year, whichever is longer.

(4) If an individual subject to a suspension under paragraph (3) of this subsection does not hold a license to operate a motor vehicle on the date that the individual is found guilty of a Code violation, the suspension shall begin on the date that the license is issued, or after the individual applies and becomes qualified to receive a license, or on the individual's twenty-first birthday, whichever occurs first.

(5) The Administration may modify a suspension under this subsection or subsection (b) of this section or issue a restricted license if:

(i) The license is required for the purpose of attending an alcohol education or alcoholic prevention or treatment program;

(ii) The child or individual is required to drive a motor vehicle in the course of employment;

(iii) It finds that the individual's or child's employment would be adversely affected because the individual or child has no reasonable alternative means of transportation to or from a place of employment; or

(iv) It finds that the individual's or child's education would be adversely affected because the individual or child has no reasonable alternative means of transportation for educational purposes.

(d) (1) After the Administration refuses to issue a license under this section, determines that a suspension should be imposed under subsection (a)(2) of this section, or determines that a suspension or revocation should be imposed under subsection (a)(3) of this section, the Administration immediately shall give written notice to the applicant or licensee, and the applicant or licensee may request a hearing as provided in Title 12, Subtitle 2 of this article.

(2) AFTER THE ADMINISTRATION SUSPENDS THE DRIVING LICENSE OR PRIVILEGE OF AN INDIVIDUAL UNDER SUBSECTION (A)(4) OF THIS SECTION, THE ADMINISTRATION SHALL SEND WRITTEN NOTICE TO THE INDIVIDUAL, INCLUDING NOTICE OF THE INDIVIDUAL'S RIGHT TO CONTEST THE ACCURACY OF THE INFORMATION.

(3) ANY CONTEST UNDER THIS SUBSECTION SHALL BE LIMITED TO:

(I) WHETHER THE ADMINISTRATION HAS MISTAKEN THE IDENTITY OF THE INDIVIDUAL WHOSE LICENSE OR PRIVILEGE TO DRIVE HAS BEEN SUSPENDED; AND

(II) WHETHER THE INDIVIDUAL MAY BE ISSUED A WORK-RESTRICTED LICENSE OR WORK-RESTRICTED PRIVILEGE TO DRIVE.

[(2)] (4) Except as otherwise provided in this section, the Administration may suspend or revoke a license under this section only after a hearing under Title 12, Subtitle 2 of this article.

[(3)] (5) If the Administration determines that there is a likelihood of substantial and immediate danger and harm to the licensee or others if the license is continued pending a hearing, the Administration:

(i) Immediately may suspend the license;

(ii) Within 7 days of a request for a hearing, shall grant the licensee a hearing as provided in Title 12, Subtitle 2 of this article; and

(iii) After the hearing, render an immediate decision as to whether or not it should continue the suspension or revoke the license.”;

and in line 6, strike “October” and substitute “July”.

